## A. Data and statistics, if available

- 1. Please provide disaggregated data (by sex, age, minorities, urban and rural areas) covering the years 2002, 2003 and 2004 on the:
  - a) number and proportion of children under 18 living in the State party;

 $\underline{\text{Table 1}}$  – 1. Appendix: Number and proportion of population under 18 by sex, age and settlement type, on 1 January 2002-2004

Table 2: Number of Children by age groups among the whole Hungarian population

Years	1992	1997	2002	2003	2004	2005. 01. 01.
Whole population	10 323 700	110 154 900	10 158 600	10 142 362	10 116 742	10 097 549
0-4 yr	613 300	554 200	478 400	477 677	476 348	477 844
5-9 yr	621 100	612 200	551 000	540 532	521 952	503 128
10-14 yr	749 500	620 400	617 500	615 479	607 817	598 725
15-17 yr	550 000	436 300	391 300	322 352	314 694	317 164
0-17 yr	2 533 900	2 223 100	2 038 200	1 956 040	1 920 811	1 896 861
0-17 yr	24,5 %	21,9 %	20,1 %	19,3 %	18,9 %	18,8 %

## b) number and proportion of children belonging to minorities including Roma;

As per the listed legislation currently in force in Hungary, no data may be collected on national or ethnic affiliations, on health status (disability), and on issues related tor eligion. The tables below as well as the Report include data based on voluntary declaration or on estimates.

## Act LXXVII. of 1993 on the rights of minorities

Individual minority rights

**Section 7** paragraph (1): Declaring and expressing belonging to any national or ethnic or minority group (minority hereinafter) is the exclusive and unalienable right of the individual. Statement on belonging to a minority group must not be demanded from any person.

(2) The right to identify oneself with a national or ethnic group or minority, belonging therein and expression thereof do not exclude recognition of dual or multiple attachments.

**Section 8:** It is the right of the individual citizen of any national or ethnic minority to declare his/her attachment to any minority secretly and anonymously during the national census.

**Section 9:** A person belonging to any minority has the right to political and cultural equal opportunities, and the government shall, through efficient measures, promote such equal opportunities.

## Act LXIII. of 1992 on the protection of personal data and on the public nature of data of public interest

Section 2: special data are:

personal data on

- a) racial origins, national, nationality and ethnic attachments, political opinion or party support, religious or other feelings,
- b) health status, pathological passions, sexual orientation and criminal records;

Section 3 paragraph (2): Special data can be handled if

- a) the concerned person gives a written consent to this effect, or
- b) in case of data as under Section 2 paragraph 2. a), if it is based on international conventions, or it is about prevalence of a basic constitutional right, or the law orders it for the sake of national security, crime prevention or law enforcement;
- c) in other cases when the law provides it.

#### Act of 1999 on the Census in 2000 and on the amendment of Act XXLVI. of 1993 on statistics

The data collection activities of the Census also cover the so called special data. It was not compulsory to answer such questions, as provided by the act on data protection. Enacting Section 3 paragraph (2) is a unique solution in the history of the Censuses in Hungary. This was the first time that besides the general obligation to answer, giving an answer to some of the questions became voluntary, as provided by law.

An important part of the Census was the question on the mother tongue, as well as inquiring about nationality and religious affiliations. Answers given to these questions belong to the scope of so called special data, therefore handling them requires great care. Regarding such questions too, answering was voluntary.

Inquiring about nationality is in line with the recommendation of the UN European Economic Committee, which includes the Resolution of the International Nationality Statistics Conference held in Budapest on 2-5 September, 1992.

The importance of the question related to religion is especially highlighted by the fact that such inquiry related to the religious affiliation of the citizens in a national, complete Census

**Table 3:** Belonging to national and athnic groups according to the 2001 Census

Minorities in Hungary		Declaring a Declaring a belonginationa		ng to a	Those attached to nationality cultural values and tranditions	Using language among family and
	1990	2001	1990	2001	2001	friends 2001
Bulgarian	1 370	1 299	-	1 358	1 693	1 118
Gypsy/Roma	48 072	48 685	142 683	190 046	129 259	53 323
Greek	1 640	1 921	-	2 509	6 140	1 974
Croatian	17 577	14 345	13 570	15 620	19 715	14 788
Polish	3 788	2 580	-	2 962	3 983	2 659
German	37 511	33 792	30 824	62 233	88 416	53 040
Armenian	37	294	-	620	836	300
Romanian	8 730	8 482	10 740	7 995	9 162	8 215
Serbian	2 953	3 388	2 905	3 816	5 279	4 186
Slovak	12 745	11 816	10 459	17 692	26 631	18 056
Slovenian	2 627	3 187	1 930	3 040	2 442	3 119
Russine	674	1 113	-	1 098	1 292	1 068
Ukranian		4 885	-	5 070	4 779	4 519

<u>Table 4</u>: Percentage of Roma students in classes in different type of settlements

Classes	Village	Town	Budapest	Total
Only Roma	1,9	3,6	7,7	3,4
Mainly Roma	6,0	10,4	14,2	9,1
Mixed	60,7	54,0	32,5	53,9
Mainly non-Roma	31,1	30,5	44,4	32,5
No answer	0,4	1,5	1,2	1,0
Total	100,0	100,0	100,0	100,0

Kemény, 2003

## c) refugees and asylum-seekers children

Table 5: Asylum seekers and refugees under 18 in Hungary 2002-2004

Asylum s	eeker			
age		2002	2003	2004
0-14	Children	520	207	170
14-18	Youthful	672	212	73
0-18	total	1192	419	243
Refugees				
age		2002	2003	2004
0-14	Children	31	64	45
14-18	Youthful	6	9	6
0-18	total	37	73	51

- 2. In light of article 4 of the Convention, please provide additional disaggregated data for 2003- 2005, on budget allocations and trends (in percentages of the national budget or GDP) regarding the implementation of the Convention, evaluating also the priorities for budgetary expenditures given to the following:
  - a) education (different types of education, i.e. pre-primary, primary and secondary education and vocational training);

Table 7/B - 2. Appendix: Education expenditures of the Budget as a percentage of the GDP per education levels.

## b) child care services, including day care centers

## <u>Table 6:</u> Child care services, including day care centers

		2002	2003	2004
1	Number of operating crèches	520	515	527
2	Number of children in crèches	28 850	29 420	30 333
3	Normative funding (budget) HUF/person	208 800	361 000	365 100
4	Costs (=line2*line3)THUF	6 023 880	10 620 620	11 074 578

c) health care (different types of health services, i.e. primary health care, vaccination programmes, adolescent health care and other health care services for children);

## **Pediatric Health Care System**

## **Primary Health Care**

The following services belong to the pediatric primary health care system:

- Primary health care provided by family physicians and family pediatricians
- Health visitors' system
- School health service that is provided by school physicians (doctors) and school nurses and include all educational institutes, nursery schools and schools in the country
- Dental care service, that includes regular dental screening, care and caries prevention for the 3-18-year-old population

## Family pediatric health care

72% of the 0-14-year-old children, and 50% of the 15-18-year-old adolescents are given medical attendance by pediatrician (pediatric specialist), the rest, mostly children living in small towns given care by general practitioner or family physician.

The equal access to health care services in small (or disadvantaged) villages is supported by consultation provided by Mobil Special Care Units, although equal opportunities are not fully ensured.

## Health visitor's system

The health visitor's system that has over 90 years of tradition and is trained mainly in mother, infant and child health and prevention is active primarily on local level and offers prevention for families and secondly operates in educational institutes. The number of health visitors (or school nurses) working in educational institutes has doubled in 2005, as because of demographic reason (low birth rate) the accent shifted to the school related activity. Parallelly to the financing of health visitor's system has significantly increased.

District health visitor take the 81% of expecting mothers into care in the first trimester of pregnancy, take the newborns into care within 24 hours after leaving the hospital and visit them at home on a regular basis.

The recent increase in the number of 4-month-old infants having been exclusive breast fed and 6-month-old infants having been breast fed is due to the activity of the district health visitors.

#### School health service

1464 part time family pediatrician, 1418 part time general practitioner, 240 full time school doctor (mainly in secondary schools) operate in 9000 educational institutes, the number of full time school nurses increased to 842.

#### Activities/tasks:

- Yearly examination of preschool aged children, two year examination of school aged children: follow up of the physical and mental development and screening (functioning of the sensory and motor system)
- Supervision of the educational institute's environment, hygienic conditions and canteen meals, reinforcing the health promoting school activities
- Contribution to the school health promotion

## Plans related to the future of the pediatric primary health care

The European Office of the World Health Organization and the Hungarian Health Government handles the pediatric health care with prominent importance and it has resulted the National Infant and Child Health Program.

This program aims to moderate the inequalities of opportunities in this health care system: with local level cooperation, with establishing community health centers, with ensuring special consultation (obstetrical, gynaecologic and pediatric) and where it is possible, ensuring specialized health care.

This program defines many activities in order to improve the quality of the life chances of newborn babies and child population:

- Reduction of the number of premature infants or infants born with developmental disabilities
- To improve the quality of the neonatal care
- To enlarge the spectrum of neonatal screening (metabolic screening) and unification of sensory screening methods
- To increase the breastfeeding ratio
- To increase the level of school health care and health promotion
- To strengthen the relations and exchange information within the pediatric health care system

## **Pediatric Inpatient Care**

## The structure of inpatient care

The medical attendance of hospitalized children and children suffering from special diseases takes place in 5 pediatric clinics of 4 medical universities, in 19 pediatric department of county hospitals and in 3 hospitals for children, 2 rehabilitation institutes in the capital and in some pediatric department of town hospitals.

We totally have 4907 pediatric hospital beds in 91 inpatient institutions, that means 4,77 pediatric hospital beds for 10.000 residents (data from 2004. Source: National Statistic Data Collection Program, OSAP).

The number of pediatric hospital beds is decreasing since the middle of the '90s and the National Infant and Child Health Program is planning further changes in the inpatient care structure.

About the changes in the inpatient care structure:

- To restructure the pediatric departments with few beds according to the needs (daytime care, local emergency care)
- To develop the early development network, neuro-habilitation, pediatric rehabilitation (especially the institutional structure)
- To develop the level of mental health care (especially the institutional structure)
- To develop the pediatric emergency care
- To improve the level of neonatal care

Significant number of children needing hospital treatment is provided medical attendance in adult hospital departments. Taken children's rights into account the national program plans to develop legislation in order to ensure care in pediatric departments for child patients.

## Adolescent care

The care of the 50% of sick adolescents is done by family pediatricians and the other 50% is provided care by general practitioners. For them screening is ensured by school health service. There are special adolescent centers, where mainly sexual health consultation and contraception consultation is offered, and there are regional and national centers for mental health problems In the National Child Health Program the need for multidisciplinary adolescent consultation centers was formulated, their establishment in the capital and regional centers are planned.

#### **Immunization**

The past decades favourable changes could be experienced in eliminating the communicable pediatric diseases, primarily due to even in international level excellently executed immunization

program. Despite of increasing number of some communicable diseases (pertussis, purulens meningitis, varicella) the epidemic status is considered to be good and the number of HIV/AIDS infected children is very low.

Within the Hungarian immunization system, children are given free of charge immunization in 10 communicable diseases, and the immunization is obligatory. Some other vaccines used in other EU countries are also available free of charge.

The introduction of new immunization system is also planned that has an advantage in immunizing with polyvalent vaccines.

## Data relating to the children's health status and pediatric health care

Relating to the development needs of the European child health indicator systems (CHILD, PERISTAT) the reorganization of data collection and management system and the managing of existing international data collection systems (child tumor and leukemia register, neonatal intensive care units, diabetic children register, health behaviour of school aged children WHO collaborative study) and the development of technical/IT background is planned.

In the present data collection systems there is no special data collection relating to ethnical or minority groups. However it has long been noticed as the lack of information makes intervention more difficult in the involved areas.

#### Access to health care

The pediatric health care and its legislation principally ensures medical care for all children without discrimination. However children's residence and socio-cultural circumstances influences the access to health care partly because small and disadvantaged settlements suffer from poorer health care facilities partly because of families' worse access to information.

The Mobile Special Health Care Units ease this problem since decades, however the system needs to be reorganized.

## Table 7 - 2. Appendix: Financed health care data in pediatric service

## d) programmes and services for children with disabilities;

Special treatment and care of children with different educational needs is a complex and interdisciplinary work which is organized by governmental and non-governmental organizations, different foundations and associations.

At least 6 % but at most 10% of the children need special care (rehabilitation) for a certain period of time. In fact less than 0,26% of the rehabilitation hospital capacity serves the need of this special population. It's hardly sufficient to meet the 10% of the needs nevertheless it is unevenly distributed. However the medical attendance of the pediatric population is more expensive than of the adult population, the health insurance pays less for it. There were significant steps done by the profession to develop the special treatment system, but the main problem is the lack of legistlation, directives and reasonable financing.

Professionals try to provide even small towns with special care in the frame of early development strategy that was enacted in the last decade. There is a growing need for screening methods to help the early detection of developmental disorders and more transparent outline of the opportunities to get the proper treatment.

To help the proper school start, in the last year a screening test was edited for 5-year-old children that is focusing to the detection of possible retardations.

Altough from the middle of the 90' family and person centered models of special treatment services were established (for example in Budapest, Debrecen, Pécs), there are only few good examples of programs offering proper free-time activities for the 0-18-year population. The role of the school in compensation of the social inequalities and in the warranting of the equal opportunities is not enough powerful. It is a tendency in the recent years that the non-governmental organizations try to compensate the absent services of the governmental institutions and in many small settlements NGOs take the educational activities from the local municipalities.

According to the statistics (2002) most of the NGOs deal with education, free-time activities and sports.

One third of the foundations deal with education, one fourth of the NGOs with free-time activities, and one fifth with the sports.

The most NGOs give treatment and different services for mentally retarded (72%), disabled (9%) and autistic (7%) children.

Hopefully the National Infant- and Child Health Program of the government —which emphasizes the children rehabilitation - initiates good changes.

## e) support programmes for families;

## **Table 8:** Types of family benefits

The state channels cash assistance for child raising in a number of ways. In part, these systems help to cover the costs of child raising, and in part they replace the income loss of the parent whilst looking after the child. Alleviation of the costs of child raising takes place both directly (through benefits), and indirectly (by the tax allowance through the tax system).

The Act on Assistance to Families (Act LXXXIV of 1998) provides for the benefits mentioned below. All these benefits are tax-financed and are allocated on a universal basis. They are established and disbursed by the competent Regional Directorate of the Hungarian State Treasury or the family benefit pay-office at the applicant's workplace.

Scheme	Key Eligibility	Funding Arrangements	Amount and Established by
1. Maternity grant	Every mother, who	central budget (tax-	Single payment, the
	gives birth to a child is	financed)	amount of which is
Act LXXXIV of 1998	entitled to maternity		225% of the minimum
	grant, provided during		old age pension (55.575
	her pregnancy she		HUF) and 300% of the
	attends free pregnancy		minimum old age
	care at least four times		pension (74.100 HUF)
	(in case of premature		per child in case of twins
	birth at least once).		in 2005.
			Established and
			disbursed by the
			competent Regional
			Directorate of the

			Hungarian State Treasury (MÁK), except
			there is a family benefit
			1 * *
2. Child care allowance	Child care allowance is	central budget	
	provided until the age of	(tax-financed)	amount of the old age
2. Child care allowance Act LXXXIV of 1998	provided until the age of three of the child or until the age of ten if the child is permanently ill or seriously disabled or in case of twins until the end of that year, when the children reach their school age.  Every parent (i.e. mother or father) who provides care for the child is eligible for this allowance. Grandparents can also be entitled, if the child reached age 1, is cared for in the parent's household and the parents resign from the child care allowance and agree with requesting child care allowance by the grandparent.  In accordance with the Labour Code, employers must grant unpaid leave to the person claiming child care allowance, however, when the child reaches 12 months of age, the parent is allowed to work full time. The grandparent is allowed to work part-time when the child is more than 3 years old (no more than 4 hours a day) whilst on benefit.		pay-office at the applicant's workplace.  Equal to the minimum amount of the old age pension, which is 24.700 HUF per month in 2005. In case of twins 200% of the lowest old age pension, 49.400 HUF in 2005.  (The benefit period is considered as a service period for pension because 8,5% pension contribution is deducted from the disbursed amount)  The application for child care must be submitted to the locally competent MÁK, except there is a family benefit pay-office at the work place of the applicant.  Equity applications should be submitted exclusively to the competent directorate of MÁK.
	on equity basis The head of the Hungarian State Treasury may establish eligibility to child care allowance - if the parents of the		

	child are hindered in their child-raising		
	activities for more than three months, may establish or extend eligibility: until the child starts school, but at longest the child reaches 8 years of age -if due to an illness the child cannot be cared for in an institution providing day time services		
3. Child-Raising	Every parent (mother or father) who cares after at	central budget(tax-	Equal to the minimum
Benefit Ruising	least three minor children	financed)	amount of the old age
Act LXXXIV of 1998	(under the age of 14) - where the youngest is between three and eight years of age - is eligible to child raising benefit. The parent claming this benefit is allowed to work part- time (no more than 4 hours a day) or without limitation, if the work is performed at home whilst on benefit.		pension, which is 24.700 HUF per month in 2005.  (The benefit period is considered as a service period entitling to pension 8.5% pension contribution is deducted from the disbursed amount)  Established and disbursed by MÁK.
4. Family allowance	Payable to families that raise in their own	central budget (tax-financed)	Monthly paid flat rate universal benefit,
Act LXXXIV of 1998	household a child younger than 18 years of age, or aged between 18 to 23 who studies in a public educational institution (primary or secondary education). If the child is permanently ill or seriously disabled, the allowance is payable regardless of his age.		differentiated according to the type of the family.  The sum of the allowance per month and per child in 2006: families with one child: 11 000 HUF single parent raising one child: 12 000 HUF families with two children: 12 000 HUF single parent raising two children: 13 000 HUF families with three or more children: 14 000 HUF single parent raising three or more children: 15 000 HUF

	families with
	permanently ill or
	seriously
	disabled child: 21 000
	HUF
	single parent raising
	permanently ill or
	seriously disabled child:
	23 000 HUF
	a permanently ill or
	seriously disabled
	person of full age (18):
	18 000 HUF
	if the child is living in a
	children's home or
	placed with a foster
	parent: 13 000 HUF

The following benefits are provided for by the Act on Compulsory Health Insurance (Act LXXXIII of 1997). Child care fee, however, is considered contributory only from the point of view of eligibility (insurance period is required), because it is tax-financed from the central budget.

Scheme	Key Eligibility	Funding Arrangements	Amount and Established by
1. Confinement benefit	A person is eligible for the	Health Insurance Fund	The confinement benefit
	period corresponding to	(contributions)	represents 70% of the
Act LXXXIII of 1997	that of maternity	,	previous daily average
	leave (ie. for 24 weeks) if		earnings. If the law does
	she was insured for at		not provide to the
	least 180 days during the		contrary, the regulations
	two years preceding		applicable to sick pay
	birth and		must be applied as
	- gives birth during the		appropriate to pregnancy
	period insured or within		and confinement benefit.
	forty-two days following		
	the cessation of insurance,		8.5% pension
	or		contribution and
	- gives birth later than		personal income tax are deducted from it.
	forty-two days following the cessation of insurance		deducted from it.
	but either while receiving		The period of
	sick pay or accident sick		disbursement is
	pay or within forty-two		considered as service
	days after receipt of these		period.
	has ceased.		P*****
			To be established and
			disbursed by the locally
			competent organ of the
			National Health
			Insurance Fund, or
			family support payment
			offices at the workplace.

2. Child care fee Act LXXXIII of 1997	Child care fee has the same eligibility criteria and conditions as the confinement benefit, with the exception that this is provided following pregnancy and confinement benefit until the age of two of the child.	central budget (tax-financed)	The sum of the benefit represents the 70% of the previous daily average earnings, however with a maximum amount of 83 000 HUF per month in 2005.  8.5% pension contribution and personal income tax are deducted from it. The period of disbursement is considered as service period.
			To be established and disbursed by the locally competent organ of the National Health Insurance Fund, or family support payment offices at the workplace.

# Social allowance-type benefits for children, provided for by the Act XXXI. of 1997 on Child Protection.

Scheme	Key Eligibility	Funding Arrangements	Amount and Established by
Regular child	Socially handicapped	Budget of local	22 per cent of the
protection benefit	families, in which the	government with central	minimum old-age
Act XXXI of 1997  In the framework of the reforms of the Hungarian family benefit system, the resources of the regular child protection benefit, the family tax allowance and the family allowance are fused, the amount of the family allowance are almost doubled (as shown in the chart), and the regular child protection benefit is ceased.  A new type of the benefits is the regular	income/person of the family does not exceed the old-age minimum pension, can be eligible for this assistance. The aim of the benefit is to promote the child's bringing up within the family.	budget support)	pension; established by the local government
child protection fare.			

The eligibility criteria of this benefit are the same as at the regular child protection benefit.		In the framework of the child protection fare different in kind benefits are available (e.g. school-book grants), which were granted to the people, who were entitled to regular child protection benefit, and a one-off benefit in the
		amount of 5000 HUF in 2006.

## Tax allowance, provided for by the Act CXVII of 1995 on Personal Income Tax

Scheme	Key Eligibility	<b>Funding Arrangements</b>	Amount and Established by
Tax allowance Per	ersons can be eligible for	Central budget	3000 HUF/ month / 1
tax	x allowance after their ependent relatives	Central budget	dependent relative 4000 HUF/ month / 2 dependent relatives 10 000 HUF/ month / 3 and more dependent relatives.  The new amount of the tax allowance is maximum 4000 HUF/month/person. The yearly total income of the family has to be under 6 000 000 HUF in case of families with three children. This amount grows with growing of the number of children.

## **Changing the Family Benefit System**

The basic grounds of changing the current family benefit system were to make it simpler, more fair, more transparent and more targeted.

One of the main elements of the measures is the *Unified System of Family Benefits*.

The present system consists of three main elements: family allowance, regular child protection benefit and tax allowance.

The system would become one with a single pillar, in which every child-raising family is eligible for a higher amount of family allowance on a universal basis. Tax allowance would remain available only to families with three or more children if the annual income of the parent does not exceed 6 million HUF (the amount grows with the number of children). Regular child protection benefit would replace by regular child protection fare.

The eligibility conditions of the new, unified family allowance, the differentiation on the basis of the type of the family (one- or two-parent) and the health condition of the child would not be modified. The changes enter into force on the 1<sup>st</sup> of January 2006, but there are some temporary rules to make transition easier.

Table 9: Types of the benefits and the budget expenditure for the years 2003-2005.

Type of benefit	2003		20	04	2005		
	Estimate	Fulfilment	Estimate	Fulfilment	Estimate	Fulfilment	
Family allowance	176 000,0	169 390,5	187 886,8	185 482,8	195 938,0		
Maternity grant	5 000,0	4 678,6	5 315,0	4768,1	5 432,0		
<b>Confinement benefit</b>	16 355,0	20 206,8	21 348,1	23 433	25 340,0		
Child care fee	44 000,0	45 560,0	53 019,1	54 500	57 941,0		
Child care allowance	50 500,0	81 648,5	53 102,2	48 691	54 848,0		
Child raising benefit	14 000,0	12 739,7	14 435,5	13 146	14 697,0		
Total	305 855	334 224,1	335 106,7	329 966,9	354 196		

The average rate of family benefits is 5-6% of the central budget.

f) support for children living below the poverty line (please also specify the criteria for 'poverty' and indicate the number of children living below the poverty line);

There are several sociological definitions of "poverty":

Council of Europe definition: "An individual or a family or a group of people are to be cosidered as poor if the resources (financial, cultual and social) available to them are so restricted that they exlude them from the mimimum way of living of the country where they live."

In case of <u>relative poverty</u>, the situation of a group is assessed and measured by comparing it to the situation of another group living in the same environment, community or coutry. Thus it might happen that a person considered to be poor and living in a developed country has higher income than the more affluent people in a less developed cuntry. The meaning of poverty depends on the traditions, requirements and values accepted by a given country or region, thus cultural dimensions also play a role in what is considered to be poor.

The concept of <u>absolute poverty</u> starts out from what we consider as minimum requirements for survival. according to this definition we accept the basic principle that there are certain minimum requirements under which people can be considered as poor. The mostfrequently used index is the level of income, and if the income of a person or of a faily fall under the level that we consider as minimum requirement for sutaioning and acceptable level of living, that person or family is to be considered as poor.

In Hungary there is no data collected on children living under the set level of income. In Hungary this level is equal to the minimum old age pension, which is 24.700 HUFs per person per month in 2005.

In Hungary, no legislation in force uses the expression "children living under the poverty line", instead they refer to them as children in socially disadvantageous situation.

The aim of the regular child welfare support, granted on the basis of Act XXXI of 1997 on the protection of children and public guardianship is to extend financial assistance to families in a socially disadvantaged position, in the interest of promoting care for the child in family environment, and to prevent the removal of a child from the family.

This assistance is granted to every family by the self-government, where the sum of the per capita monthly income is not above the smallest sum of the old-age pension of the day. The sum of assistance per child is HUF 5434 per month.

This allowance was granted to 674,000 children and majors still studying in the monthly average last year, and a total sum of HUF 44.2 thousand million was spent for this purpose. Ninety per cent of this assistance was financed by the central state budget.

In addition the assembly of representatives of self-governments in the settlements accords *extraordinary child welfare support* to a child when the family looking after him/her is struggling against temporary difficulties of subsistence, or, gets into an extraordinary situation endangering subsistence. During the past year about 240 thousand children received support under this title of a total sum of *HUF 1.8 thousand million*.

In case the self-government considers it justified, the regular or extraordinary support **may be granted in kind, too,** and this form of assistance is most frequently meals granted to children.

#### Meals for children

In order not to have children famished in Hungary, the Government has increased the extent of the normative assistance granted to meals for children and has extended it to cover children receiving regular child welfare support, too, which corresponds to the social policy of the Government based on the principle of need.

From 1 January 2003 on 50% of the institutional fee has to be granted as normative assistance to children brought up in families having 3 children or more, to children and pupils of lasting illness or impairment, and also to the ones receiving regular child welfare support, mentioned above. Meals free of charge have to be given to those taking meals in kindergarten from 1 September 2003 on, and also to those who are cared for and receive regular child welfare support in crèches from 1 January 2004 on. From the year 2006 children in forms 1 to 4 of the primary school will also get meals free of charge if they are entitled for regular child care benefits.

The self-government competent at the place of the child's place of residence may *grant further* support on the basis of the child's individual needs for each child. The eligible has to be granted care free of charge if the person obliged to pay fees has no income.

Supply with textbooks has become free of charge even for a broader circle of pupils than meals from September2003 on: children living in families having three or more children, children of lasting illness or of impairment, being brought up by a single parent, and receiving regular child welfare support and studying in forms 1 to 13 and participating in occupational training are entitled to receive textbooks free of charge.

In addition to normative advantages the school may identify and grant further assistance. When granting additional support those pupils have to enjoy priority who can certify that the per capita income in the family is not above one and a half times the sum of the obligatory minimum wage.

## g) the protection of children who are in need of alternative care including the support of care institutions;

A further differentiation of special care provision was done with the amendment of the Act on the Protection of the Child in 2002, in the interest of care for children in specialist service near their need. According to the amendment special care has to be provided to children below the age of three who have a lasting illness or who have some impairment and because of their age (1 January 2004). Special care should be provided for children and young persons having grave psychic symptoms (struggling against grave disturbances of personality development, or producing serious psychotic or neurotic symptoms), presenting grave dissocial symptoms (child-age offenders presenting grave disturbances of adjustment or grave anti-social behaviour), or struggling against psycho-active matter (alcohol, drug, and other psycho-active matters) (1 July 2003). Care for a child/youth placed in a special children's home, or in a special group of a children's home may be longer than two years only in exceptionally justified cases.

Experts' committees of child protection have been set up in counties and in the capital in 2003, to identify the need for care provision. It is the opinion of experts' committees that lays the foundation for selecting the form of care corresponding to the condition of children, and for the elaboration of individual plan of placement. The experts' committee for child protection should consist at least of three members (paediatrician, psychologist, social worker), and in the case of surveying children of special needs it should consist of five members (psychiatrist and specialist educationist as well

<u>Table 10:</u> Changes of the normative support granted to specilaist service of children with special needs between the years 2002 and 2004

Year	Specialist service (HUF/person	Specialist service (HUF/person provided for)
	provided for)	
2002	-	714 400
2003	-	952 060
2004	900 000	966 000

Each year the sectoral ministry of the day offers assistance to the replacement of big children's homes by homes in flats and to the development of special children's homes in primary schools and students' hostels by the announcement of funds available by competitive application.

<u>Table 11:</u> Sum of support available by competitive application for development of a set of indtitutions offering service to children of special needs 2002-2004

Year	For the setting up of extraordinary and special children's home
2002	386 000 000 Ft
2003	238 500 000 Ft
2004	73 000 000 Ft

**Table 12: Numbers** 

Year	Number of children placed in special children's home (persons)	Number of children placed in primary schools and their students' hostels and in children's homes (persons)
2002	447	1398
2003	466	1337
2004	342	1234

Table 13: Numbers of impaired children living in specialist service of child protection

Year	Placed in children's home (persons)	Placed with foster parent (persons)
2002	2 845	1 217
2003	3 138	1 672
2004	3 101	1 445

h) programmes and activities for the prevention of and protection from child abuse, child sexual exploitation and child labour;

<u>Table 14 – 3. Appendix</u>: Perpetrators of harming under age persons

i) juvenile justice;

<u>Table 15</u>: Disaggregated data of minors involved in criminal procedure - by sex and agegroup In Hungary covering the years 2002-2004

	2002		20	03	2004		
	Number	%	Number	%	Number	%	
Minor perpetrators total	3 959	100,0	3 553	100,0	3 963	100,0	
From this							
Boy	3 456	87,3	3 066	86,3	3 342	84,3	
Girl	503	12,7	487	13,7	621	15,7	
0-10 years	893	22,6	762	21,4	843	21,3	
11 years	632	16,0	536	15,1	582	14,7	
12 years	959	24,2	868	24,4	974	24,6	
13 years	1 475	37,3	1 387	39,0	1 564	39,5	

Table 16: Disaggregated data of juveniles involved in criminal procedure - by sex and age-

group in Hungary covering the years 2002-2004.

	2002		20	03	2004		
	Number	%	Number	%	Number	%	
Juvenile perpetrators total	11 689	100,0	10 473	100,0	12 325	100,0	
From this							
Boy	10 344	88,5	9 098	86,9	10 678	86,6	
Girl	1 345	11,5	1 375	13,1	1 647	13,4	
14 years	1 974	16,9	1 858	17,7	2 178	17,7	
15 years	2 830	24,2	2 540	24,3	2 945	23,9	
16 years	3 378	28,9	3 001	28,7	3 462	28,1	
17 years	3 507	30,0	3 074	29,4	3 740	30,3	

Source: Single Police and Prosecutorial Crime Statistics Data Collection Program

<u>Table 17</u>: Number of minors involved in criminal procedures by crime categories in Hungary covering the years 2002-2004

	2002	2	2003		2004	1
	Number	%	Number	%	Number	%
Minor perpetrators total	3 959	100,0	3 553	100,0	3 963	100,0
From this:						
<b>Perpetrators of Crimes Against the Person</b>	125	3,2	144	4,1	179	4,5
From this:						
Manslaughter	1	0,0	1	0,0	1	0,0
Battery	86	2,2	89	2,5	113	2,9
Perpetrators of Traffic Offences	150	3,8	128	3,6	152	3,8
Perpetrators of Crimes Against						
Connubiality, family, Youth and Sexual	33	0,8	43	1,2	51	1,3
Morality		Í				,
From this:						
Rape	5	0,1	8	0,2	13	0,3

<b>Prpetrators of Crimes Against Public</b>						
Cofoty	364	9,2	330	9,3	335	8,5
Safety From this:						
Digardarly Candyat	226	5,7	182	5,1	220	5,6
Disorderly Conduct Misuse of Narcotic Drugs	11	0,3	7	0,2	9	0,2
Perpetrators of Crimes Against Property	3 269	82,6	2 888	81,3	3 225	81,4
From this:						
Thaff	1 744	44,1	1 638	46,1	1 883	47,5
Theft Theft using actual force against a thing	699	17,7	539	15,2	606	15,3
Robbery	165	4,2	180	5,1	191	4,8
Perpetrators of other crimes	18	0,5	20	0,6	21	0,5

Source: Single Police and Prosecutorial Crime Statistics Data Collection Program

<u>Table 18</u>: Number of juvenile minors involved in criminal procedures by crime categories in Hungary covering the years 2002-2004

	2002	2	2003	3	2004	1
	Number	%	Number	%	Number	%
Juvenile perpetrators total	11 689	100,0	10 473	100,0	12 325	100,0
From this:						
<b>Perpetrators of Crime Against the Person</b>	659	5,6	622	5,9	740	6,0
From this:						
Manalauahtar	21	0,2	23	0,2	12	0,1
Manslaughter Battery	499	4,3	426	4,1	521	4,2
Perpetrators of Traffic Offences	266	2,3	225	2,1	281	2,3
Perpetrators of Crime Against		Í		Í		,
Connubiality, Family, Youth and Sexual	88	0,8	116	1,1	93	0,8
Morality		ĺ		,		ĺ
From this:						
Dama	21	0,2	11	0,1	13	0,1
Rape Perpetrators of Crimes Against Public						
	2 445	20,9	2 045	19,5	2 936	23,8
Safety. From this:				,		
Disardarly Conduct	1 129	9,7	1 108	10,6	1 306	10,6
Disorderly Conduct Misuse of Narcotic Drugs	761	6,5	389	3,7	1 021	8,3
<b>Perpetrators of Crimes Against Property</b>	7 923	67,8	7 153	68,3	7 932	64,4
From this:		Í		ĺ		
Thaf	4 159	35,6	3 814	36,4	4 380	35,5
Theft Theft using actual force against a thing	1 765	15,1	1 379	13,2	1 469	11,9
Robbery	586	5,0	622	5,9	671	5,4
Perpetrators of other crimes	308	2,6	312	3,0	343	2,8

## j) juvenile crime prevention and recovery and reintegration;

<u>Table 19:</u> Number of Supervision by Probation Officer in Hungary covering the years 2002-2004

	Number of cases	Number of accused		From	these	
Year	C				Juvenile	
	Supervision of Probation Officer		Accused	%	Accused	%
2002	4 422	6 254	993	15,9	5 261	84,1
2003	4 259	5 959	1 113	18,7	4 846	81,3
2004	4 330	6 037	1 416	23,5	4 621	76,5

All fields of the Ministry of Interior are covered by the programmes and tasks concerning children and juveniles. They include the activity of the local governments, the reform of the public administration, the JHA, the Euro-Atlantic cooperation, the protection of public-safety, the prevention of the accidents and crime, the protection of victims of crime, the protection of the human and minority rights, the protection of the rights of migrants and refugees, the civil

protection, the protection of the built physical environment, the elections, the public information, the education and training, and research. (Detailed programmes in section Part III.)

<u>Table 20:</u> Number of Supervision by Probation Officer in Hungary covering the years 2002-2004

\$7	No		From t	hese	
Year	Number of juvenile accused	Boy		Girl	
		Number	%	Number	%
2002	5 261	4 759	90,5	502	9,5
2003	4 846	4 304	88,8	542	11,2
2004	4 621	4 621	100,0	506	11,0

Source: Data on action of Prosecutors before the criminal court procedures (VLP) Supervision by Probation Officer in Hungary covering the years 2002-2004

k) other social services.

No relevant data are available regarding other social services.

Please also indicate the estimated expenses of the private sector, in particular for health and education.

No relevant data are available in Hungary on the estimated expenditres of the private sector on health and education matters.

- 3. With reference to children deprived of a family environment and separated from parents, please provide disaggregated data (by sex, age, minority; in particular Roma, urban and rural areas) for the last three years on the number of children:
  - a) separated from their parents; b) placed in institutions; c) placed with foster families;

<u>Table 21</u>: Children living separated from the parents - children living in children's homes - children living with foster parents

A) Children living separated from their parents	2002	2003	2004
Those in temporary care	1 417	1 771	3 419
Temporary placements	3 307	3 329	5 923
Temploraryily fostered	14 966	15 576	15 518
Long term fostered	2 281	2 172	1 935
Total	21 971	22 848	26 795
from this:			
B) Children living in children's homes	7 424	8 512	8 225
from these: girls	3 343	3 778	3 644
boys	4 081	4 734	4 581
C) Children livibng with foster parents	8 183	8 608	8 826
from these: girls	4 007	4 134	4 289
boys	4 176	4 474	4 537

## d) adopted within the country and thorough inter-country adoptions

**Table 22: Adopiton 2002–2004** 

	Municipal guardianship office					
Denomination	2002	2003	2004			
Approved adoption	847	769	750			
Approved adoptions for foreign citizens	112	100	80			
Of which:						
closed	89	78	69			
open	23	22	11			
Number of approved adoption of children who are foreign citizens	21	13	14			

4. Please specify the number of children with disabilities, disaggregated by sex, age, minority (in particular Roma) covering the years 2002, 2003 and 2004:

## a) living with their families;

Data are only available regarding children living with disabilities who receive institutional care.

#### b) in institutions:

Table 23: Number of children living in homes for the disabled by sex and age, 2004

Sex	0-13 years of age	14-17 years of age	Total
Male	487	384	871
Female	362	249	611
Together	849	633	1 482

## c) attending regular schools;

Table 24: The number of children with disabilities attending regular schools

School years	Female	Male	Total
2002/2003	5 949	12 216	18 165
2003/2004	8 768	16 275	25 043
2004/2005	11 169	20 180	31 349

## d) attending special schools;

Table 25 – 4. Appendix: The number of children with disabilities attending special schools

## e) non attending any school.

No such data collection is done in Hungary.

## 5. Please provide information on the number of children abducted from or to Hungary.

We have no information on the number of children abducted from or to Hungary.

The Penal Code does not use the concept of "abduction of a child" as such. On the abduction of a child, the crime of "kidnapping" as stated under section 175/A of Act IV of 1978 on the Penal Code is committed. There is no age specification of the passive subject, which means that it involves the abduction of minors as well. In addition, depending on the circumstances, two more legal facts may occur:

a) altering the family status – section 193 2/a of the Penal Code b) trafficking in human beings – section 175/B of the Penal Code

kidnapping and trafficking in human beings are violent acts and the data of the offended party registered in ERÜBS (Single Criminal Statistics of the Police and the Prosecutor's Office) cover also the age of the offended person. Hence we know whether the person is a minor (0-14) or a juvenile (14-18).

The above Statistics covers crimes perpetrated in Hungary and/or crimes perpetrated by Hungarian citizens abroad. We cannot provide any more disaggregated data.

Number of accused, against them punsment or measures have been onforced, Changing of Family Status (193.§/2/a of the Cirminal Coda)

In 2002: 2 persons In 2003: 2 persons In 2003: 13 persons

Table 26: Kidnapping and Trafficing in Human Beings

Crime	2002		2003	3	2004		
victim age group	Number	%	Number	%	Number	%	
Abduction	16	100,0	25	100,0	17	100,0	
- child	0	0,0	0	0,0	0	0,0	
- juvenile	0	0,0	2	8,0	3	17,6	
- adult	16	100,0	23	92,0	14	82,4	
Trafficking in humans	33	10,0	18	100,0	22	100,0	
- child	0	0,0	1	5,6	0	0,0	
- juvenile	1	30,	7	38,9	2	9,1	
- adult	32	97,0	10	55,6	20	90,9	

6. With reference to child abuse, please provide disaggregated data (by age, gender, minority, in particular Roma and types of violations reported) covering the years 2002, 2003 and 2004 on the:

a) number of reported cases of child abuse;

Table 27: Number of cases reported to specialist services of child welfare to years 2002-2004

	Of problems	Number of problems dealt with				
	Of problems	2002	2003	2004		
1	Financial (existeintial, related to housing, etc.)	131 326	148 203	151 629		
2	Child-raising	84 160	97 945	115 029		
3	Difficulty in fitting into a child's institution	26 678	30 446	31 672		
4	Behavioral and achievenment disturbance	50 904	57 051	62 449		
5	Family conflict (between parents, between parent and child)	55 345	63 870	69 018		
6	Lifestyle of parents or of the family	71 470	82 249	95 830		
7	Parental neglect	30 409	32 723	36 204		
8	Intra-family abuse (physical, sexual)	7 202	8 842	11 093		
9	Impairment, retardation	10 637	12 053	12 814		
10	Addigtions	21 350	21 732	23 372		
11	Total number of problems (lines 1-10)	489 481	555 114	610 324		

b) number and percentage of reports which have resulted in either a court decision or other types of follow-up;

<u>Table 28 – 5. Appendix</u>: Disaggregation of data on victims by age-groups in case of sexual crimes, crime categories covering the years 2002-2004

<u>Table 29 – 6. Appendix</u>: Disaggregated data by age-groups of victims in violent crimes, crime groups covering years 2002-2004

<u>Table 30 – 7. Appendix</u>: Number of initiated criminal procedures in Hungary, because of pornographic, and other – sexual – crimes against minors covering the years 2002-2004

<u>Table 31 - 8. Appendix:</u> Distribution of punishments and independently applied measures on legally binding judgement

c) number and proportion of child victims that have received counselling and assistance in recovery.

No such data collection is done in Hungary.

- 7. Please provide disaggregated data (including by sex, age, minority; in particular Roma, urban and rural areas) covering the years 2002, 2003 and 2004 on:
  - a) the enrolment and completion rates in percentages of the relevant group in preprimary schools, in primary schools and in secondary schools;

No such data collection is done in Hungary

b) rates of literacy under 18 years old;

The Ministry in charge has no related data available.

c) rate of children completing primary and secondary school;

**Table 32: Graduates** 

Year	Pupils completed 8th grade	secondary leve		secondary level in vocational schools Total		nal graduates With te of Maturity mination				
Studen	Students in full-time education									
2002	118 038	33 550	36 062	69 612	25 303	30 047				
2003	115 863	34 998	36 946	71 944	24 952	26 366				

## d) number and percentage of drop-outs and repetitions;

<u>Table 33:</u> Number of participants in different levels of education, and number of private student children with special needs

	Number		of these		Number	(	of these		Number	(	of these	
	of particip	girl	repeat er of	of these	of particip	girl	repeat er of	of these	of particip	girl	repeat er of	of these
	ants in		cless	girl	ants in		class	girl	ants in		class	girl
	educatio n				educatio n				educatio n			
	2002/20				2003/200				2004/200			
	03				4				5			
kinter garten	331 707	159538			327508	157702			325999	157305		
E1	414	161	42	19	325	123	36	13	322	120	28	9
E2	307	114	31	13	300	115	22	13	259	105	15	5
1	116 463	56 151	5 533	2 219	107 822	51 787	4 909	2 001	104 176	49 825	4 620	1 827
2	111 566	54 132	2 319	938	111 562	54 084	1 915	757	103 639	50 089	1 791	675
3	115 825	56 559	1 731	610	110 917	53 771	1 437	496	110 994	53 869	1 286	463
4	119 190	57 773	1 661	582	115 684	56 474	1 399	490	111 171	53 847	1 351	481
5	126 571	60 920	3 679	1 153	121 177	58 387	3 261	1 069	117 772	57 053	3 198	1 003
6	126 495	61 419	3 720	1 134	125 498	60 526	2 985	992	120 520	58 268	2 947	971
7	122 753	59 608	3 345	1 028	125 638	61 152	2 988	1 013	125 358	60 440	3 214	1 017
8	118 145	57 775	890	329	119 077	58 451	859	329	121 758	59 954	870	320
9	130 167	63 211	8 677	3 533	128 891	62 365	9 369	3 979	128 902	62 495	8 729	3 662
10	114 323	56 751	4 289	1 555	116 081	57 384	4 713	1 891	115 923	57 274	4 261	1 636
11	117 362	57 281	3 503	1 101	118 220	56 849	3 727	1 182	119 867	57 568	3 493	1 127
12	100 912	50 346	1 097	333	105 456	52 484	1 284	353	105 440	51 887	952	265
13	47 052	24 204	322	106	48 077	23 859	456	138	46 960	23927	453	165
14	18 812	9 245	114	35	23 686	10 460	210	56	23 760	10 396	184	37
15	867	409	4		1 006	486	2	1	1 377	654	7	1
16	4	2			25	5			27	16	1	1
Total	1818935	885599	40957	14688	1806950	876464	39572	14773	1784224	865092	37400	13665

## e) teacher per child ratio;

<u>Table 34</u>: Number of pupils/students per teachers in full-time and part-time education together

	2002/2003	2003/2004	2004/2005
Kindergartens	10,5	10,4	10,6
Primary (general) schools	10,5	10,2	10,2
Vocational schools	15	14,6	14,8
Special vocational schools	8,2	7,6	8
Secondary general schools	13,6	13,5	13,4
Secondary vocational schools	14,4	14,1	14

8. Please provide disaggregated statistical data (including by sex, age, minority; in particular Roma, urban and rural areas) on early pregnancies, abortions, sexually transmitted infections (STIs), mental health problems (e.g. suicide rates, eating disorders, depression), drug use, alcohol and tobacco abuse covering the years 2002, 2003 and 2004. Please also provide numbers of health professionals working in the health care services for children.

We cannot answer to the parts of questions 8. and 9. on minorities because no data are, nor can be collected for reasons of personal data protection.

<u>Table 35</u>: Live births and foetal losses of females aged under 18 years by settlement type, 2002-2004

		Foetal	death		
Settlement type, year	Live birth	Early and medium term	Late	Induced abortion	Total
Budapest					
2002	141	32	_	383	556
2003	110	44	_	376	530
2004	135	28	_	337	500
Urban					
2002	1 055	203	13	1 345	2 616
2003	1 042	155	13	1 340	2 550
2004	1 005	175	7	1 286	2 473
Rural					
2002	1 328	163	12	1 036	2 539
2003	1 269	184	7	1 052	2 512
2004	1 281	174	8	1 119	2 582
Total*					
2002	2 550	399	25	2 819	5 793
2003	2 434	387	20	2 817	5 658
2004	2 441	378	15	2 744	5 578

<sup>\*</sup> Including homeless persons, foreigners and persons of unknown residence.

#### Reproductive health of children and adolescents

Even if there was a significant decrease in the last decades in the rate of teenagers who had abortions and childbirths there were almost 20: 1000 girls who had abortions and another 20 who delivered babies in the last (2004.) year (see the figure ).

Early and unprotected sexual life threatens not only the teenage mother' health but the health of the offspring. Among the babies of teenage mothers the infant mortality rate is significantly higher (10, 1/1000 live births) than the national average (6,6/1000 live births).

Three quarter of these children comes to the world out of marriage.

The one third of 15 yr old boys, the one fifth of 15 yr old girls, the half of 17 yr olds (both males and females) have already had sexual intercourse. Three quarter of the sexually active students

have used any contraception: most of them (55-92%) used condom. 20-40% of them used contraceptive pills, but there was significant proportion who used the unsafe method of withdrawal. (These data are from the last data collection of the HBSC study, carried out in 2002.)

As result of the effective sexual education in Hungary the number of students who used condoms has increased in the recent years.

We have to note that the Hungarian Health Insurance System does not support the contraceptive pills, it is pretty expensive.

## Mental health problems, suicide rate

Experiences and the data collected sporadically show increasing rates of children who have mental disorders, depressive and psychosomatic symptoms. We do not have current data about the psychiatric symptoms and mental disorders.

The mortality rate of suicide in childhood is relatively high and stable (it does not decrease or increase for years).

We do not have reliable data about the attempted suicide, the number of which are estimated 10 times higher as the number of deaths due to suicide.

### Smoking, alcohol, drinking and drug use among Hungarian adolescents

The source of the below presented data is the HEALTH BEHAVIOUR OF SCHOOL-AGED CHILDREN (HBSC) 2001/2002 survey that is a WHO collaborative cross-national study. The study includes the data of 11-18-yr-old students with nationally representative sample. The survey is carried out using self-reported questionnaires and anonymous data collection is ensured. There various topics in the questionnaires e.g. family background, smoking, drinking, drug consumption, physical activity, nutrition, mental health, school climate, peer relations, family climate, injuries and bullying etc. The aims of the study are to understand young people's health behaviour and lifestyles in their social context and to inform and influence health educators and policy makers as well as to monitor the young population.

## **Tobacco smoking prevalences**

#### Prevalence of young people ever having smoked

The proportion of young people trying out smoking triples from the 5th grade to the 11th grade and it is true both for girls and boys, although the initial level at 5th grade is high in itself especially for boys.

Table 36: Young people reporting ever having smoked by gender and grade

Grade	Вс	oys	Girls		
Grade	Number	%	Number	%	
5th grade	170	25	92	12,6	
7th grade	356	50,9	333	41,1	
9th grade	396	72,7	590	68,1	
11th grade	611	77	628	76,7	
Total	1533	56,4	1643	51	

## Frequency of smoking

If we divide young people by frequency of smoking we can conclude that the proportion of the non smokers decrease with school grade and in the 11th grade 20% of the students is considered to be a dependent.

**Table 37:** Frequency of smoking by grade

Grade	Non s	mokers	Tr	iers	Experi	menters	Regular	smokers	Depen	idents	Total
	N	%	N	%	N	%	N	%	N	%	N
5th	1157	81,4	183	12,9	45	3,2	16	1,1	20	1,4	1421
7th	820	54,4	411	27,2	146	9,6	61	4,0	71	4,7	1509
9th	426	30,1	428	30,2	167	11,9	111	7,8	282	20,0	1414
11th	374	23,1	513	31,7	128	8,0	111	6,8	488	30,3	1614
Total (N)	2777	46,6	1535	25,5	486	8,2	299	4,9	861	14,4	5958

As the Hungarian HBSC study has almost twenty years of history, it was possible to compare data from previous data collections and to analyze the trend of changes.

<u>Table 38:</u> The changes of the prevalence of daily smoking between 1986 and 2002 by gender (%)

	1986	1990	1993	1997	2002
Boys	20,6	24,8	17,3	25,2	22,1
Girls	14,1	14,4	13,2	17,1	19,4

## **Alcohol consumption prevalences**

## Prevalence of young people ever having drunk

Similarly to the smoking behaviour the prevalence of young people trying alcohol is increasing from the 5th grade to the 11th grade and it is again true for both genders. In the 11th grade the proportion is almost 100% in both genders.

Table 39: Young people ever having drunk alcohol more than just a tip by gender and grade

Grade	Во	oys	Girls		
	N	%	N	%	
5th grade	260	39,5	171	23,8	
7th grade	461	66,5	465	58,1	
9th grade	483	89,3	715	82,9	
11th grade	727	92,8	742	91,3	
Total	1931	72,2	2093	65,5	

## Frequency of drunkenness

In the frequency of drunkenness there are significant gender differences, but again the proportion of youngsters having been drunk two times or more is higher with higher grades.

Table 40: Young people who have been drunk two or more times by gender and grade

	Во	oys	Girls		
Grade	N	0/0	N	0/0	
5th grade	25	3,7	11	1,5	
7th grade	97	13,8	60	7,4	
9th grade	257	48,3	241	27,9	
11th grade	502	63,7	334	40,8	
Total	887		646		

From previous HBSC data collection the trend changes in the frequency of drunkenness can be detected as seen below. There is a significant increase in the latest data collection in the proportion of boys and girls having been drunk two times or more, but there a important gender differences as well.

Table 41: The changes of the prevalence of youth who have been drunk two or more times between 1986 and 2002 by gender (%)

	1986	1990	1993	1997	2002
Boys	26,6	35,5	35,2	36,6	49,7
Girls	6,6	12,5	19,7	20,2	29,3

## Lllicit drug use

## Prevalence of illicit drug use

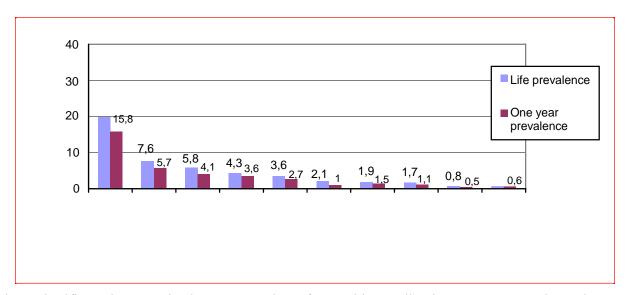
From the below table it is apparent that almost one fourth of the 9th and 10th grade student has already have experience with legal or illegal drugs.

<u>Table 42:</u> Life prevalence of different drug consumption behaviour in the 9th and 10th grade (%)

Drug consumption behaviour	%
Total life prevalence of substance use of legal drugs	9,3
Life prevalence of illicit drug use and inhalants Total	21,5
life prevalence of legal and illicit drug use	24,3
N	3034

Among illicit drugs cannabis has the highest life prevalence, followed by alcohol and medication, medication and ecstasy.

Table 43: Life and one year prevalence of certain drug types



There significant increase in the consumption of cannabis, medication, ecstasy, amphetamines and other drugs from 9th grade to the 11th grade, but there is significant decrease regarding the use of glue or solvents. From the below tables it can be concluded that in Budapest there is higher prevalence of drug use and more boys use drugs than girls.

Table 44: Life prevalence of certain drug types by grade

	Life prevalence (%) <sup>1</sup>				
Type of drug	9th grade	11th grade			
Cannabis,	13,8	25,1***			
Medication to get high	4,8	6,6*			
Ecstasy	3,2	5,2**			
Amphetamines	2,8	4,3*			
Glue or solvents	2,9	1,4*			
Others	1,3	2,4*			

<sup>&</sup>lt;sup>1</sup> Pearson Chi-Square Sig.: \* 0,05, \*\* 0,01, \*\*\* 0,001

-

Table 45: Life prevalence of certain drug types in Budapest and the countryside

	Life pre	evalence (%) <sup>2</sup>
Type of drug	Budapest	Countryside
Cannabis	25,3	19,0**
Ecstasy	6,8	3,9**
LSD or other hallucinogens	3,7	1,5**

Table 46: Life prevalence of certain drug types by gender

	Life prevalence (%) <sup>3</sup>			
Type of drug	boys	girls		
Cannabis, hasis	24,5	15,9***		
Amphetamines	4,8	2,7***		
Glue or solvents	2,8	1,6*		
Other drugs	2,9	1,0***		

<u>Table 47 – 9. Appendix:</u> Number of registered patients at child and youth psychiatric dispensaries by diagnosis, age-groups and sex, 2002

<u>Table 48 – 10. Appendix</u>: Number of registered patients at child and youth psychiatric dispensaries by diagnosis, age-groups and sex, 2003

<u>Table 49 - 11. Appendix:</u> Number of registered patients at child and youth psychiatric dispensaries by diagnosis, age-groups and sex, 2004

Pearson Chi-Square Sig.: \* 0,05, \*\* 0,01, \*\*\* 0,001 Pearson Chi-Square Sig.: \* 0,05, \*\* 0,01, \*\*\* 0,001

<u>Table 50</u>: Number of suicides ending with death of persons aged under 18 years by sex and settlement type 2002-2004

Settlement type, year	Male	Female	Total
Budapest			
2002	3	2	5
2003	1	_	1
2004	1	1	2
Urban			
2002	10	4	14
2003	12	2	14
2004	8	2	10
Rural			
2002	3	4	7
2003	6	5	11
2004	7	5	12
Total			
2002	16	10	26
2003	19	7	26
2004	16	8	24

<u>Table 51</u>: Suicide-death rates among 100.000 males and femals of same age

Years	2000	2001	2002	2003	2004
Males					
10-14 yr	2,5	0,9	1,3	2,6	1,6
15-19 yr	10,9	10,1	11,2	8,9	12,3
Females					
10-14 yr	1,0	0,3	1,0	-	0,7
15-19 yr	3,2	3,7	3,8	3,8	3,2

#### School health service

1464 part time family pediatrician, 1418 part time general practitioner, 240 full time school doctor (mainly in secondary schools) operate in 9000 educational institutes, the number of full time school nurses increased to 842.

#### Activities/tasks:

Yearly examination of preschool aged children, two year examination of school aged children: follow up of the physical and mental development and screening (functioning of the sensory and motor system)

Supervision of the educational institute's environment, hygienic conditions and canteen meals, reinforcing the health promoting school activities

Contribution to the school health promotion

**Table 52:** School health service

MCH nurses	2002	2003	2004
Full-time MCH nurses, school health services	471	483	482
District MCH nurses	3 626	3 696	3 740
Total	4 097	4 179	4 222

Source of data:

until 2003 Physicians, MCH nurses providing school (nursery) health tasks, NSDCP1554. Report on school health service

in 2004 Physicians, MCH nurses providing school (nursery) health tasks, 1002 departmental order signed of the health minister. Report on school health service

**Table 53:** School helath service

Physician	2002	2003	2004
Full-time school doctor	225	240	242
Family paediatricians	1 492	1 464	1 452
GPs	1 414	1 418	1 410
Part-time internist	16	15	11
Part-time paediatricians	60	61	62
Other part-time doctor	35	23	28
Total	3 242	3 221	3 205

Source of data:

until 2003 Physicians, MCH nurses providing school (nursery) health tasks, NSDCP1554. Report on school health service

in 2004 Physicians, MCH nurses providing school (nursery) health tasks, 1002 departmental order signed of the health minister. Report on school health service

Table 54: Data on family paediatricians

Year	Number of family
	paediatricians
2002	1 579
2003	1 582
2004	1 577

Source of data: National Statistical Data Collection Program (NSDCP) 1021: Report on general practitioners' and family paediatricians' activities.

**Table 55:** Posts of MCH nurses

MCH nurses	2002	2003	2004
Number of the posts of district MCH nurses	4537	4546	4501
Number of the filled posts of district MCH nurses (Posts of MCH nurses)	4105	4190	4183
Average number of working district MCH nurses during the year	3705	3867	3910
Number of the posts of protection of families MCH nurses	127	124	119
Number of the filled posts of protection of families MCH nurses	127	121	115
Average number of working protection of families MCH nurses during			
the year	126	121	107
Total number of posts of MCH nurses	5342	5338	5259
Total number of filled posts	4881	4949	4913
Average number of working MCH nurses during the year	4460	4610	4616

Source of data:

until 2003 all district MCH nurses, chief MCH nurses of capital and country institutes of NPHMOS NSDCP 1483, Summary report of MCH nurses.

in 2004 all district MCH nurses, chief MCH nurses of capital and country institutes of NPHMOS 1003 departmental order signed of the health minister, Summary report of MCH nurses.

#### **Pedietrics**

We have a total of 4907 pediatric hospital beds in 91 inpatient institutions, that means 4,77 pediatric hospital beds for 10.000 residents (data from 2004. Source: National Statistic Data Collection Program, OSAP).

The number of pediatric hospital beds is decreasing since the middle of the '90s and the National Infant and Child Health Program is planning further changes in the inpatient care structure.

About the changes in the inpatient care structure:

To restructure the pediatric departments with few beds according to the needs (daytime care, local emergency care)

To develop the early development network, neuro-habilitation, pediatric rehabilitation (especially the institutional structure)

To develop the level of mental health care (especially the institutional structure)

1. To develop the pediatric emergency care

To improve the level of neonatal care.

9. Please provide disaggregated statistical data (including by sex, age groups, minority; in particular Roma, urban and rural areas) on children infected or affected by HIV/AIDS.

According to the HIV/AIDS registry of the National Center of Epidemiology, between 1st January 2003 and 30th September 2005 two children (14 year old or younger) were reported to be infected with HIV.

Both children are one year old, one of whose mother has immigrated to Hungary from an infected area. One was discovered to be HIV infected as AIDS symptoms appeared, the other one was simply proved to be HIV infected. Both were infected by the mother.

As regards questions 8 and 9, we note that disaggregated data by minority are not collected for personal data protection reasons.

- 10. Please provide appropriate disaggregated data (including by sex, age, minority; in particular Roma ethnic, urban and rural areas and type of crime) covering the years 2002, 2003 and 2004, in particular on the number of:
  - a) persons below 18 who have allegedly committed a crime, reported to the police;

<u>See Table 17:</u> Disaggregated data on number of minors and by crime categories in Hungary covering the years 2002-2004

<u>See Table 18:</u> Disaggregated data on numbers of juvenile and by crime categories in Hungary covering the years 2002-2004

<u>See Table 30 – 7. Appendix</u>: Number of initiated criminal procedures in Hungary, because of pornographic, and other – sexual – crimes against minors covering the years 2002-2004

b) persons below 18 who have been sentenced and type of punishment or sanctions related to offences including length of deprivation of liberty;

<u>Table 56</u>: Number of convicted juveniles in Hungary by the type of principle punishment covering the the years 2002-2004

	Number of convicted juveniles	Inprisonment lasting for a	from th	Labor in the		Ancially punishment independently enforced, measure	
Year		definitive period of time	to be executed	suspended	public interest		
			Convicte				
2002	7 285	1 934	502	1 432	203	444	4 704
2003	6 700	1 882	472	1 410	180	323	4 315
2004	7 059	1 824	381	1 443	218	409	4 608

		From these							
Year	Juveniles sentenced to	6 months or	6-12	1-2	2-3	3-5	5-8	10-15	15-20
	inprisonment to be	less	months	years	years	years	years	years	years
	executed								
2002	502 91			157	79	26	3	6	0
2002	Average length of punishments: 1,55								
2003	472	90	95	167	73	34	8	2	0
2003	Average length of punishme								
2004	381	55	78	139	70	24	7	2	0
2004	Average length of punishments: 1,78 years								

<u>See Table 15</u>: Disaggregated data of minors involved in criminal procedure - by sex and agegroup In Hungary covering the years 2002-2004

<u>See Table 16:</u> Disaggregated data of juveniles involved in criminal procedure - by sex and age-group in Hungary covering the years 2002-2004

<u>See Table 31 - 8. Appendix:</u> Distribution of punishments and independently applied measures on legally binding judgement

## c) persons below 18 who have been tried as adults

No such data is available in the Ministry.

## d) detention facilities for juvenile delinquents and their capacity;

#### **New institutions**

The Hungarian Prison Service (HPS) placed the juvenile prisoners according to regions since the previous report.

The following new prisons have started to operate:

1997 Regional Juvenile Prison in the city of Kecskemét with the capacity of 30 male juvenile prisoners

2002 Regional Juvenile Prison in the city of Szirmabesenyő with the capacity of 115 male juvenile prisoners

2005 Juvenile female prisoners are not placed at the Mélykút Unit of the Pálhalma National Prison anymore; a new unit is being established at the Regional Juvenile Prison in the city of Kecskemét. The capacity of the prison has changed since October 2005: it holds 20 juvenile male prisoners and 10 juvenile female prisoners.

In order to place children who were born in prisons a mother-child unit was established in Kecskemét in 2002. After building a new unit 20 mothers and 21 infants can be placed there since November 2003. Convicted women can stay together with their children until the age of 6 months of the child which can be lengthened with another 6 months at request.

2006 Regional Juvenile Prison in the city of Pécs will begin to operate with the capacity of 50 male prisoners.

# **Newly implemented policies**

The Government Resolution No.1009/2004. (II. 26.) on the government tasks in implementation of the short-, medium- and long-term objectives of the national strategy of social crime prevention was adopted. There is a separate chapter in the Resolution which deals with the prevention and reduction of childhood and juvenile delinquency. (It was repealed by the Resolution of Government number 1036/2005 (IV. 21.) on the 2005-2006 governmental tasks of the implementation of the objectives of the national strategy of social crime prevention.)

# Newly implemented programmes and projects and their scope

# Whole prison service

Programme MATRA

In the frames of the MATRA programme which was implemented on 2002-2004 jointly with the Royal Netherlands Hungarian experts of HPS had the opportunity to study the treatment of juvenile offenders and the daily practice. During the programme 5 trainings were given to 150 people. These experiences are taught the newly employed staff with the help of a course book.

## Szirmabesenyő

Programme EOUIP

On 2003-2004 on the basis of Dutch exchange of experience courses regarding the development of communication skills, the management of anger and aggression and social skills were introduced.

#### Tököl

On 2003-2005 a course of Social skills was run on experimental basis in order to try differentiation which is based on competence.

Programme EQUIP

Courses regarding the development of communication skills, the management of anger and aggression and social skills were introduced.

Health education project was introduced for the staff who works with juvenile offenders.

#### Kecskemét

Health education project was introduced for the staff who works with juvenile offenders.

## Szirmabesenyő and Tököl

Drug-free units were established for drug users. This service is available for juvenile prisoners. From the school year of 2006/2007 primary education has to be organized for pre-trial prisoners as well due to the increase of the age limit.

# e) persons below 18 detained in these facilities and minors detained in adult facilities;

In Hungary the practice does not exist that convicted minors are placed into adult institutions.

<u>See Table 56</u>: Number of convicted juveniles in Hungary by the type of principle punishment covering the the years 2002-2004

f) persons below 18 kept in pre-trail detention and the average length of their detention;

There are no such data available in Hungary.

g) reported cases of abuse and maltreatment of children occurred during their arrest and detention.

There are no such data available in Hungary.

- 11. With reference to special protection measures, please provide statistical data (including by sex, age, minority; in particular Roma, urban and rural areas) covering the years 2002, 2003 and 2004 on:
  - a) the number of children involved in sexual exploitation, including prostitution, pornography and trafficking and the number of those children who were provided access with recovery and reintegration treatments;

<u>See Table 29 - 6. Appendix</u>: Disaggregation of data on victims by age-groups in violent crimes, crime categories covering years 2002-2004

b) the number of children involved in substance abuse and the number of those children who received recovery and reintegration treatments;

There are no data in Hungary on children receiving cure and reintegration treatemnt, thus we can answer only the first part of the question.

The ESPAD research was funded by National Scientific Research Found (OTKA) (T037395) and the Ministry of Children, Youth and Sport (GYISM) and conducted by the Behaviour Research Centre of the Budapest Corvinus University. The research was implemented on a representative sample stratified by the type and location of schools in the 8-10 grades. The gross sample size of the 16 years old students was of 3,167 persons and the net size of 2,677 persons. Data collection was carried out according to ESPAD standards with self-reporting method in classes.

According to the data of the 2003 ESPAD research in Hungary 16.2% of the questioned 16 years old youngsters (18.4% of boys and 13.8% of girls) have tried any illicit drug<sup>4</sup> in their lives (Elekes, Paksi 2003b unpublished, Hibell et al. 2004, Elekes 2005a, Elekes 2005b unpublished). Last year prevalence of illicit drug use is 12.5% and last month prevalence is 6.7%. Data on frequency indicate that illicit drug use is limited to merely some occasions, 6.3% of young people have tried any illicit drug on six or more occasions. Cannabis use is outstandingly the most widespread, 15.8% of the respondents have tried it at least once in their lives. 5.0% of all respondents have used some other illicit drugs and the differences in gender are also slight. Experimental or occasional use is characteristic also in case of other illicit drugs.

16.8% of the respondents have abused of pharmaceuticals (use without a doctor's prescription)<sup>5</sup> in their lives. Within pharmaceuticals abuse the combined use of alcohol and pharmaceuticals is the most widespread among the 16 years old youths. Besides the above mentioned drugs, inhalants (5%), ecstasy (3.1%), amphetamines (3.1%) as well as LSD and other hallucinogens (2.1%) are the most widespread among Hungarian 16 years olds. The prevalence of all other drug use is below 1%. The prevalence rates of cannabis indicate that the results of the 2003 ESPAD study and the 2001/02 HBSC research show similar patterns of illicit drug use in Hungary (Hibell et al. 2004:59). According to ESPAD data the most frequent age of the first experiment with illicit drugs is at the age of 14-15 both for boys and girls. Under this age it hardly eventuates even within illicit drugs of higher lifetime prevalence. Thus the proportion of those having experiment before the age of 14 is 1.8% for cannabis, 2.0% for the combined use of alcohol and pharmaceuticals and 1.7% for tranquillisers.

In 2003 the first used drug was unequivocally cannabis for boys and girls too. 13.8% of respondent boys and 9.5% of girls used cannabis first (11.7% of the whole sample). Tranquillisers were the second most frequently mentioned first used drug among girls in 1999 too, however while in 1999 mentioning of tranquillisers hardly lagged behind of cannabis, in 2003 twice as many girls reported cannabis as first used drug, than tranquillisers.

There is a significant correlation in lifetime prevalence rates by school types. Prevalence rate is the lowest among primary school students (10.0%) and the highest among trade school students (23.1%). It is worth noting that lifetime prevalence at the two types of schools with final examination is almost identical (14.1% for secondary schools and 15.2% for vocational schools).

c) the number of migrant unaccompanied minors, asylum-seeking, refugee children, as well as the number of children awaiting expulsion;

In 2002, 1192 under 18 foreign nationals filed applications for asylum. Out of them 658 were unaccompanied minors, of them 601 boys and 57 girls. Most of them were Afghani, Iraqi and Bangladeshi citizens. In 2002, 37 under 18 persons received refugee status, of them 2 were unaccompanied minors.

In 2003, 469 under 18 foreign nationals filed applications for asylum. Out of them 150 were unaccompanied minors, of them 144 boys and 6 girls. Most of them were Afghani and Iraqi

<sup>&</sup>lt;sup>4</sup> The following drugs were considered illicit drugs in the research: cannabis, LSD, amphetamines, crack, cocaine, heroin, ecstasy.

<sup>&</sup>lt;sup>5</sup> Tranquillisers/sedatives, or the combined use of alcohol and pharmaceuticals.

citizens. In 2003, 73 under 18 persons received refugee status, of them again 2 were unaccompanied minors.

In 2004, 243 under 18 foreign nationals filed applications for asylum. Out of them 59 were unaccompanied minors, of them 51 boys and 8 girls. Most of them were Moldavian, Georgian, Somali and Turkish citizens. In 2004, 50 under 18 persons received refugee status, of them 4 were unaccompanied minors.

# d) the number of children involved in labour who are under 16;

It is the competency of the National Office for Labour and Labour Safety to control the implementation of the stipulations of the Labour Code and monitor casual irregular employment of children

In 2002 following the Office's control of irregular employment of children under 16, measures had to be taken in 25 cases, which covered 47 employees.

For the year 2003 we only have aggregated data concerning the employment of women, juveniles and persons with decreased working capacity. In these groups there were 86 measures introduced because of irregularities, the number of irregular employees amounted to 153 involving also employees under 16.

For the year 2004 we can provide statistical data concerning young employees, i.e. employees under 18, due to irregularities measures had to be taken in 46 cases, which meant offences by employers against 163 employees. There has been no irregular child labour.

# e) street children.

According to official data collection, in Hungary there are no street children, or homeless children.

## **B.** General Measures of Implementation

1.) The Committee would appreciate receiving information on intended or planned activities related to recommendations contained in the Committee's previous concluding observations (CRC/C/15/Add.87) on the first periodic report of Hungary (CRC/C/8/Add.34) which have not yet been fully implemented, in particular those contained in paragraph: 8 (coordinated policy relating to children); 9-10 (monitoring access, budget allocations and disaggregated statistics); 11 (training of professionals), 16 (violence against children), 17 (adoption), 14, 18 (non-discrimination and children belonging to an ethnic minority, 19 (health issues and reproductive health information), 22 (sexual exploitation and trafficking).

As corresponds to the Recommendations of the Committee, measures were taken in Hungary on the following areas:

# **Training of professionals**

In 2004, the staff of the Crisis Management Centre held training courses for the police and for child protection experts in cooperation with the National Police Headquarters and the Crime Prevention Academy of the Ministry of the Interior.

A cooperation agreement is underway with the Police Academy, within which, hopefully, special training on recognizing and handling domestic violence will be given to the students.

**ICSSZEM puts special emphasis on the training of experts** working with and helping victims of violence. Their basic and further training forms are vital parts of the development of the institutional system that helps battered victims, and it will remain a priority in the future as well..

A number of methodology studies have been published on treating and preventing child abuse too, with special attention to the fact that as of 1 January, 2005, Act XXXI of 1997 on the protection of children and on guardianship management prohibits every form of corporal punishment of children, that is to say the principle of zero tolerance.

This methodology newsletter was prepared for family practitioners, family pediatricians, for district nurses and for child health professionals which serves to prevent, recognize and treat child abuse and child neglect. In December, 2004, several location (Budapest, Debrecen, Pécs, Miskolc, Szombathely, Szeged) were linked up to a videao conference to provide knowledge on child abuse to pediatricians, district nurses and social workers. The background to this training was the methodological etter issued.

In 2004, a methodology booklet was published wich outlined in detail the role of the different organizations participating in child welfare primary care and in guardianship management, and was aimed at preventing and treating child abuse. In certain counties typically the county guardianship authorities give training to professionals according to the given cooperation and the unified profesional protocol.

The Hungarian Public Adminsitration Office has accredited a four day (30 hours) training course called "Recognizing and treating child abuse in the guradianship authorities" practice" for the officers of the local municipalities and guardianship authorities.

# Violence against children

Act 31 of 1997 on the protection of children and on guardianship management (Gyvt.) was amended with effect on 1 of January, 2005, prohibits all forms of corporal punishmen, that is, provides for the principle f zero tolerance.

# Non-discrimination and children belonging to an ethnic minority,

In 2005 the Educational Ministry's Office of the Commissioner responsible for disadvantaged and Roma children set up an **anti-discrimination warning system** in the field of education. The first phase of the setup began with trainings for 600 participants. The aim of the warning system is two-fold: it provides legal advice for people affected by ethnic or other kind of discrimination, and it also coordinates the most convenient processes for legal assistance; it operates as a legal assistance body in a way. It also provides impact analysis for the centralised integration measures, using its feedback possibilities. This means that it also works as an indicator system assisting the political bodies.

Detailes of programmes for Roma children can be seen in Part III.

The 2003 modification of the Act on Public Education implemented new expression "young people with special education needs" instead of mentally, physically or any other way disabled children. This change emphasised the different and varied supply available by the children.

Based on OM Ordinace 2/2005 (III.1.) of the Ministry of Education on kintergarten and school education of **children and students with special education needs**, integrated education of SNI children is gradually spreading. For the sake of integration of children and students with special needs, according to the planned the measures of the currently underway First National Development Plan, the Ministry of education takes the horizontal aspects in the integrated education of children and students with special needs. Besides teh central programme and all kinds of trainings, different grant scemes are also available for the implementation of the targets and goals set for the purposes of NFT.

# Health issues and reproductive health information

See under point I.A.2.C

# Sexual exploitation and trafficking

#### Description of relevant national legislation

Human trafficking was for the first time regulated by the Hungarian Criminal Code (HCC) in 1998 among the crimes directed against "personal freedom and human dignity" by the Act. LXXXVII./1998, (entered into force on the 1 of March, 1999). Prior to its codification, trafficking in human beings was penalized according to various sections of the Code, depending on the facts of the case. For instance, if the victim was a minor, the crime could be penalized as the changing of family status, whereas if the victim was of age, the relevant crime could be the violation of personal freedom or pandering.

In 2002 the relevant section of the Criminal Code was modified, according to the definition of the Palermo Protocol

The Hungarian legislation as well as legal policy paid a great attention and sharpened its focus on trafficking in human beings as a serious human right violation. The issues like ensuring victim's rights, victim's protection, assistance and support also contributed to the development of the situation of victim in the criminal proceeding.

On the 1<sup>st</sup> of April, 2002, several modifications to the Criminal Code entered into force - by the Act No. CXXI/2001, - among others including of the regulation on the trafficking in human beings and pornography. According to the amendment, the former definition of trafficking have changed and harmonized to the international standards. The definition follows the wording of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Trans-national Organized Crime. The new legal text reads as follows

# "Any person

- who sells, purchases another person,
- who, conveys or receives a person in recompense
- exchanges a person for another person,
- also the person, who recruits, transports, harbours, hides or aquires people for such purposes for another party,
- is guilty of felony, punishable by imprisonment not to exceed three years."

According to the basic elements of the definition of the act of crime the perpetrator does not need to use force, threat or coercion to commit the crime, the criteria for the realization of the felony are fulfilled even in the case of having the victim's consent. The Supreme Court of Hungary has stated in one of its decisions that "trafficking in human beings is a violation against human dignity, personal freedom and self-determination. These basic rights are so fundamental to human existence that they are considered inalienable, and no person can validly waive them, therefore the trafficking of human beings is an illegal act even when the perpetrator has the victim's consent. The consent of the victim bears no significance when assessing the question of criminality."

The protected legal object of the felony trafficking in human beings is society's interest in the personal freedom of the human being. Trafficking in human beings is prohibited by the Geneva Convention on the Prohibition of Slavery of September 25, 1926, which was ratified by Hungary and promulgated via Act No. III. of 1933. According to the definition of the Act, slavery is the state or status of a person, who is at the disposal of another person in a fashion characteristic of objects of property. Slave-trade includes all acts, which are committed with the purpose of casting a human being into slavery, such as the selling a human being into slavery or acquiring or offering a person in exchange for some kind of compensation. The Universal Declaration of Human Rights also proclaims that all human beings are born free, and that all human beings have equal dignity and equal rights. Article 55 Section 1 of the Hungarian Constitution guarantees the right to freedom and personal security as well. Article 175/B of the Criminal Code is in accordance with the above provisions when punishing trafficking in human beings."

"In accordance with the rules of international law and the Constitution Article 175/B of the Criminal Code punishes those acts, which simultaneously offend human dignity, personal freedom and self-determination and through which the human beings become objects, items for trade – independent of their will, in spite of their will, or as a result of their incapability or decreased ability to express their will."

An act of felony is committed by anyone who sells, procures, conveys or acquires for compensation a human being (for example to cancel a debt), or exchanges one person for another. Furthermore anyone who recruits, transports, harbours hides or appropriates a person for another party for such purposes is identically punishable.

"Among the qualifying circumstances of the felony the law considers certain specific subjects of the crime, as well as the modes and purposes of perpetration as factors enhancing the degree of danger to society and thus aggravating the legal consequences of the crime"

The qualified forms of the crime carry stricter consequences between 1 to 5, 2 to 8, 5 to 10 and 10 to 15 years or life imprisonment according to the following criteria.

- (2) The punishment shall be imprisonment between one to five years, if the criminal act is committed
- a) against a person under the age of eighteen,
- b) against a person deprived of personal freedom,
- c) for the purpose of forced labour,
- d) for the purpose of fornication or sexual intercourse,
- e) for the purpose of illegal use of human bodily parts,
- f) as part of a criminal conspiracy or in a business-like manner.
- (3) The punishment shall be imprisonment between two to eight years, if the criminal act is committed
- a) against a person under the tutelage, guardianship, supervision or medical treatment of the perpetrator or
- b) for the purpose described in Section 2 Points c)-e)
  - o by the use of physical force or threat,
  - o by fraud,
  - o by tormenting the injured party,
- (4) The punishment shall be imprisonment between five to ten years, if the criminal act
- a) involves acts against persons described in Section 2 Points a)-b) or Section 3 Point a) either for the purposes listed in Section 2 c)-e), or in a manner described in Section 3 Point b) subsections 1-
- 3, or if the criminal act is committed
- b) for the purpose of taking prohibited pornographic pictures.
- (5) The punishment shall be imprisonment between ten to fifteen years or life imprisonment, if the criminal act is committed against a person under the age of 12
- a) for the purposes of Section 2 Points c)-e),
- b) in a manner described in Section 3 Point b) subsections 1-3 or
- c) for the purpose of taking prohibited pornographic pictures.
- (6) Any person making preparations to engage in trafficking in human beings commits a misdemeanour offence and shall be punishable with imprisonment of up to two years.

Comparing the facts of the crime with the definition of the Palermo Protocol, one observes that according to Hungarian law for the realization of the basic elements of the crime the perpetrator does not need to use physical force, threat, coercion, fraud, misrepresentation, or the abuse of official power. Nonetheless Hungarian law considers perpetration by the use of force, threat and fraud or the torment of the injured as qualified circumstances of perpetration and attaches more severe legal consequences to the acts committed.

Punishment can be as severe as life imprisonment if the crime is committed against a person under the age of 12 for the purposes nominated in the Act (forced labor, fornication or sexual intercourse, illegal use of human bodily parts, illegal pornography) or in a manner prescribed by the Act (force, threat, fraud, torment of the injured party).

It is quite important to note that according to Section 69 of the Act making preparations for trafficking in human beings is also punishable.

## Violation of personal freedom, in connection of trafficking

Apart from the provisions on trafficking in human beings *Articles 175 Section 2 and 3 regulate the qualifying circumstances for the felony of "violation of personal freedom":* 

Any person "who acquires another person through trafficking in human beings and maintains the status of deprival of the victim's personal freedom, and forces such victim into forced labour, commits a felony offence." The item of punishment for this felony is imprisonment between two to eight years. The punishment is increased to imprisonment between five to ten if the criminal act is committed via the qualifying circumstances enlisted in Section 3, that is the crime is committed for a malicious motive or purpose, by feigning official action, by tormenting the aggrieved party, causing a significant injury of interests, against a person under the age of eighteen.

The primary purpose of trafficking in human beings is to utilize and exploit the victim, and as opposed to smuggling of humans a longer-term exploitive and coercive relationship come it being. This has nothing to do with how the victim reached the scene of exploitation. If during the course of the trafficking in human beings the crossing of a state border takes place, this may occur by entering the destination country legally or illegally.

Illegal migration may be connected with trafficking in human beings, but in a wider sense this concept is more generally related to the illegal entry and illegal residence of individuals. Consequently, illegal migrants in the broader sense are not necessarily the victims of traffickers of human beings.

## Exploitation of prostitution of others

Among activities exploiting and making profit of prostitution the Penal Code enshrines the crime of promotion of prostitution (Article 205), living on the earnings of prostitution (Article 206) and pandering (Article 207). The legislator defines the notion of prostitution among the Interpretative Provisions, in Article 210/A.

The person, who makes available a building or another place for prostitution to *another person*, commits the crime of *promotion of prostitution*. (The crime is punishable with imprisonment of up to 3 years.)

The person, who maintains, runss a brothel, or makes available financial means to the functioning thereof commits also the crime of promotion of prostitution. (This conduct is punishable with imprisonment of up to 5 years). If a person who has not yet completed his eighteenth year engages in prostitution in the brothel or prostitution is promoted as part of a criminal organization the activity constitutes an aggravated crime and shall be punishable with more serious penalty (with imprisonment from 2 years to 8 years).

The Criminal Code of the Republic of Hungary gives regulation for the crime of *pandering* among Crimes Against Sexual Morals as well (Article 207). "The person who solicits another person for sexual intercourse or fornication for somebody else in order to make profit, commits a felony, and shall be punishable with imprisonment of up to three years." If the pandering is committed in a business-like manner the punishment shall be imprisonment from one year to five years.

# The penalty is even more serious, imprisonment from 2 years to 8 years, if the pandering is committed

- "a) to the injury of a relative of the perpetrator or of a person under his/her education, supervision or care or who has not yet completed his/her eighteenth year of age,
- b) with deceit, violence or direct menace against life or personal safety,
- c) as part of a criminal organization."

The legislator declares punishable the conduct of the person who agrees on the perpetration of pandering with imprisonment of up to three years.

The following criminal acts are connected to **child-prostitution**:

Endangering the minor,

Seduction,

Promoting prostitution-it is an aggravating circumstance in the case of a person under 18.

The amendment of the Criminal Code has increased the punishment rates of several criminal offences where the offended party is often a person under 18. This includes the assault against decency, the forceful fornication against nature and the causing of pathological addiction. In case of several criminal offences including the promotion of prostitution or pandering, the law provides for heavier punishments if they are committed to the detriment of juveniles or minors.

Article 35 of the Convention on the Right of the Child prohibits the selling, the kidnapping of and the trafficking in children. Accordingly, in the interest of a more effective criminal protection, the Criminal Code, by changing the status of family and completing the offence of endangering the minor, ordains to punish the buying and selling of and the trafficking in children or the person making the child obtained through buying and selling do forced labour.

During the elaboration of the Criminal Code, the requirement was raised to present the criminal offences relating to the sexual exploitation of children, child prostitution and child pornography as separate criminal offences in the Criminal Code.

The children and juveniles are especially effected by the provision of the amendment creating the punishability of the child pornography by embodying the criminal offence of "making prohibited pornographic shootings." In addition, in case of forced sexual criminal offences, the age of the victim under 12 is determined as a separate aggravating circumstance.

The spread of child pornography and the increase of danger contained in it were perceived by the national legislators. It is ordained by the new amendment to punish the shooting and selling of prohibited pornographic shots. The sentence is a punishment of imprisonment from two to eight years.

This kind of criminal offence is committed by a person who is making pornographic shots by camera, video camera, movie camera or other way, selling, trading such shots or making such products available for others. In our cases this provision of the law must be used in deciding whether the data contents on internet are contrary to the law, committing criminal offences or not.

In accordance with the new section of the law, films, pictures and programmes are included in the category of pornography which present the sexuality with the openness of heavy obscenity and are

purposely directed to arouse sexual desire. Person who "only" financially supports the creation of porno-products of visualizing minors are also threatened by the punishment of imprisonment from two to eight years.

Concerning the amendment, it must be stated that further possibilities of legislation has already been practically exhausted. Results can be achieved through effective enforcement of law.

The Governmental Order 172/2002. (IX. 26.) on detailed regulations of the refugee proceeding and on the documents of refugees has measures for the proceeding concerning the asylum-seekers under 18, with different guaranteed regulations. According to the 7. §. (1), it is the obligation of the competent authorities to arrange immediately the participation of a guardian to protect the interest of the unattended minor. According to the 10.§. (3) it is an obligation to nominate a child protection institution or a separate reception centre or other accommodation reserved on the basis of a contract for unattended minor.

Government Resolution 1074/ 1999 on protection of victims of crime and their relatives touches upon the issue of sexual exploitation of women and children.

Government decree 209/2001 concerns the compensation of the victims of violent crimes.

Aliens Act 39/2001 allows short–term relief from deportation to victims of trafficking who co-operate with police and prosecutors. *Ex officio* residence permit may be granted.

In order to provide protection for trafficking victims, a shelter is situated outside of Budapest in a separated area. The four houses are new, each have four rooms, a kitchen, a bathroom and are equipped with security cameras. A Cooperation Agreement has been signed by all parties and is effective from 1<sup>st</sup> November 2005.

According to one of the provisions of the Act on Aliens, which came into force on 1 January 2002, foreigners co-operating with the judiciary may be granted residence permits on humanitarian grounds.

The Republic of Hungary has signed the UN Convention against Trans-national Organised Crime and Protocol to prevent, suppress and punish Trafficking in Persons, especially Women and Children.

## Institution Building

The Victim Protection Office of the Ministry of the Interior has been operating since 1998. Thanks to the co-operation of the police, the municipalities and voluntary organisations, today there are 64 victim protection offices all over the country, with the double task of assisting the victims of trafficking in human beings and crime prevention. Information brochures on victim protection have been placed in every police station. Office provides psychological support services, legal advocacy for victims and safeguards their rights

The Hungarian Interpol National Bureau is represented by a liaison officer in the special experts group of INTERPOL.

The Ministry of Youth Social Family Affairs and Equal Opportunities, in cooperation with the Swedish Embassy, held a one day professional workshop at the beginning of September 2005, on the issue of combating trafficking in humans, where government officials and representatives of NGOs participated.

In order to help elaborate and implement new governmental measures an interministerial working group was set up in November 2004. The members of the it are the relevant government and law enforcement bodies and also the interested NGOs. The Hungarian office of IOM as well as the Embassy of the United States also participates in the working group. Thank to the work of the group in September 2005 a multilateral agreement was signed in and entered into force on 1<sup>st</sup> November 2005 in order to introduce the Hungarian referral system for victims of trafficking. See answers given to questions A/2/h., A/5.,A/11. and III

2) Please provide additional information on measures taken to improve the system for collection of disaggregated data on children under 18 in all areas under the Convention

The specialized Ministries continuously transform their data collection practices to comply with the expectations of the European Union and the Commission.

3) Please submit a copy of the Hungarian Child Protection Act of 1997 in English incorporating the most recent amendments.

# See in Appendix 12

4) Please provide updated information on advances towards the establishment of a comprehensive national policy and national plan of action on children

In October 2004 following the transformation of the government the Ministry of Youth, Family, Social Affairs and Equal Opportunities was established. The new scope of the responsibilities of the portfolio covers child protection, youth protection, family benefits, social benefits, issues of people with disabilities, Roma integration tasks and the issues of equal opportunities. No national plan of action was prepared to implement the tasks set forth in the Millennium Declaration, but the implementation of such tasks – with regard to the economy's efficiency – has been in progress.

Within the frames of the Public Health Program the National Health Care Program for Infants and Children called "Our Wealth – the Child" had been established and was adopted by the Government.

The implementation of the new Health Care Program for Children is a key issue, however it is only one of the elements of the necessary steps which have been already taken and must be taken in future to create a healthy, secure and happy childhood for our children. We are aware of the fact, that where people are in need, diseases are more frequent and treatment is more difficult. For this reason in addition to the development of the Health Care Program for Children the key objectives of the Government's "100 Steps Program" are: to improve the financial situation of families with children, combat children poverty, provide healthy and safe housing conditions, improve the level of education, decrease the inequality of chances and last but not least cooperation and common efforts of family and society.

The objective of the Health Care Program for Children launched recently is to increase the number of children born healthy in Hungary and to ensure that they are raised in a healthy and safe family to become physically and mentally prepared for adult society.

On the request of the Government, sociologist and academician Zsuzsa Ferge agreed to develop a National Program to Combat Poverty. Based on the Network against Poverty she embarked on

elaborating the Program which, in addition to being a long term strategy for the next 10 years, will also serve as a guide for the coming one or two years.

The development of the National Program to Combat Poverty will be supported by experts and NGOs; place and frameworks will be provided by the Hungarian Academy of Sciences with little formalities, many experts, and NGOs as support. The experts working on the development of the Program want to gradually implement its elements to help families with children. I hope for a chance of realization - said the leading expert of the Program.

# 5. Please provide information on how local child welfare services and authorities are monitored in accordance with the duties placed upon them by the Child Protection Act

The monitoring system of the professional work of the providers of child protection services has been developed at two basic levels.

The first level is the investigation of the professional suitability and the conditions of legality of the newly launched services. For this purpose every form of provision offering personal care in child protection and welfare is an activity requiring licence. According to paragraph (1) of Article 100 of Act XXXI of 1997 on child protection and on the management of guardianship (hereinafter: Child Protection Act) "service provision in child welfare and protection is an activity requiring an operational licence. The detailed rules of licensing are contained in a separate legal norm."

The detailed rules of licensing an operation are contained in Government Decree No. 259/2002. (XII. 18.) on licensing service provision for child welfare and protection, and on entrepreneurial license for child welfare and protection.

The obligatory licensing of operation represents professional and legal safeguards to ensure that the new providers entering the system of services would operate in keeping with the norms.

The second level is the continuous, multi-level professional, legal and economic control of services already in operation. The sphere and competency of those entitled to do the inspection is stipulated by the Child Protection Act.

## The tasks and competency of the maintainer

According to items c) and e) of paragraph (1) of Article 104 of the Child Protection Act the maintainer of a state and non-state institution providing services for child welfare and protection controls the economic activities and the legality of the operation of the institution, and controls and assesses the success of professional work, the implementation of the professional programme and the observance of rules and the efficiency of economic operation.

Paragraph (3) of Article 104: The maintainer controls the legality of the house order as well as other internal regulations in the interest of ensuring legality. As a result of inspection the state and non-state maintainer calls the attention of the head of the institution to eliminate legal violation, and if it is without result the maintainer annuls the house order or other internal regulation.

# Tasks and competency of the licensing organ

According to paragraph (3) of Article 100 of the Child Protection Act the licensing organ controls whether the servicing activity is conducted in keeping with the contents of the license and of the legal norms.

# The tasks and competency of the county office of guardianship

According to items a) and b) of paragraph (2) of Article 108 of the Act on Child Protection the guardianship office exercises its tasks and competences within its sphere of authority as stipulated by this Act and by a separate legal norm, including control over services offering personal care, and controls the performance of administrative tasks of guardianship.

In keeping with paragraphs (1) to (3) of Article 118, the county guardianship office professionally controls and supervises the notary of the self-government and of the urban guardianship office belonging to its competency, and exercises second instance authority over cases of child protection and guardianship authority of the notary of the self-government of the settlement and of the urban guardianship office.

The county guardianship office chooses institutions performing professional methodological tasks from among institutions providing specialist services of child protection based on the opinion of the National Institute for Family and Social Policy and of experts included in the Register, elicited by it. The county guardianship office controls the activities of the state and non-state service providers of child welfare and protection on the basis of the stipulations of a separate legal norm – excepting healthcare inspection – involving the National Institute for Family and Social Policy or an institution appointed to perform methodological tasks, or an expert included in the Register, if necessary.

As stipulated by paragraphs (1)–(2) of Article 119 the county guardianship office is authorised to ask for information, documents and references and to get information on the spot, or to call for a professional co-ordination meeting during the course of performing the tasks outlined in Article 118.

In case of a violation of a legal norm the county guardianship office signalizes the organ licensing operation or the maintainer.

The level of legal protection may be regarded as a third level which is partly separated from the above presented professional and administrative levels. The 2002 amendment of the Act on Child Protection, that entered into force on 1 January 2003, creating the institute of the representative of children's rights by the inclusion of Article 11/A is meant to assert and protect children's rights. The legal status and procedural rules of the representative of children's rights is specified by the Decree No. 1/2004 (I.5.) of the Ministry for Health, Social and Family Affairs on the conditions of the operation of the representative of patients', recipients' and children's rights.

The representative of children's rights is entitled to ask for information, documents and references and to get on-the-spot information in the operational sphere of a service provider in child welfare and protection. The representative of children's rights shall handle the child's personal particulars in keeping with the legal norms on data protection.

The provider of services for child welfare and protection ensures that the child and its relatives may get acquainted with the person of the representative of children's rights and the way they can establish contact with him.

Heads of the institutions of child welfare and protection and of the services have to discuss the notifications of the representative of children's rights within fifteen, and the maintainer within thirty days, and the body or assembly of representatives have to discuss those remarks meaningfully at their next session and shall inform the representative about their related decision and measures taken.

The representative of children's rights follows with attention activities related to child protection conducted in the nursery school, school, hostel, and in the institutions of specialist pedagogical service, and helps in the assertion of children's rights. In a justified case the representative of

children's rights contacts the maintainer of the above-mentioned institutions, and, if necessary, would initiate a procedure with the guardianship authority in the interest of the child.

6) Please provide information on relevant legislative amendments and a detailed description of measures available to assist victims of domestic violence, sexual abuse, sexual exploitation and trafficking.

**Parliament Resolution 45/2003. (IV. 14.)** defines a number of responsibilities for government organisations for the sake of more effective government action against domestic violence.

Nearly 30 legal facts of the Criminal Code fall under the concept of domestic violence. The procedural rights of the victims are regulated by the Criminal Procedural Code, which provides *inter alia* that an organization of public benefit can also proceed on behalf of the victim.

The Government adopted a *new proposal* in October, 2005, and probably submitted it to Parliament in November, which includes provisions on the restraining order proposed to be introduced in procedures started due to violent crimes that could be considered as domestic violence. The proposal defines restraining order as a *coercive measure in the criminal procedure* with the purpose of providing a *fast and efficient instrument of protection to the victims including to the minor living in the family* before the binding ruling on the case. It also helps in the prooving procedures. *Act XCI of 2005 Section 82 (5)B on the amendment of Act IV of 1978 on the Criminal Code and other acts* also provides with a form of restrtaining order. Accordingly, the Court, or in case there are charges brought the Prosecutor, can, in his/her ruling and for the sake of helping to implement the goal of control, provide, as a special rule of conduct, different obligations and prohibitions, and restraint order is one of them.

The proposal T/17841 on the amendment of Act III. of 1952 on Civil Procedures, which was submitted by the Government to the Parliament on 13 Octoer, 2005 could be a tool to reduce domestic violence. According to the proposal, the scope of temporary measures would be widened in cases of marriage. The novelty of the proposal is that the Court may order temporary measures before its final rulings regarding the exclusive use of the home by the abused spouse and the child if the other spouse have made impossible with abusive behaviour the mutual use of the property.

Act LXIX of 1999 on offences will also be amended. The draft bill, which is currently being consulted and discussed at the public adminstration level, will most probably include the application of the restraining order in offence procedures and will include the legal fact of harrasment.

Furthermore, the amendment of Axct XXXIV on the Police will simplify the interruption of the doemstic abuse episode by authorizing the police the perpetrator can be taken in to the police station without special notice if the offences defined in the draft (dangerous threat, disturbance, hooliganism, libel) are committed and the victim is a relative living in the same household.

Act No. 41 of 2005 also amended the provisions of the crime of endangering a minor (Section 195. of the Criminal Code.) The amendment was necessitated by the practice of certain divorced parents who made impossible contact between the child and the other parent despite court or administrative decision to that effect and despite having been fined for that conduct.

The amendment of the Criminal Code has increased the punishment rates of several criminal offences where the offended party is often a person under 18. This includes the assault against decency, the forceful fornication against nature and the causing of pathological addiction. In case of several criminal offences including the promotion of prostitution or pandering, the law provides for heavier punishments if they are committed to the detriment of juveniles or minors.

The children and juveniles are especially effected by the provision of the amendment creating the punishability of the child pornography by embodying the criminal offence of "making prohibited pornographic shootings." In addition, in case of forced sexual criminal offences, the age of the victim under 12 is determined as a separate qualifying circumstance.

The Child Protection Act regulates, within basic child welfare services and in the frameworks of temporary care of children, the operation of **transitional home for families.** Int these institutions battered, fleeing mothers and children could be accommodated together.

The amendment of the Child Protection Act. serves the purpose of strengthening the child protection network through its provision that says that as of 1 July, 2005, a transitional home for families shall be operated in all settlements with a population of over 30 thousand.

The Child Protection Act – as of 1 July, 2005 – provides that larger settlements (over 40 thousand inhabitants) and cities of county rights compulsorily shall have so called "street-children programmes running, providing street and housing estate social work services, and furthermore, providing hospital social work services in the paediatric units for abandoned and battered children and at the maternity wards for women in a social crisis situation.

From among the organizatins established to help victims, the **National Crisis and Information Telephone Service** has to be mentioned. See detailed description under Part III.

According to plans, the secret shelter where women fleeing with or without child/ren can get accommodation and help will be opened at the beginning of 2006.

The ministry of Youth, Family and Social Affairs and Equal Opportunities launches a social information programme in the autumn of 2005 to spread information on domestic violence and on the National Crisis and Information Telephone Service telephone number among the public.

Other relevant legal changes

The Governmental Order 172/2002. (IX. 26.) on detailed regulations of the refugee proceeding and on the documents of refugees has measures for the proceeding concerning the asylum-seekers under 18, with different guaranteed regulations. According to the 7. §. (1), it is the obligation of the competent authorities to arrange immediately the participation of a guardian to protect the interest of the unattended minor. According to the 10.§. (3) it is an obligation to nominate a child protection institution or a separate reception centre or other accommodation reserved on the basis of a contract for unattended minor.

Concerning the LXXIX Public Education Act of 1993, changes were made to the rules of procedure in this spirit:

84. § (7) Decisions made by maintainers and school management that violate the requirements of equal treatment and are against the interest of children are void. Decisions declared void can be referred to irrespective of deadline.

The Act on public education and the Act on vocational education and the decrees related to these laws focus on disadvantaged children. Taking into account the international agreements, the aims of the present regulations are to exclude all the measuring, behaviour, omission that directly or indirectly break the principle of equal treatment. The modification of the public law in 2003 increased the advantages that are able to compensate the disadvantaged position of children.

The modification of Act on Public Education in 2003 related to the closing up education pays special attention to students -who did not complete the 8 grades primary school-and who are over 16- with different preliminary training to be able to join to the preparatory class. During the 10-month course they learn all those competences that are necessary to start the vocational training.

After successful completion of the course they receive qualification and they prepare themselves to take a final professional exam at the vocational class.

# 7.) Please give further details of how the Act on Equal Treatment and the Promotion of Equal Opportunities adopted in 2003 will be implemented and monitored.

The **CXXV Law of 2003** of enhancing equal treatment and equal opportunities defines unfair discrimination and its various forms prohibiting it, in accordance with Council Directive 2000/43/EC on implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

Making equal treatment the norm is especially important in the field of education according to the law in the following instances:

- defining the terms of entering education, decisions on applications,
- setting the requirements in education,
- evaluating performance,
- providing education and access to services in connection with education,
- access to funds in connection with education,
- student housing and services,
- issuing certificates, diplomas and degrees in education,
- access to career information, and
- ending the legal relationship in connection with education.

In order to realise the goals set up by this legislation, the **Equal Treatment Authority** was set up, also in accordance with the above quoted EU directive. This authority operates as a special body and has special procedural possibilities to examine cases of discrimination. Some of these special rules of procedure are: inverted burden of proof, testing as a means of proof, possibility of actio popularis, possibility of joining an ongoing trial, etc.

Within the Ministry of Education the **Office of the Commissioner for Disadvantaged and Roma Children**, was set up in August 2002, which realises the integration efforts.

Preparatory training for the realization of potentials and integration of disadvantaged children has been introduced, which means that children who are disadvantaged in multiple ways receive individual support to improve their development, in a way that takes into consideration their existing individual skills and aims to build upon them. A special normative can be requested to organise such trainings. If the educational institution decides to perform such training in an integrated format, they can apply for an increased amount of normative support, which is three times higher than otherwise. The pedagogical system of integration confirms that integrated education is the solution and that children coming from different social and cultural backgrounds should be provided the same level of education.

The **LXXIX Public Education Act of 1993** also contains legislation to give legal power to realise the requirements of equal treatment, for example among the general principles:

- 4/A. § (1) Those acting in the organisation, management, operation of public education and those executing its tasks are required to adhere to the requirements of equal treatment when making decisions concerning children and students.
- (2) Based on the requirements for equal treatment, each child and student in public education has the right to the same quality of service on the same conditions as those in a comparable situation.

8.) Please provide further information on the role of non-governmental organisations in the implementation of the Convention as well as in the process of preparation of the State party report, if any.

The non-governmental organisations participate actively in the implementation of the Convention. They are one of the basic components of the Anti-discrimination alarm system. We can highlight the activity of the "Chance for the Children Foundation" which plays a key role in the work of the Equal Treatment Authority by exploring and reporting discriminatory treatment in public education.

Furthermore, ICSSZEM is planning to conclude an agreement in the near future with the NGO running the shelter established for the victims of trafficking in humans. The agreement will consist of two parts: one of the corner-stones will be to get the victims into the shelter, the other one is the way the two organizations will cooperate professionally (referral system).

9.) Please indicate the issues affecting children that the State party considers to be priorities requiring the most urgent attention with regard to the implementation of the Convention.

#### Part II

Please provide the Committee with copies of the text of the Convention on the Rights of the Child in all official languages of the State party as well as in other languages or dialects, when available. If possible, please submit these texts in electronic form.

**13. Appendix**: This Appendix includes the text of the Convention on the languages of the national and ethnic minorities of Hungary (Bulgarian, Greek, Croatian, German, Romanian, Roma, within this Bea and Lovari dialects, Polish, Armenian, Slovak, Slovenian, Serbian, Russine and Ukranian).

#### Part III

Under this section, the State party is invited to briefly (3 pages maximum) update the information provided in its report with regard to:

# New bills or enacted legislation

# Act on equal terartment and the promotion of equal oppurtinities

Hungarian Act on Equal Treatment and the Furtherance of Equality of Opportunities, adopted in December 2003, prohibits discrimination on ethnic basis in education. The Hungarian Act on Equal Treatment and the Promotion of Equal Opportunities is available in Hungarian at: http://www.complex.hu/kzldat/t0300125.htm/t0300125.htm.

# No. 1021/2004 (18/03) State Resoluition on social integration of Roma

In 2004 the Hungarian Government enacted a state resolution **No. 1021/2004 (18/03)** on Governmental programs for the Social Integration of Roma community in order to promote development and increase the living standards of Roma. The package concerned education, employment, and social, medical, anti-discriminative and mass media communication issues.

The Hungarian Parliament adopted the Parliamentary **Resolution No. 45/2003 on the elaboration of the National Action Plan on preventing and effectivelly combating domestic violence.** In this Resolution, Parliament called upon the Government to do certain specific legislative work on the one hand (introduction of the concept of restraining order in the Hungarian legislative system), and on the other hand to take further steps – such as development of the institutional network for the victim support – to prevent and combat domestic violence.

The Parliamentary Resolution No. 115/2003 (X.28.) on the governmental responsibilities in implementing the short, medium and long term goals of the National Strategy of Social Crime Prevention calls upon the Government to prepare a detailed Action Plan for the implementation of the National Strategy to prevent crimes in the area of domestic violence.

The Government adopted the Government Resolution No. 1009/2004 (II.26.) on the governmental responsibilities in implementing the short, medium and long term goals of the National Strategy of Social Crime Prevention. In order to develop the institutional network to help the victims of domestic violence, the crime prevention strategy defines responsibilities and tasks primarily in the areras of social policy and child protection.

The Government discussed the 2003-2004 Report on the implementation of the Action Plan and National Social Crime Prevention Strategy in February, 2005, and subsequently submitted it to Parliament. **Government Resolution 1036/2005 (IV. 21.)** defines the 2005-2006 Action Plan, in which prevention and handling of family violence is once again a priority task.

#### New institutions

#### **Anit-discrimination Client Service Network for Roma**

The National Educational Integration Network, set up in 2003, provides professional support for institutions for the introduction and running of integrative trainings. The network is organised on a regional and sub-regional basis, and its task is not only to provide professional support for institutions but also to collect and promote good practices.

#### **Crisis-intervention Centre**

The Government Office for Equal Opportunities launched a pilot project to set up a Crisis Centre in January, 2004. The aim of the service was to provide telephone or personal help especially to those battered women who were victims of domestic violence, or who felt threatened by their family members. The Centre started operating with three persons (two lawyers and one psycho-educator). Besides taking care of the specific cases, the staff of the centre tried to provide professional help to professionals acting in cases of such victims, or to those who happened to turned to them. The responsibilities of the centre included maintaining connections with the authorities, proceeding in such cases and coordinating administrative actions. The Crisis Centre was receiving the calls of battered persons on weekdays during working hours on a free telephone number.

However, experience soon showed that working hours and the scope of the Crisis Centre has to be widened. That is why the Crisis Centre was modernized and the Ministry of Youth, Family, Social Affairs and Equal Opportunities (ICSSZEM) set up a pilot model to upgrade the telephone service to a 24 hour, free helpline. The National Crisis Management and Information Telephone Service (OKIT) started to operate on 1 April, 2005. The staff of the Telephone Service includes mental hygienic expert, lawyer psychologist, and social workers. In cases of urgent help immediate action is taken to help battered victims, (e.g. accommodation in specially equipped Tremporary Family Homes). When prompt action is not needed the Helpline provides with information about the possible ways of help to the victims. The target group of the National Crisis Management and Information Telephone Service consists of the Hungarian and non-Hungarian citizens living in Hungary who are in a crisis situation. The staff had gone through a comprehensive training course before the Helpline started operating.

# Regional Crisis Management Network - a pilot model

Legislation in force makes the accommodation of a child and parent together possible transitional homes for children and families, if necessary, based on the right of the child. Therefore increasing the capacity to accept individual bettered persons became necessary in the existing institutions. In the first half of 2005, a pilot model is being created in 7 regions of the country and in Budapest to increase the capacity in the transitional homes for families.

Before the programme was launched, a five-day training course on the special professional content of the work was organized for the receiving institutions, for the child welfare services working in the regions and for the staff of the methodological centres, and NGOs working on this field, including NaNE, were invited as trainers. Within this programme, the institutions received practical help for the handling of victims of domestic violence (case processing and supervision).

The primary objective of the pilot model was providing accommodation and special help for victims of domestic violence in the transitional homes for families participating in the programme. The target group of the pilot model is a parent and child, the single woman, or expectant mothers-to-be suffering battering, family threats, violence or family conflicts or crises. Those in connection with the battered persons form an indirect target group (the perpetrator, the family, the relatives, friends, neighbours). Providing help to them is a basic condition for settling such problems. In the wider sense, society at large is also an indirect target group. Prevention, social awareness and collection of information also play an important role in the programme. Based on the positive outcome of the pilot model, the programme continues in 2006. To evaluate the effectiveness of the pilot project a one.-day workshop was held in summer 2005 for the participating trasitional family homes.

The members of the pilot project work in close cooperation with the National Crisis Management and Information Telephone Service and the authorities working on the cases of the victims.

The house for secret, closed shelter to accommodate battered persons has already been bought. The public tender for running the shelter is currently being prepared, and the winner will run and maintain the shelter – according to plans – from the beginning of 2006; the shelter has been created by our Ministry especially to accommodate women fleeing alone or with their children.

One of the greatest achievements of this past year was that the safe shelter to accommodate and help the victims of trafficking in humans has been functioning since March, 2005. The National Crisis Management and Information Telephone Service under the auspices of ICSSZEM plays a very important role in accommodating the victims in trafficking in humans in this shelter. The staff

of the 24 hour help-line aimed primarily at the victims of domestic violence – who also speak foreign languages – also receive calls from victims of trafficking in humans, and in case it is necessary, they divert them to the shelter.

# **Newly implemented policies**

The National Core Curriculum in order that everybody learn about the culture and history of minorities, stipulates that "at every level of school education every child should be taught about the culture and history of minorities of the country". Similarly, elements of Roma culture and history have been built into the requirements for the matura, the school-leaving exam in the subjects of History and Hungarian language and literature. Roma culture is first introduced in the lower grades of primary school, then reappears in higher grades and also in secondary school. It is our hope that introducing multicultural content into the requirements will enable the children of the majority society to get information at an early age about the culture of their minority peers and to decrease the distance between them created by prejudice. A similarly major change is the introduction of Romany languages into public education.

**The Hungarian Prison Service (HPS)** placed the juvenile prisoners according to regions in Regional Juvenile Prisons since the previous report

# Newly implemented programmes and projects and their scope.

#### Roma Decade

The Decade of Roma Inclusion, 2005-2015, is an initiative adopted by eight countries in Central and Southeast Europe, and supported by the international community. It represents the first cooperative effort to change the lives of Roma in Europe. An action framework for governments, the Decade will monitor progress in accelerating social inclusion and improving the economic and social status of Roma across the region.

Roma participation is a core value of the Decade. Roma representatives and civil society organizations are involved in every stage. Roma shaped and defined the vision from the outset and have been involved in the Steering Committee and preparation of country action plans. An essential aspect of the Decade is improving the database for monitoring the status of Roma. In preparing its action plans, each country has identified indicators which it will use to measure progress in reaching its Decade goals. Monitoring these outcomes will require a combination of designing and implementing new data collection instruments, and upgrading existing data sources to ensure that Roma are effectively included. UNDP has been supporting these efforts through implementing a cross-country baseline survey and convening a data expert's group for sharing information.

# **Human Resources Development Operational Program of the National Develop Plan**

In the framework of the 2.1 measure of the Human Resources Development Operational Program of the National Develop Plan the government separated a budget of 10,300,000 EUR, implemented by the *suliNova* Non-profit Organisation, for the training of educational professionals involved in the education of disadvantaged, especially Roma pupils, and pupils with special educational needs and for the development of related curricula and methodology to promote inclusive education.

The programme "From the Last Desk" aims to decrease the school segregation of those disadvantaged children who have unjustifiably been labelled handicapped; the long-term goal is to put this kind of segregation to an end.

In May, 2005, an invitation for application fr the grant sceme called "Integrated education of students with special needs" was issued, which was a compulsory phase in the implementation of of the National Development Plan on the spreading of inclusive education principles in Hungary. The Government Office for Equal Opportunities organized a national campaign in the spring of 2004 with the purpose of awareness raising and shaping public opinion in terms of domestic violence. Television advertising of public interest and a conference were elements of the campaign.

The Ministry of Youth, Family, Social Affairs and Equal Opportunities launched a social information programme in the autumn of 2005 in order to make the information related to domestic violence and the telephone number of the National Crisis Management and Information Telephone Service (06-80-20-55-20) known to the general public.

In 2003- the programme "IMPULSUS" was launched in the framework of the youth programme of the Ministry of Interior. It is one week training with the purpose to prevent juveniles becoming victim or offender of a crime, based on the methods of drama-pedagogy, with the yearly participation of 1200 children. This program is in the phase of accreditation, with its 60 hours training material.

The programme for 8-16 years old juveniles, named "Education for safe life" is implemented in children' homes and elementary schools in Budapest, for one school year. This program is implemented by teachers, using exercise books for children and hand-books for teachers, helping the work. The topics of the programme are special, enhancing the identification of the emergency, the improvement of the legal behaviour.

#### 1. Appendix:

Table 1: Number and proportion of population under 18 by sex, age and settlement type, on 1 January 2002-2004

## 2. Appendix:

Table 7: Financed health care data in pediatric service

## 3. Appendix:

Table 14: Perpetrators of harming under age persons

## 4. Appendix

Table 25: The number of children with disabilities attending special schools

# 5. Appendix

Table 28: Disaggregation of data on victims by age-groups in case of sexual crimes, crime categories covering the years 2002-2004

# 6. Appendix

Table 29: Disaggregated data by age-groups of victims in violent crimes, crime groups covering years 2002-2004

# 7. Appendix

Table 30: Number of initiated criminal procedures in Hungary, because of pornographic, and other - sexual - crimes against minors covering the years 2002-2004

## 8. Appendix:

Table 31: Distribution of punishments and independently applied measures on legally binding judgement

## 9. Appendix:

Table 47: Number of registered patients at child and youth psychiatric dispensaries by diagnosis, age-groups and sex, 2002

# 10. Appendix

Table 48: Number of registered patients at child and youth psychiatric dispensaries by diagnosis, age-groups and sex, 2003

# 11. Appendix

Table 49: Number of registered patients at child and youth psychiatric dispensaries by diagnosis, age-groups and sex, 2004

## 12. Appendix

Act. XXXI. of 1997 on the protection of children and on public guardianship administration

#### 13. Appendix:

**Minorities in Hungary:** 

- 13.1. Bulgarian
- 13.2. Gypsy/Roma

- 13.2.1. Beas
- 13.2.2. Lovari
- **13.3.** Greek
- 13.4. Croatian
- **13.5.** Polish
- **13.6.** German
- 13.7. Armenian
- 13.8. Romanian
- 13.9. Serbian
- **13.10.** Slovak
- 13.11. Slovenian
- **13.12. Russine**
- 13.13 Ukrainian

<u>Table 1. – 1. Appendix</u>: Number and proportion of population under 18 by sex, age and settlement type, on 1 January 2002-2004

Settlement											Age (years	s)								Number of	Proportion of
type	Sex	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	population aged under 18 years	population aged under 18 years old (%)
1 January 20 Budapest	Male	7 273	7 067	6 618	6 611	6 519	6 988	7 121	7 479	7 719	7 837	8 465	8 179	8 051	8 239	8 419	9 031	9 255	9 122	139 993	18
Dudupest	Female	6 873	6 767	6 451	6 259	6 324	6 503	6 816	6 880	7 365	7 678	8 043	7 845	7 685	7 882	8 166	8 868	9 034	8 708	134 147	14
1	Total	14 146	13 834	13 069	12 870	12 843	13 491	13 937	14 359	15 084	15 515	16 508	16 024	15 736	16 121	16 585	17 899	18 289	17 830	274 140	16
Urban	Male	23 221	23 450	22 628	22 730	23 583	25 077	27 057	27 236	28 008	29 488	30 588	31 060	30 274	30 444	31 626	34 197	35 564	33 576	509 807	22
1	Female	21 907	22 628	21 435	22 188	22 126	23 894	25 468	26 376	26 903	28 023	29 007	29 571	29 083	29 338	30 801	34 280	35 491	33 238	491 757	19
•	Total	45 128	46 078	44 063	44 918	45 709	48 971	52 525	53 612	54 911	57 511	59 595	60 631	59 357	59 782	62 427	68 477	71 055	66 814	1 001 564	21
Rural	Male	18 574	19 019	18 475	19 508	20 426	21 365	22 365	22 984	22 909	23 939	24 771	24 610	24 270	24 401	23 468	22 480	23 238	22 320	399 122	23
i	Female	17 392	18 192	17 605	18 266	19 078	20 148	21 477	21 725	21 960	22 642	23 912	23 916	22 856	22 881	21 639	20 582	21 128	21 141	376 540	21
i	Total	35 966	37 211	36 080	37 774	39 504	41 513	43 842	44 709	44 869	46 581	48 683	48 526	47 126	47 282	45 107	43 062	44 366	43 461	775 662	22
Total	Male	49 068	49 536	47 721	48 849	50 528	53 430	56 543	57 699	58 636	61 264	63 824	63 849	62 595	63 084	63 513	65 708	68 057	65 018	1 048 922	22
	Female	46 172	47 587	45 491	46 713	47 528	50 545	53 761	54 981	56 228	58 343	60 962	61 332	59 624	60 101	60 606	63 730	65 653	63 087	1 002 444	19
i	Total	95 240	97 123	93 212	95 562	98 056	103 975	110 304	112 680	114 864	119 607	124 786	125 181	122 219	123 185	124 119	129 438	133 710	128 105	2 051 366	20
1 January 20		7 - 10	7, 120	7	7		1007.0										,	100 / 10			
Budapest	Male	7 457	7 285	7 071	6 550	6 559	6 461	6 912	7 132	7 397	7 622	7 757	8 398	8 135	8 011	8 190	8 423	8 981	9 144	137 485	18
	Female	7 014	6 860	6 727	6 355	6 189	6 229	6 432	6 766	6 856	7 299	7 608	7 955	7 825	7 642	7 839	8 215	8 828	9 000	131 639	14
	Total	14 471	14 145	13 798	12 905	12 748	12 690	13 344	13 898	14 253	14 921	15 365	16 353	15 960	15 653	16 029	16 638	17 809	18 144	269 124	16
Urban	Male	23 145	23 313	23 480	22 541	22 686	23 557	25 050	27 069	27 245	27 916	29 393	30 497	31 050	30 152	30 967	32 516	33 831	34 848	499 256	22
	Female	22 173	21 917	22 699	21 446	22 179	22 021	23 909	25 546	26 318	26 845	28 014	28 990	29 497	29 000	30 310	32 315	33 775	34 672	481 626	19
	Total	45 318	45 230	46 179	43 987	44 865	45 578	48 959	52 615	53 563	54 761	57 407	59 487	60 547	59 152	61 277	64 831	67 606	69 520	980 882	20
Rural	Male	18 180	18 780	19 229	18 761	19 726	20 594	21 541	22 402	23 130	23 162	24 146	24 980	24 739	24 490	23 969	22 625	22 941	24 056	397 451	23
	Female	17 056	17 650	18 395	17 800	18 454	19 339	20 266	21 497	21 870	22 149	22 787	24 081	24 059	23 019	21 979	20 140	21 175	22 018	373 734	20
	Total	35 236	36 430	37 624	36 561	38 180	39 933	41 807	43 899	45 000	45 311	46 933	49 061	48 798	47 509	45 948	42 765	44 116	46 074	771 185	22
Total	Male	48 782	49 378	49 780	47 852	48 971	50 612	53 503	56 603	57 772	58 700	61 296	63 875	63 924	62 653	63 126	63 564	65 753	68 048	1 034 192	22
	Female	46 243	46 427	47 821	45 601	46 822	47 589	50 607	53 809	55 044	56 293	58 409	61 026	61 381	59 661	60 128	60 670	63 778	65 690	986 999	19
	Total	95 025	95 805	97 601	93 453	95 793	98 201	104 110	110 412	112 816	114 993	119 705	124 901	125 305	122 314	123 254	124 234	129 531	133 738	2 021 191	20
1 January 20	04																				
Budapest	Male	7 437	7 451	7 165	6 897	6 471	6 437	6 347	6 870	7 033	7 345	7 538	7 729	8 304	8 108	7 966	8 269	8 456	8 952	134 775	17
	Female	6 793	6 996	6 792	6 572	6 251	6 088	6 208	6 356	6 716	6 768	7 231	7 532	7 903	7 776	7 697	7 905	8 219	8 826	128 629	14
	Total	14 230	14 447	13 957	13 469	12 722	12 525	12 555	13 226	13 749	14 113	14 769	15 261	16 207	15 884	15 663	16 174	16 675	17 778	263 404	15
Urban	Male	22 835	23 418	23 616	23 697	22 627	22 871	23 719	25 311	27 197	27 363	28 095	29 537	30 675	31 209	30 827	32 152	32 579	33 535	491 263	21
	Female	21 713	22 438	22 128	22 875	21 584	22 306	22 305	24 117	25 691	26 449	27 045	28 193	29 188	29 748	30 169	31 977	32 357	33 367	473 650	18
	Total	44 548	45 856	45 744	46 572	44 211	45 177	46 024	49 428	52 888	53 812	55 140	57 730	59 863	60 957	60 996	64 129	64 936	66 902	964 913	20
Rural	Male	17 664	18 287	18 789	19 287	18 851	19 732	20 591	21 401	22 431	23 139	23 104	24 083	24 944	24 666	23 938	22 769	22 639	23 309	389 624	23
	Female	16 502	17 168	17 727	18 470	17 847	18 485	19 156	20 193	21 459	21 868	22 083	22 725	23 999	23 928	21 877	20 336	20 202	21 640	365 665	20
	Total	34 166	35 455	36 516	37 757	36 698	38 217	39 747	41 594	43 890	45 007	45 187	46 808	48 943	48 594	45 815	43 105	42 841	44 949	755 289	21
Total	Male	47 936	49 156	49 570	49 881	47 949	49 040	50 657	53 582	56 661	57 847	58 737	61 349	63 923	63 983	62 731	63 190	63 674	65 796	1 015 662	21
	Female	45 008	46 602	46 647	47 917	45 682	46 879	47 669	50 666	53 866	55 085	56 359	58 450	61 090	61 452	59 743	60 218	60 778	63 833	967 944	18
	Total	92 944	95 758	96 217	97 798	93 631	95 919	98 326	104 248	110 527	112 932	115 096	119 799	125 013	125 435	122 474	123 408	124 452	129 629	1 983 606	20

<u>Table 7. - 2./A Appendix</u>: Financed health care data in pediatric service

	Number of cases	Amount paid in thousand HUF
	Values monthly	
Primary health care	2 006 299	1 476 312,6
Out patient health care	343 680	1 011 883,9
Chronic health care	18 577	10 961,1
Active in patient health care	30 064	2 984 572,7
School health service	1 293 155	2,3
Health visitor's system	2 402 224	13 773,6
Home care	70	1 125,4
Rescue	3 811	98 862,2
Patient transport	3 687	12 026,3
Emergency care	180	8 583,5
Medicines		1 128 299,6
Medical devices		291 635,7
Balneotherapy		15 755,3
Monthly average		7 053 794,1
Yearly average		84 645 529,7

	Budget in the	ousand HUF	
Year	2003	2004	2005
School health service	1 765,7	1 812,10	1 877,50
Health visitor's system	10 639,6	10 909,60	14 120,70
Mother and child care	1 176,7	1 197,10	792,6
Mobile specialist's sercive	124,1	126,9	131,5
Total	15 709,10	16 049,70	18 927,30

2/B A]	2/B Appendix: The public expenditure on educational institutions in % of GDP by level of education												
	I:	nitial education	Tertiary Other			Other	T . 1 . 0/						
Year	Year Pre-primary Primary and secondary		Total	Education		educational expenditure	Total in % of GDP <sup>a)</sup>						
2002	0,78	3,01	3,79	1,05	0,21	0,52	5,57						
2003	0,85	3,32	4,17	1,12	0,23	0,25	5,77						
2004	0,80	3,13	3,93	1,01	0,22	0,22	5,39						
a) Prelimi	nary data in	2004.											

<u>Table 14. – 3. Appendix:</u> Perpetrators of harming under age persons

Code		2000	2001	2002	2003
301	Neglecting the hygienic care of persons unable to care for	42	45	24	27
	themselves				
302	Neglecting basic catering	26	14	38	51
303	Neglecting the provision of basic clothing according to the	3	5	15	13
	season				
304	Neglecting the provision of medical care	13	8	10	27
305	Neglecting the provision of basic care and treatment	39	76	65	59
306	Physical torture without causing bodily harm		29	29	29
307	Physical torture and causing slight bodily harm	25	60	36	92
308	Causing serious bodily harm			59	103
309	Premeditated, serious breach of schooling obligations	20	39	79	72
310	Causing psychological harm		55	82	141
311	Performing sexual acts in the presence of under age persons	15	22	27	21
312	Leading a dissolute life		93	95	193
313	Inducing or intending to induce under age persons to commit	405	440	361	312
	criminal acts				
314	Inducing or intending to induce under age persons to lead a	11	9	5	22
	dissolute life				
315	Harming under age persons in various other ways	130	96	148	154
Total		1 004	1 073	1 073	1 316

Source: Supreme Prosecutor's Office, EBÜRS (Common Police and Prosecution Criminal ticsStatis

Perpetrators' modus operandi as regards harming under age persons (Artic & 195 of the Criminal Code) in 2000-2003.

Table 25. - 4. Appendix: The number of children with disabilities attending special schools

		2002/2003			2003/2004			2004/2005	
Age	Female	Male	Total	Female	Male	Total	Female	Male	Total
3	61	66	127	59	83	142	35	81	116
4	88	128	216	90	144	234	96	159	255
5	121	213	334	137	252	389	138	253	391
6	296	558	854	327	587	914	259	489	748
7	845	1 449	2 294	701	1 262	1 963	642	1 055	1 697
8	1 296	1 982	3 278	1 157	1 802	2 959	933	1 537	2 470
9	1 436	2 251	3 687	1 447	2 151	3 598	1 176	1 801	2 977
10	1 631	2 469	4 100	1 496	2 388	3 884	1 428	2 127	3 555
11	1 860	2 667	4 527	1 676	2 569	4 245	1 479	2 322	3 801
12	1 781	2 803	4 584	1 896	2 731	4 627	1 709	2 556	4 265
13	1 899	2 926	4 825	1 852	2 943	4 795	1 916	2 804	4 720
14	1 981	2 981	4 962	1 864	2 921	4 785	1 821	2 880	4 701
15	1 723	2 620	4 343	1 772	2 699	4 471	1 710	2 789	4 499
16	1 280	1 986	3 266	1 346	1 932	3 278	1 331	2 070	3 401
17	855	1 256	2 111	907	1 423	2 330	943	1 448	2 391
18	461	768	1 229	500	850	1 350	586	948	1 534
19	237	400	637	275	486	761	308	521	829
20	122	202	324	122	247	369	160	290	450
21	68	87	155	84	119	203	67	124	191
22	39	55	94	42	60	102	40	76	116
23	19	19	38	24	35	59	31	33	64
24	7	16	23	9	18	27	16	17	33
25	12	14	26	11	22	33	7	9	16
26									
27									
28									
29									
30-34									
35-39									
40+									
Total	18 118	27 916	46 034	17 794	27 724	45 518	16 831	26 389	43 220

<u>Table 28.– 5. Appendix:</u> Disaggregation of data on victims by age-groups in case of sexual crimes, cire categories covering the years 2002-2004.

Convol original and additional and	2002	2	2003		2004	
Sexual crimes-victims' age- groups	Number	%	Number	%	Number	%
Abuse of a minor	1 072	100,0	1 312	100,0	1 967	100,0
Minor	626	58,4	824	62,8	1 272	64,7
Juvenile	446	41,6	488	37,2	695	35,3
		ĺ		,		,
Crimes with illegal	_	100.0	20	100.0	4.200	100.0
pornographic material Minor	7	100,0	20	100,0	4 289	100,0
	4	57,1	4	20,0	3 585	83,6
Juvenile	3	42,9	16	80,0	704	16,4
Crimes against sexual	012	100.0	907	100.0	903	100.0
morality From this:	813	100,0	807	100,0	803	100,0
	255	42.7	266	45.4	401	40.0
Minor Juvenile	355	43,7	366	45,4	401	49,9
	117	14,4	150	18,6	121	15,1
Adult	341	41,9	291	36,1	281	35,0
Rape	292	100,0	259	100,0	266	100,0
Minor	47	16,1	43	16,6	57	21,4
Juvenile	50	17,1	53	20,5	50	18,8
Adult	195	66,8	163	62,9	159	59,8
Addit	173	00,0	103	02,7	137	37,0
Sexual assault	214	100,0	276	100,0	294	100,0
Minor	110	51,4	146	52,9	157	53,4
Juvenile	37	17,3	56	20,3	51	17,3
Adult	67	31,3	74	26,8	86	29,3
Crime against nature*	12	100,0	2	100,0	0	0,0
Minor	5	41,7	1	50,0	0	0,0
Juvenile	5	41,7	1	50,0	0	0,0
Adult	2	16,7	0	0,0	0	0,0
Forceful fornication against	70	100.0	14	100.0	4	100.0
nature*	<b>79</b> 48	100,0	14	100,0	0	100,0
Minor	11	60,8	3	57,1	0	0,0
Juvenile	20	13,9 25,3	3	21,4 21,4	1	100,0
Adult	20	23,3	3	21,4	1	100,0
Sexual abuse of children	143	100,0	160	100,0	184	100,0
Minor	143	100,0	160	100,0	184	100,0
Promotion of prostitution	73	100,0	96	100,0	58	100,0
Minor	2	2,7	8	8,3	3	5,2
Juvenile	14	19,2	37	38,5	20	34,5
Adult	57	78,1	51	53,1	35	60,3

<sup>\*</sup> Annulment by the 37/2002 (IX.4.) AB decision of the Constitutional Court

<u>Table 29. – 6. Appendix</u>: Disaggregated data by age-groups of victims in violent crimes, crime groups covering years 2002-2004

Crimes, crime categories-victims'	2002		2003		2004	
age-groups	Number	%	Number	%	Number	%
Violent and disorderly crimes	27 564	100,0	27 826	100,0	29 734	100,0
Minor	1 246	4,5	1 299	4,7	1 601	5,4
Juvenile	2 498	9,1	2 434	8,7	2 885	9,7
Adult	23 820	86,4	24 093	86,6	25 248	84,9
From this:						
Homicide, attempt	360	100,0	382	100,0	361	100,0
Minor	19	5,3	22	5,8	25	6,9
Juvenile	9	2,5	8	2,1	7	1,9
Adult	332	92,2	352	92,1	329	91,1
Aggravated assoult (battery)	7 500	100,0	7 371	100,0	7 869	100,0
Minor	146	1,9	210	2,8	231	2,9
Juvenile	382	5,1	363	4,9	456	5,8
Adult	6 972	93,0	6 798	92,2	7 182	91,3
				·		
Kidnapping	16	100,0	25	100,0	17	100,0
Minor	0	0,0	0	0,0	0	0,0
Juvenile	0	0,0	2	8,0	3	17,6
Adult	16	100,0	23	92,0	14	82,4
				·		
Other crimes:						
Trafficking in Human Beings	33	100,0	18	100,0	22	100,0
Minor	0	0,0	1	5,6	0	0,0
Juvenile	1	3,0	7	38,9	2	9,1
Adult	32	97,0	10	55,6	20	90,9

<u>Table 30.– 7. Appendix</u>: Number of initiated criminal procedures in Hungary, because of pornographic, and other – sexual – crimes against minors covering the years 2002-2004

Number   N	Crime/Mode of terminating	2002		2003		2004		
Changing of family status	_		%		%		%	
From this:	Changing of family status		0		0	1	100,0	
from this: reprimand	From this:							
from this: reprimand	Termination of investigation	0	0	0	0	1	100,0	
Refusal of investigation/Rejecting criminal report		0	0	0	0	1	100,0	
Refusal of investigation/Rejecting criminal report   1	Abuse of a minor	1 047	100,0	1 280	100,0	1 918	100,0	
criminal report         1         0,1         1         0,1         0         0,0           Termination of investigation         85         8,1         83         6,5         162         8,4           from this: reprimand         46         4,4         43         3,4         105         5,5           Indictment         961         91,8         1195         93,4         1754         91,4           Other         0         0,0         1         0,1         2         0,1           Crimes with illegal pornographic material         6         100,0         16         100,0         4 285         100,0           From this:	from this: reprimand							
Termination of investigation   85   8,1   83   6,5   162   8,4	Refusal of investigation/Rejecting							
from this: reprimand         46         4,4         43         3,4         105         5,5           Indictment         961         91,8         1 195         93,4         1754         91,4           Other         0         0,0         1         0,1         2         0,1           Crimes with illegal pornographic material         6         100,0         16         100,0         4 285         100,0           From this:         7         4         8,5         4 284         99,98         100,0         16         100,0         4 285         100,0           Indictment         6         100,0         14         87,5         4 284         99,98         0he         0he         1         6,3         1         0,02           Rape (minor victim)         97         100,0         96         100,0         107         100,0         96         100,0         107         100,0           From this:         8         8,2         4         4,2         5         4,7           Termination of investigation/Rejecting criminal report         8         8,2         4         4,2         5         4,7           Term this:         8         8,2         4	criminal report	1	0,1	1	0,1	0	0,0	
Indictment	Termination of investigation	85	8,1	83	6,5	162	8,4	
Other         0         0,0         1         0,1         2         0,1           Crimes with illegal pornographic material         6         100,0         16         100,0         4 285         100,0           From this:         Termination of investigation         0         0         1         6,3         0         0,0           Indictment         6         100,0         14         87,5         4 284         99,98         0the         0         1         6,3         0         0,0         10,0 </td <td>from this: reprimand</td> <td>46</td> <td>4,4</td> <td>43</td> <td>3,4</td> <td>105</td> <td>5,5</td>	from this: reprimand	46	4,4	43	3,4	105	5,5	
Crimes with illegal pornographic material   6   100,0   16   100,0   4 285   100,0   17   100,0   10	Indictment	961	91,8	1 195	93,4	1 754	91,4	
Material   6   100,0   16   100,0   4 285   100,0   From this:	Other	0	0,0	1	0,1	2	0,1	
Material   6   100,0   16   100,0   4 285   100,0   From this:	Crimes with illegal pornographic				·		·	
Termination of investigation		6	100,0	16	100,0	4 285	100,0	
Indictment								
Other         0         0         1         6,3         1         0,02           Rape (minor victim)         97         100,0         96         100,0         107         100,0           From this:         Refusal of investigation/Rejecting criminal report         8         8,2         4         4,2         5         4,7           Termination of investigation         28         28,9         28         29,2         17         15,9           Indictment         61         62,9         61         63,5         80         74,8           Other         0         0,0         3         3,1         5         4,7           Sexual Assault (minor victim)         147         100,0         202         100,0         208         100,0           From this:         Refusal of investigation/Rejecting         Town this:         Town this:         Town this:         Refusal of investigation/Rejecting         Town this:         Refusal of investigation/Rejecting <td r<="" td=""><td>Termination of investigation</td><td>0</td><td>0</td><td>1</td><td>6,3</td><td>0</td><td>0,0</td></td>	<td>Termination of investigation</td> <td>0</td> <td>0</td> <td>1</td> <td>6,3</td> <td>0</td> <td>0,0</td>	Termination of investigation	0	0	1	6,3	0	0,0
Rape (minor victim)   97   100,0   96   100,0   107   100,0	Indictment	6	100,0	14	87,5	4 284	99,98	
From this:	Other	0	0	1	6,3	1	0,02	
Refusal of investigation/Rejecting criminal report         8         8,2         4         4,2         5         4,7           Termination of investigation         28         28,9         28         29,2         17         15,9           Indictment         61         62,9         61         63,5         80         74,8           Other         0         0,0         3         3,1         5         4,7           Sexual Assault (minor victim)         147         100,0         202         100,0         208         100,0           From this:         Refusal of investigation/Rejecting criminal report         7         4,8         5         2,5         10         4,8           Termination of investigation         27         18,4         37         18,3         34         16,3           Indictment         113         76,9         154         76,2         150         72,1           Other         0         0,0         6         3,0         14         6,7           Forceful fornication against nature* (minor victim)         59         100,0         11         100,0         0         0,0           From this:         Refusal of investigation/Rejecting         5	Rape (minor victim)	97	100,0	96	100,0	107	100,0	
Refusal of investigation/Rejecting criminal report         8         8,2         4         4,2         5         4,7           Termination of investigation         28         28,9         28         29,2         17         15,9           Indictment         61         62,9         61         63,5         80         74,8           Other         0         0,0         3         3,1         5         4,7           Sexual Assault (minor victim)         147         100,0         202         100,0         208         100,0           From this:         Refusal of investigation/Rejecting criminal report         7         4,8         5         2,5         10         4,8           Termination of investigation         27         18,4         37         18,3         34         16,3           Indictment         113         76,9         154         76,2         150         72,1           Other         0         0,0         6         3,0         14         6,7           Forceful fornication against nature* (minor victim)         59         100,0         11         100,0         0         0,0           From this:         Refusal of investigation/Rejecting         5	From this:				·			
criminal report         8         8,2         4         4,2         5         4,7           Termination of investigation         28         28,9         28         29,2         17         15,9           Indictment         61         62,9         61         63,5         80         74,8           Other         0         0,0         3         3,1         5         4,7           Sexual Assault (minor victim)         147         100,0         202         100,0         208         100,0           From this:         Refusal of investigation/Rejecting criminal report         7         4,8         5         2,5         10         4,8           Termination of investigation         27         18,4         37         18,3         34         16,3           Indictment         113         76,9         154         76,2         150         72,1           Other         0         0,0         6         3,0         14         6,7           Forceful fornication against nature* (minor victim)         59         100,0         11         100,0         0         0,0           From this:         Refusal of investigation/Rejecting criminal report         5         8,5								
Termination of investigation   28   28,9   28   29,2   17   15,9   Indictment   61   62,9   61   63,5   80   74,8   Other   0   0,0   3   3,1   5   4,7   Sexual Assault (minor victim)   147   100,0   202   100,0   208   100,0   From this:		8	8,2	4	4,2	5	4,7	
Indictment	Termination of investigation	28	28,9	28	29,2	17	15,9	
Other         0         0,0         3         3,1         5         4,7           Sexual Assault (minor victim)         147         100,0         202         100,0         208         100,0           From this:         Refusal of investigation/Rejecting criminal report         7         4,8         5         2,5         10         4,8           Termination of investigation         27         18,4         37         18,3         34         16,3           Indictment         113         76,9         154         76,2         150         72,1           Other         0         0,0         6         3,0         14         6,7           Forceful fornication against nature* (minor victim)         59         100,0         11         100,0         0         0,0           From this:         Refusal of investigation/Rejecting criminal report         5         8,5         2         18,2         0         0,0           Sexual abuse of children         140         100,0         157         100,0         176         100,0           From this:         Refusal of investigation/Rejecting criminal report         11         7,9         5         3,2         5         2,8 <td></td> <td>61</td> <td>62,9</td> <td>61</td> <td>63,5</td> <td>80</td> <td>74,8</td>		61	62,9	61	63,5	80	74,8	
From this:   Refusal of investigation/Rejecting criminal report   7	Other	0		3		5	4,7	
Refusal of investigation/Rejecting criminal report         7         4,8         5         2,5         10         4,8           Termination of investigation         27         18,4         37         18,3         34         16,3           Indictment         113         76,9         154         76,2         150         72,1           Other         0         0,0         6         3,0         14         6,7           Forceful fornication against nature* (minor victim)         59         100,0         11         100,0         0         0,0           From this:         Refusal of investigation/Rejecting criminal report         5         8,5         2         18,2         0         0,0           Indictment         46         78,0         9         81,8         0         0,0           Sexual abuse of children         140         100,0         157         100,0         176         100,0           From this:         Refusal of investigation/Rejecting criminal report         11         7,9         5         3,2         5         2,8	Sexual Assault (minor victim)	147	100,0	202	100,0	208	100,0	
criminal report         7         4,8         5         2,5         10         4,8           Termination of investigation         27         18,4         37         18,3         34         16,3           Indictment         113         76,9         154         76,2         150         72,1           Other         0         0,0         6         3,0         14         6,7           Forceful fornication against nature* (minor victim)         59         100,0         11         100,0         0         0,0           From this:         Refusal of investigation/Rejecting criminal report         5         8,5         2         18,2         0         0,0           Indictment         46         78,0         9         81,8         0         0,0           Sexual abuse of children         140         100,0         157         100,0         176         100,0           From this:         Refusal of investigation/Rejecting criminal report         11         7,9         5         3,2         5         2,8	From this:							
criminal report         7         4,8         5         2,5         10         4,8           Termination of investigation         27         18,4         37         18,3         34         16,3           Indictment         113         76,9         154         76,2         150         72,1           Other         0         0,0         6         3,0         14         6,7           Forceful fornication against nature* (minor victim)         59         100,0         11         100,0         0         0,0           From this:         Refusal of investigation/Rejecting criminal report         5         8,5         2         18,2         0         0,0           Indictment         46         78,0         9         81,8         0         0,0           Sexual abuse of children         140         100,0         157         100,0         176         100,0           From this:         Refusal of investigation/Rejecting criminal report         11         7,9         5         3,2         5         2,8	Refusal of investigation/Rejecting							
Termination of investigation         27         18,4         37         18,3         34         16,3           Indictment         113         76,9         154         76,2         150         72,1           Other         0         0,0         6         3,0         14         6,7           Forceful fornication against nature* (minor victim)         59         100,0         11         100,0         0         0,0           From this:         Refusal of investigation/Rejecting criminal report         5         8,5         2         18,2         0         0,0           Indictment         46         78,0         9         81,8         0         0,0           Sexual abuse of children         140         100,0         157         100,0         176         100,0           From this:         Refusal of investigation/Rejecting criminal report         11         7,9         5         3,2         5         2,8		7	4,8	5	2,5	10	4,8	
Indictment         113         76,9         154         76,2         150         72,1           Other         0         0,0         6         3,0         14         6,7           Forceful fornication against nature* (minor victim)         59         100,0         11         100,0         0         0,0           From this:         Refusal of investigation/Rejecting criminal report         5         8,5         2         18,2         0         0,0           Termination of investigation         8         13,6         0         0,0         0         0,0           Indictment         46         78,0         9         81,8         0         0,0           Sexual abuse of children         140         100,0         157         100,0         176         100,0           From this:         Refusal of investigation/Rejecting criminal report         11         7,9         5         3,2         5         2,8		27	18,4	37	18,3	34	16,3	
Other         0         0,0         6         3,0         14         6,7           Forceful fornication against nature* (minor victim)         59         100,0         11         100,0         0         0,0           From this:         Refusal of investigation/Rejecting criminal report         5         8,5         2         18,2         0         0,0           Termination of investigation         8         13,6         0         0,0         0         0,0           Indictment         46         78,0         9         81,8         0         0,0           Sexual abuse of children         140         100,0         157         100,0         176         100,0           From this:         Refusal of investigation/Rejecting criminal report         11         7,9         5         3,2         5         2,8		113	76,9	154	76,2	150	72,1	
nature* (minor victim)         59         100,0         11         100,0         0         0,0           From this:         Refusal of investigation/Rejecting criminal report         5         8,5         2         18,2         0         0,0           Termination of investigation         8         13,6         0         0,0         0         0,0           Indictment         46         78,0         9         81,8         0         0,0           Sexual abuse of children         140         100,0         157         100,0         176         100,0           From this:         Refusal of investigation/Rejecting criminal report         11         7,9         5         3,2         5         2,8	Other	0	0,0	6	3,0	14		
From this:         Refusal of investigation/Rejecting criminal report         5         8,5         2         18,2         0         0,0           Termination of investigation         8         13,6         0         0,0         0         0,0           Indictment         46         78,0         9         81,8         0         0,0           Sexual abuse of children         140         100,0         157         100,0         176         100,0           From this:         Refusal of investigation/Rejecting criminal report         11         7,9         5         3,2         5         2,8	Forceful fornication against						-	
Refusal of investigation/Rejecting criminal report         5         8,5         2         18,2         0         0,0           Termination of investigation         8         13,6         0         0,0         0         0,0           Indictment         46         78,0         9         81,8         0         0,0           Sexual abuse of children         140         100,0         157         100,0         176         100,0           From this:         Refusal of investigation/Rejecting criminal report         11         7,9         5         3,2         5         2,8	nature* (minor victim)	59	100,0	11	100,0	0	0,0	
criminal report         5         8,5         2         18,2         0         0,0           Termination of investigation         8         13,6         0         0,0         0         0,0           Indictment         46         78,0         9         81,8         0         0,0           Sexual abuse of children         140         100,0         157         100,0         176         100,0           From this:         Refusal of investigation/Rejecting criminal report         11         7,9         5         3,2         5         2,8	From this:							
Termination of investigation         8         13,6         0         0,0         0         0,0           Indictment         46         78,0         9         81,8         0         0,0           Sexual abuse of children         140         100,0         157         100,0         176         100,0           From this:         Refusal of investigation/Rejecting criminal report         11         7,9         5         3,2         5         2,8	Refusal of investigation/Rejecting							
Indictment         46         78,0         9         81,8         0         0,0           Sexual abuse of children         140         100,0         157         100,0         176         100,0           From this:         Refusal of investigation/Rejecting criminal report         11         7,9         5         3,2         5         2,8		5	8,5	2	18,2	0	0,0	
Sexual abuse of children         140         100,0         157         100,0         176         100,0           From this:         Refusal of investigation/Rejecting criminal report         11         7,9         5         3,2         5         2,8	Termination of investigation	8	13,6	0	0,0	0	0,0	
From this:  Refusal of investigation/Rejecting criminal report  11 7,9 5 3,2 5 2,8	Indictment	46	78,0	9	81,8	0	0,0	
From this:  Refusal of investigation/Rejecting criminal report  11 7,9 5 3,2 5 2,8	Sexual abuse of children	140	100.0	157	100.0	176	100.0	
Refusal of investigation/Rejecting criminal report 11 7,9 5 3,2 5 2,8					, ,			
criminal report 11 7,9 5 3,2 5 2,8								
Termination of investigation         42         30,0         37         23,6         36         20,5	criminal report	11	7,9	5	3,2	5	2,8	
	Termination of investigation			37	23,6	36	20,5	

Crime/Mode of terminating	2002		2002		2004	
procedure	Number	%	2003 Number	%	2004 Number	%
Indictment	83	59,3	111	70,7	116	65,9
Other	4	2,9	4	2,5	19	10,8
Promotion of prostitution total	72	100,0	67	100,0	78	100,0
From this:						
Refusal of investigation/Rejecting						
criminal report	4	5,6	6	9,0	1	1,3
Termination of investigation	22	30,6	15	22,4	32	41,0
Indictment	43	59,7	42	62,7	40	51,3
Other	3	4,2	4	6,0	5	6,4
From this:						
Promotion of prostitution						
(Involved person under age 18)	3	100,0	4	100,0	3	100,0
From this:						
Termination of investigation	0	0,0	1	25,0	0	0,0
Indictment	3	100,0	3	75,0	3	100,0

<u>Table 31. – 8. Appendix:</u> Distribution of punishments and independently applied measures on legally binding judgement

				Type of princi	ple punishmer	nt			Ancially			
	Number of accused,	Life	Inprisonment lasting for a	from th	nis	Labor in	Fine	Fine	punishment independently			
Year/crime	against them punishment or measures	inprisonment	definite period of time	to be executed	suspended	the public interest	rme	suspended	enforced, measure			
	have been enforced	Accused										
Changing of Family Status (193.	§/2/a of the Crim											
2002	2	0	2	0	2	0	0	0				
2003	2	0	1	0	1	0	1	0				
2004	13	0	6	0	6	0	1	0	6			
Abuse of a Minor (195.§ of the C	Criminal Code)											
2002	618	0	558	176	382	6	29	0	25 25			
2003	665	0	568	177	391	28	43	1	25			
2004	850	1	658	155	503	54	77	15	45			
Crimes with Illegal Pornographic	   Material (195/A	\ \ of the Crimina	al Code)									
2002	5	0	5	2	3	0	0	0	0			
2003	14	0	13	5	8	0	1	0	0			
2004	24	0	12	5	7	1	8	0	3			
Rape (197.§ 2/a;3/1.f. 3/2.f. of th	 e Criminal Code	)										
2002	25	0	24	19	5	0	1	0	0			
2003	20	0	19	16	3	0	0	0	1			
2004	22	0	20	18	2	0	1	0	1			
Note: from our "V-page system"			•	d party can be deter	mined in the §	of the Crimir	nal Code					
	<del>' (e.g. under age</del>	12, and under ago	<del>2 18)</del>		1				-			

	Distribution of p	ounishments ar	nd independentl	y applied measur	res on legally	binding jud	gements		
Table No. 3/A continues	-		-	<del></del>					
	Number of			Type of princi	ple punishmen	ıt			Ancillary
	accused against	t Life las	Inprisonment lasting for a			Labor in the public	Fine	Fine	punishment independently
Year/Crime	punishment or measures	inprisonment	definite period of time	to be executed	suspended	interest	Time	suspended	enforced, measures
	have been enforced		period of time		Accused		,		
Sexual Assault 198.§ 2/a;3/1.f.	3/2.f. of the Crimin	nal Code							,
2002	42	0	40	34	6	0	1	0	1
2003	70	0	68	60	8	0	1	0	1
2004	66	0	63	49	14	0	0	0	3
Forceful Fornication Against N	Vature 200.§ 2/a;3/1	.f. 3/2.f. of the C	riminal Code)						
2002	20	0	19	16	3	0	0	0	1
2003	16	0	14	12	2	0	1	0	1
2004	0	0	0	0	0	0	0	0	0
Sexual Abuse of Children 201.	§ of the Criminal C	Code)							
2002	76	0	66	17	49	0	3	0	7
2003	113	0	81	29	52	6	8	0	18
2004	111	0	88	31	57	6	5	0	12
Promotion of Prostitution (205	.§ 3/a. of the Crimin	nal Code)							
2002	9	0	9	4	5	0	0	0	0
2003	10	0	9	7	2	0	1	0	0
2004	6	0	5	2	3	0	1	0	0

<sup>\*</sup> Annulment by the 37/2002 (IX.4.)AB decision of the Constitutional Court

<u>Table 47.– 9. Appendix</u> Number of registered patients at child and youth psychiatric dispensaries by diagnosis, age-groups and sex, 2002

Diagnosis	0–4 yea	rs old	5–9 yea	rs old	10–14 years old		15–19 years old		<b></b>
	Boy	Girl	Boy	Girl	Boy	Girl	Boy	Girl	Together
Organic and symptomatic	18	13	25	20	22	19	17	12	146
mental disorders Mental and behavioural	18	13	23	20	22	19	1 /	12	140
disorders due to					2	1	3	2	8
psychoactive substance use	_	_	_	_		1	3		8
Schizophrenia, psychotic									
1 /1 5	1	_	_	1	9	3	66	55	135
disorders Mood disorders (affective									
disorders) Stress related and	1	_	57	41	113	109	154	258	733
Stress related and									
somatoform disorders Behavioural syndromes	32	24	113	98	197	202	183	300	1 149
associated with	80	78	415	244	416	220	176	162	1 791
psychological disturbances									
	1	1	2	2	23	17	84	73	203
Personality disturbances			2		23	1 /	04	13	203
Mental retardation	83	48	266	159	389	246	369	237	1 797
Specific disorders of	63	52	261	166	231	103	94	31	1 001
psychological development	03	32	201	100	231	103	<del></del>	31	1 001
Pervasive developmental									
disorders	35	18	104	35	121	24	65	24	426
	46	20	445	134	533	85	121	17	1 401
Hyperkinetic disorders		_ ~	773	134	333	0.5	121	1 /	1 401
Conduct disorders	95	55	406	202	651	299	433	256	2 397
Anxiety and attachment									
disorders	52	89	313	262	461	367	343	470	2 357
Child neurotic pathography	121	108	114	121	242	231	130	185	1 252
Epilepsy	122	99	217	217	317	293	245	266	1 776
Social endangeredness,	10	0	26	2.4	1.4	2.1	11	22	226
other adapting disorder	19	9	36	24	44	31	41	22	226
Attempted suicide	2	_	7	2	10	21	23	77	142
Other psychiatric or									
neurologic disorder Total	15	13	37	24	24	25	26	33	197
Total	786	627	2 818	1 752	3 805	2 296	2 573	2 480	17 137

Source of data: National Institute of Psychiatry and Neurology, NSDCP 1482

<u>Table 48.– 10. Appendix</u> Number of registered patients at child and youth psychiatric dispensaries by diagnosis, age-groups and sex, 2003

Diagnosis	0–4 years old		5–9 years old		10–14 years old		15–19 years old		Together
8	boy	girl	boy	girl	boy	girl	boy	girl	
Organic and symptomatic									
mental disorders	31	26	28	21	33	40	30	36	245
Mental and behavioural									
disorders due to psychoactive									
substance use	0	0	1	0	0	1	2	0	4
Schizophrenia, psychotic									
disorders	6	1	1	0	20	14	76	55	173
Mood disorders (affective									
disorders)	5	6	48	39	140	157	147	275	817
Stress related and somatoform									
disorders	32	31	135	107	247	217	188	301	1258
Behavioural syndromes									
associated with psychological									
disturbances	98	67	423	313	392	235	148	149	1 825
Personality disturbances	11	16	5	3	26	20	61	55	197
Mental retardation	119	81	357	236	654	370	461	288	2 566
Specific disorders of									
psychological development	90	43	311	159	222	116	110	66	1 117
Pervasive developmental									
disorders	84	28	196	79	139	54	74	40	694
Hyperkinetic disorders	53	17	561	114	542	106	128	38	1 559
Conduct disorders	114	61	430	207	804	312	419	272	2 619
Anxiety and attachment									
disorders	105	107	346	276	496	440	368	519	2 657
Child neurotic pathography	78	67	83	61	74	82	43	61	549
Epilepsy	60	51	167	147	216	208	203	191	1 243
Social endangeredness, other									
adapting disorder	32	21	29	25	26	17	19	15	184
Attempted suicide	-		_	-	7	7	16	44	74
Other psychiatric or									
neurologic disorder	24	11	30	25	22	13	14	16	155
Total	942	634	3 151	1 812	4 060	2 409	2 507	2 421	17 936

Source of data: National Institute of Psychiatry and Neurology, 1208 departmental order signed of the health minister

<u>Table 49.– 11. Appendix</u> Number of registered patients at child and youth psychiatric dispensaries by diagnosis, age-groups and sex, 2004

Diagnosis	0–4 years old		5–9 years old		10–14 years old		15–19 years		Together
	Boy	Girl	Boy	Girl	Boy	Girl	Boy	Girl	
Organic and symptomatic									
mental disorders	31	26	28	21	33	40	30	36	245
Mental and behavioural									
disorders due to psychoactive									
substance use	0	0	1	0	0	1	2	0	4
Schizophrenia, psychotic									
disorders	6	1	1	0	20	14	76	55	173
Mood disorders (affective									
disorders)	5	6	48	39	140	157	147	275	817
Stress related and somatoform									
disorders	32	31	135	107	247	217	188	301	1 258
Behavioural syndromes									
associated with psychological									
disturbances	98	67	423	313	392	235	148	149	1 825
Personality disturbances	11	16	5	3	26	20	61	55	197
Mental retardation	119	81	357	236	654	370	461	288	2 566
Specific disorders of									
psychological development	90	43	311	159	222	116	110	66	1 117
Pervasive developmental									
disorders	84	28	196	79	139	54	74	40	694
Hyperkinetic disorders	53	17	561	114	542	106	128	38	1 559
Conduct disorders	114	61	430	207	804	312	419	272	2 619
Anxiety and attachment									
disorders	105	107	346	276	496	440	368	519	2 657
Child neurotic pathography	78	67	83	61	74	82	43	61	549
Epilepsy	60	51	167	147	216	208	203	191	1 243
Social endangeredness, other				-					
adapting disorder	32	21	29	25	26	17	19	15	184
Attempted suicide	-	-	-	-	7	7	16	44	74
Other psychiatric or neurologic									
disorder	24	11	30	25	22	13	14	16	155
Total	942	634	3 151	1 812	4 060	2 409	2 507	2 421	17 936

## 12. Appendix

### Act XXXI of 1997

## on the protection of children and on public guardianship administration

Parliament, recognizing its responsibility for future generations and in order to enforce the rights of the child set out in Act LXIV of 1991 on the promulgation of the Convention on the rights of the child, signed in New York on 20 November 1989 and in the Constitution of the Republic of Hungary, and in line with Act IV of 1952 on marriage, the family and guardianship and Act III of 1993 on social administration and social benefits, has

adopted the following Act:

### **PART ONE**

### **FUNDAMENTAL PROVISIONS**

# Chapter I

# General provisions

## The purpose and principles of the Act

### Section 1

- (1) The purpose of this Act is to establish the fundamental rules under which the state, the local governments and the natural and legal persons as well as other unincorporated entities responsible for the protection of children provide assistance, in the form of specific benefits and measures, to the enforcement of the statutory rights and interest of children, to the performance of parental obligations, and assure the prevention and elimination of the endangerment of children, substitution for absent parental care, as well as the social integration of young adults leaving child protection care.
- (2) In order to achieve the objectives set out in subsection (1) above, the Act determines the fundamental rights of children and the safeguards for the enforcement thereof as well as the system and fundamental rules of the protection of children.

### **Section 2**

- (1) In the course of the application of this Act, the local governments, guardianship offices, courts of law, the police, the public prosecution, the probation service and other entities and persons responsible for the protection of children shall proceed with the paramount interest of the child as their primary consideration and assuring the child's statutory rights.
- (2) In the course of their activities, the entities and persons proceeding in accordance with subsection (1) above shall cooperate with the family and promote, as provided in legal regulations, the upbringing of the child within the family.
- (3) All forms of care promoting the upbringing of the child in the family shall be provided adjusted to the situation and needs of the child and the family.
- (4) The safety of a child removed from his family for any reason, the child's care as required for his or her age and needs, his or her education and healthy development of personality shall be assured.

- (1) The benefits specified in legal regulations shall be available on a voluntary basis as a rule. The parent or other legal representative of the child may be compelled to make use of any benefit only in the instances specified in an Act.
  - (2) The requirements of equal treatment shall be respected in the course of child protection.

## Scope

### **Section 4**

- (1) The scope of this Act shall cover
- a) with the derogations laid down in subsections (2) and (3) below, children and young adults who are Hungarian citizens and, unless an international treaty provides otherwise, who possess residence or immigration permits or are recognised as refugees by the Hungarian authorities, staying within the Republic of Hungary, as well as the parents thereof,
- b) eligible person as defined in the Council Regulation 1612/68/EEC on the free movement of employees within the Community provided that they have a valid establishment permit at the time of the application for the benefit
- (2) In respect of the extraordinary child protection benefit, the scope of the Act shall include, in addition to persons specified in subsection (1) above, the children of citizens of countries that ratified the European Social Charter who legitimately stay in Hungary pursuant to the provision of Act XXXIX of 2001 on the entry and residence of foreigners.
- (3) The provisions of this Act shall be applicable, in addition to the persons specified in subsections (1) and (2) above, to the protection of children staying in the Republic of Hungary who have other than Hungarian citizenship if failure to provide for temporary placement or other temporary action of the authority would result in the endangerment of the child or in other unavoidable damage.
- (4) This Act shall be applicable to the guardianship issues of Hungarian citizen children and young adults and to the parents thereof who reside outside the Republic of Hungary if their personal law is the governing law pursuant to an international treaty or other legal regulation.

### **Definitions**

### Section 5

For the purposes of this Act, the following definitions shall apply:

- a) child: minor within the meaning of Section 12 of Act IV of 1959 on the Civil Code of the Republic of Hungary (hereinafter referred to as the 'Civil Code'),
- b) juvenile: a person who, at the time of committing an offence or criminal act, is between 14 and 18 years of age,
  - c) young adult: a person of legal age but below 24 years,
- d) relatives of the child: biological or adoptive parents (hereinafter collectively referred to as 'parent'), spouses of parents, siblings of parents, grandparent, spouses of grandparent, siblings of grandparents, great-grandparents, siblings, spouses of siblings, own child,
- e) close relatives of the child: unless this Act provides otherwise, parents, spouses of parents, siblings of parents, grandparents, siblings, own child,
- f) person obliged to maintain the child: a person specified in Section 61 (4), Section 62(1), Section 89/A or Section 69/D (2) of Act IV of 1952 on marriage, family and guardianship (hereinafter referred to as 'Family Act'),
- g) child welfare and child protection service activity: activity performed in the possession of an operating licence, within the framework of basic child welfare provision or special child protection provision, irrespective of the form or manner of such provision specified in this Act; the purpose of service provision is to assure child welfare, that is, the physical, intellectual, emotional and moral development as well as the personal, property and other rights of the child,
- h) rights of the child: all the rights accruing to a child as specified in the Constitution of the Republic of Hungary, in Act LXIV of 1991 on the promulgation of the Convention on the rights of the child adopted in New York on 20 November 1989 or in other legal regulations,
  - i) provision: basic or special provision ensuring cash or in-kind benefits or personal care,
- *j) in-kind benefit*: a form of provision whereby the state (local government) assists a child in satisfying his basic needs by providing goods or paying for or providing services,
  - k) guardianship authority: the notary of the local government and the guardianship office,
- l) guardianship matters: the range of issues delegated by law into the scope of responsibilities and competences of the guardianship authority,

- m) child protection care: the provision and protection based on regulatory measures adopted pursuant to the provisions of this Act,
- n) endangerment: a condition arising as a result of an action, omission or circumstance that hinders or prevents the physical, intellectual, emotional or moral development of a child,
- o) social crisis of a pregnant woman: a family, environmental or social situation or a condition resulting therefrom that causes a physical or emotional shock to, or difficult social situation of, the pregnant woman, thereby jeopardising the birth of a healthy child,
- p) permanent illness: a pathological condition that gives rise to entitlement to the increased family allowance as specified in a separate legal regulation,
- r) income: the items specified in Section 4 (1) a) of Act III of 1993 on Social Administration and Social Benefits (hereinafter referred to as 'Welfare Act'),
  - s) backer:
- sa) public administration body, local government, local minority self-government or other state entity (hereinafter collectively referred to as 'state backer'),
  - sb) a church legal entity established in Hungary (hereinafter referred to as 'church backer')
  - sc) a natural person possessing an entrepreneurial licence for child welfare and child protection services,
  - sd) a legal entity or unincorporated economic association established in Hungary,
- se) legal entity economic organisation or unincorporated economic association that has its place of establishment, central management or centre of business operations in a state party to the agreement on the European Economic Area or that enjoys an identical legal status pursuant to an international treaty (hereinafter the entities covered by points sc)-se) collectively referred to as 'non-state backer'),
- provided that, in possession of an operating license and under the terms specified in this Act or in any other legal regulation, it provides for the conditions necessary for child welfare or child protection services. Unless a legal regulation provides otherwise, a church backer shall be governed, mutatis mutandis, by the provisions applicable to non-state backers.
- t) natural personal identification data: the family and given name(s), birth family and given name(s), sex, place and date of birth, mother's family and given name(s), citizenship, or immigrant, established or refugee status, place of residence or abode of the person concerned (hereinafter collectively referred to as 'personal identification data'),
- u) institution: an organisation engaging in the child welfare and child protection service activities specified in this Act, or a professionally independent organisation unit thereof, which is established pursuant to a separate legal regulation governing its activities, employs at least three persons on a full time basis and its activity is subject to the acquisition of an operating licence. Unless this Act provides otherwise, the term 'institution' shall also be applicable, as appropriate, to the surrogate parent and foster parent network,
- v) operator: a natural person, legal entity or unincorporated enterprise thereof, who/which organises child welfare and child protection services under the operating conditions provided by the backer,
  - z) regular income: income earned in at least three consecutive months.

# Chapter II

### Fundamental rights and obligations

# Rights of the child

- (1) The child shall have the right to be brought up in his or her own family environment assuring his or her physical, intellectual, emotional and moral development, healthy upbringing and welfare.
- (2) The child shall have the right to receive assistance to being brought up in his or her own family, to the development of his or her personality, to the elimination of situations endangering his or her development, to his or her social integration and to the establishment of his or her independent living.
- (3) Disabled and permanently ill children shall be entitled to special care to facilitating their development and the development of their personality.
- (4) The child shall be entitled to protection against environmental and social effects detrimental to his or her development and against substances detrimental to his or her health.
- (5) The child shall be entitled to respect of his or her human dignity and to protection against abuse physical, sexual or psychological violence -, neglect or informational damage. No child shall be subjected to torture, corporeal punishment or any other cruel, inhuman or degrading treatment or punishment.

(6) A child shall be entitled to have access in the media to programmes appropriate for his or her maturity, promoting the acquisition of knowledge and conveying the values of the Hungarian language and culture, and to protection against detrimental effects such as incitement to hatred, violence or pornography.

#### Section 7

- (1) The child may be separated from his or her parents or other relatives exclusively in his or her own interest, in the instances and in the manner specified in an Act. The child shall not be separated from his or her family exclusively on account of endangerment due to financial reasons.
- (2) The child shall be entitled to protection substituting for parental care or for care by other relatives, in an adoptive family or other forms of care substituting for the family.
- (3) In the course of the substitute protection of the child, the child's freedom of conscience and religion shall be respected, and his or her national, ethnic and cultural affiliation shall be taken into account.
- (4) Unless an Act provides otherwise, the child shall be entitled to knowledge of his or her origins and biological family and to maintain contacts, with the consent of the biological family, even if the parental supervision rights of the parents have been terminated.
  - (5) The child shall be entitled to maintain contacts with both parents even if the parents live in different states.

### **Section 8**

- (1) The child shall be entitled to freedom of expression and to be informed about his or her rights, the mode of their enforcement, and to be heard, directly or in any other manner, about all matters affecting his or her person or property, and the views of the child shall be given due weight in accordance with his or her age, health and maturity.
- (2) The child shall be entitled to lodge complaints in all matters affecting the child to the forums specified in this Act.
- (3) In the event of the infringement of his or her fundamental rights, the child shall be entitled to initiate proceedings at a court of law or other entities specified in an Act.

- (1) In accordance with his or her age, health, maturity and other needs, a child in short-term or long-term foster care shall be entitled, in particular, to
- a) receive full provision and care ensuring stability and emotional security as well as appropriate education and instruction, taking into account his or her national, ethic and religious affiliation,
  - b) initiate a change in his or her placement or joint placement with his or her siblings,
- c) participate in integrating programmes or programmes to develop his or her talents and in leisure activities corresponding to his or her interests,
- d) freely choose, express and exercise his or her religious conviction or belief and to participate in religious education,
- e) express his or her views about the education, instruction and care provided to him or her, and to be heard and informed in all matters concerning his or her person,
  - f) initiate the establishment of a children's self-government to represent his or her interests,
- g) receive support from his or her caregiver or legal representative for returning to his or her family environment.
  - h) initiate his or her return into the family environment,
  - i) maintain his or her personal relations,
  - j) exercise his or her rights respecting the usual objects constituting personal property,
  - *k*) receive after-care.
- (2) If the exercise of a right set out in subsection (1) point i) above would have a detrimental effect on the development of the child's personality, the right of the parent or other close relative entitled to maintain contact may be restricted, withdrawn or suspended in accordance with the provisions of this Act.
- (3) A child placed in a special children's home or the special group of a children's home shall, because of his or her position, be provided enhanced protection,.
  - (4) In case of a child placed in a special children's home
- a) health care and therapy necessary for the correction of his or her personality shall be provided as appropriate for his or her condition and without jeopardising the security of other children, and
- b) measures curtailing his or her rights or personal liberty may be used during his or her care and education exclusively in justified cases, where the child or others are endangered.

- (1) The child shall have the obligation in particular to
- a) cooperate with his or her parent or other legal representative or caregiver to facilitate his or her care and education,
  - b) meet his or her educational obligations in accordance with his or her abilities,
- c) refrain from leading a lifestyle detrimental to his or her health and from the use of substances detrimental to health.
- (2) The house rules of institutions ensuring child welfare and child protection provision shall, within the framework defined in this Act, lay down the rules governing the exercise of the child's rights and fulfilling his or her obligations in accordance with the age, health and maturity of the child.
- (3) The house rules of such institution, prepared in accordance with a separate legal regulation, shall be displayed in the institution at a clearly visible location and everyone's familiarity with the contents thereof shall be assured.
- (4) In respect of a surrogate parent or foster parent network, the fundamental rules of exercising rights and fulfilling obligations shall be laid down in the rules of organisation and operation.

# Protection of the rights of the child

### Section 11

- (1) The protection of the rights of the child shall be the obligation of all natural and legal persons who engage in the education, instruction, care and representation of the child.
- (2) The parliamentary commissioner for citizen's rights (hereinafter referred to as 'Commissioner') shall promote the protection of the constitutional rights of the child with instruments available to him or her and, in that context, he or she shall
- a) have the responsibility to investigate any infringements brought to his or her attention relating to the constitutional rights of the child, and to initiate general or specific measures to remedy such infringements,
  - b) annually report to Parliament about the measures referred to in point a).

### Section 11/A

- (1) The children's advocate shall be responsible for the protection of the rights of children under child protection care as defined in this Act, and for assisting the child in learning about and enforcing his or her rights. The children's advocate shall pay special attention to the protection of children requiring extraordinary or special care.
  - (2) The children's advocate shall
  - a) assist the child in expressing his or her complaints, and may initiate the investigation thereof,
- b) assist the child in obtaining care appropriate for his or her condition, and in expressing the related comments and questions at the case discussions of the child welfare service and the placement conference of the district professional child protection service,
- c) in the instances described in Section 36 (2), proceed upon the request of the parent or other legal representative of the child, the child, or young adult or the children's self-government,
  - d) proceed upon the initiative of the interest representation forum as described in Section 35 (4),
  - e) where appointed by the guardianship office, represent the child in proceedings relating to supervised care.
- (3) The children's advocate shall be entitled to request information or documents concerning the scope of activities of providers of child welfare or child protection services and to obtain information on site. The children's advocate shall handle the personal data of children in accordance with the data protection legislation.
- (4) The children's advocate shall operate in the framework of an organisation established for such purpose. The detailed rules concerning the legal status and procedure of the children's advocate shall be laid down in a separate legal regulation.
- (5) Providers of child welfare and child protection services shall assure that the child and his or her relatives have access to information concerning the person of the children's advocate and the mode of contacting him or her.
- (6) The heads of child welfare and child protection institutions and services shall discuss the merits of the comments made by the children's advocate in fifteen days, the backer within thirty days, and the representative

body or assembly of the local government at its next meetings, and inform the children's advocate about the related position and measures.

(7) The children's advocate shall monitor the child protection related activities of kindergartens, schools, student hostels and the institutions of the special pedagogic service and promote the enforcement of the rights of the child. In justified cases the children's advocate may contact the backer of the aforementioned institutions or, where required, initiate proceedings with the guardianship authority in the interest of the child.

## Parental rights and obligations

### **Section 12**

- (1) The parent of the child shall have the right and obligation to provide care and guidance to the child within the family and to assure the conditions necessary for the physical, intellectual, emotional and moral development of the child in particular housing, food and clothing as well as the child's access to education and to health care.
- (2) The parent of a child shall be entitled to receive information about the benefits available to assist in the upbringing of the child and assistance to child raising.
- (3) Unless otherwise provided by an Act, the parent of a child shall have the right and obligation to represent the child in matters concerning the child's person or property.
  - (4) The parent of a child shall
  - a) cooperate with the child and respect his or her human dignity in accordance with Section 6 (5),
  - b) inform the child about matters concerning the child's person and pay due regard to his or her views,
  - c) provide guidance, advice and assistance to the child in exercising his or her rights,
  - d) take the measures necessary to enforce the rights of his or her child,
  - e) cooperate with the persons and bodies participating in the care of his or her child and with the authorities.

- (1) The parent of a child in short-term foster care shall be entitled to
- a) receive regular information from the caregiver, guardian or legal guardian of the child about the placement, education and development of the child,
  - b) request the guardianship office to change the placement of the child,
- c) receive assistance from the municipal government for the elimination of the cause of foster care, the settlement of circumstances and the re-integration of the child in the family, in order to promote the re-unification of the child with the family,
- d) to be consulted, pursuant to the Family Act, on all material issues affecting the future of the child, such as the selection or change of the name of the child, the designation of the child's place of residence, the selection of his or her school and career.
  - (2) The parent of a child in short-term foster care shall have the right and obligation to
- a) cooperate with the persons and institutions responsible for the care of the child in order to facilitate his or her care.
  - b) maintain contact with the child as provided for in an Act.
  - (3) The parent of a child in short-term foster care shall have the obligation to
  - a) do his or her utmost for the re-unification of the child with his or her family,
- b) respect the family and home of the foster parent, the persons working in the institution, and to observe the rules of the institution,
  - c) pay a nursing fee for the care of the child.

## Chapter III

# System of the protection of children

#### Section 14

- (1) The protection of children is an activity aiming to the promote the upbringing of the child in the family, to prevent and eliminate the endangerment of the child, and to assure the substitute protection of the child removed from the care of parents or other relatives.
- (2) The protection of children is assured by cash, in-kind and personal care basic child welfare provisions and professional child protection provision, as well as the regulatory measures specified in this Act.
  - (3) The operation of the child protection system shall be the responsibility of the state and local governments.

- (1) Cash benefits:
- a) regular child protection benefit,
- b) extraordinary child protection benefit,
- c) advance payment of child support,
- d) home-start assistance.
- (2) Basic child welfare provisions within the category of personal care:
- a) child welfare service,
- b) day-time care provision to children,
- c) short-term foster care of children.
- (3) Professional child protection provisions within the category of personal care:
- a) care providing a home,
- b) after-care provision,
- c) district professional child protection service provision.
- (4) Regulatory measures within the category of child protection care:
- a) placement under protection,
- c) acceptance of the child into another family,
- c) temporary placement,
- d) short-term foster care.
- e) long-term foster care,
- f) supervised care,
- g) after-care,
- h) after-care provision.
- (5) Institutional care of juveniles placed by a court of law in a correctional institution or in pre-trial detention shall be part of the child protection system. The care of juveniles in correctional institutions shall be regulated in a separate Act of law.
- (6) Persons employed in the child welfare and child protection system shall be entitled, in the context of their positions as defined in a separate legal regulation, to respect for their persons, their human dignity and personal rights as well as the appreciation and recognition of their activities.
  - (7) A person employed in the child protection system
- a) as a child supervisor, child minder, caregiver, infant or child nurse, surrogate parent or foster parent, family caregiver, after-carer, head of a child welfare or child protection institution, in the course of the direct care, family support and after-care of the child or young adult,
- b) as foster parent consultant, guardian, guardian consultant, in the course of supervising the direct care of the child and his or her legal representation,
- shall proceed ex officio, and in the context of such activity he or she shall be deemed, for purposes of protection under criminal law, to be a person performing a public function.
- (8) No person against whom a case is pending on grounds of an intentional crime against a child punishable under Act IV of 1978 on the Criminal Code (hereinafter referred to as 'Criminal Code'), or who had been condemned for such crime in a final and enforceable ruling of the court, shall be employed in the child protection system in positions specified in a separate legal regulation or as a volunteer. Furthermore, no person whose parental supervision rights had been terminated by a final and enforceable ruling of the court or whose

parental supervision right is suspended due to the placement of the child in short-term foster care, with the exceptions specified in a separate legal regulation, shall be employed in such positions.

### Section 16

- (1) The regulatory responsibilities and competences of child protection set forth in this Act shall be exercised by
  - a) the representative body of the local government,
  - b) the notary of the municipal government,
- c) the child protection and guardianship officer of the mayor's office of the local government of the town, metropolitan district as designated in a separate legal regulation, or of a village functioning as the seat of a micro-region as defined in a separate Act (hereinafter referred to as 'municipal guardianship office'),
- d) the county and metropolitan social and guardianship office (hereinafter referred to as 'county guardianship office').

(hereinafter the entities listed in points c)-d) collectively referred to as 'guardianship office').

(2) The county guardianship office shall be the special sectoral administrative body of the county or metropolitan administrative office, with child protection and guardianship powers and competences.

#### Section 17

- (1) In order to promote the upbringing of the child in a family, to prevent and terminate the endangerment of the child, tasks relating to the child protection system regulated in this Act shall, in the framework of their core activities specified in an Act, be performed by:
  - a) health care service providers, in particular, the district nurse service, family doctors, family paediatricians,
  - b) providers of personal care services, in particular the family support service, family support centres,
- c) institutions of public education, in particular institutions of education and instruction and the educational and behavioural counselling service,
  - d) the police,
  - e) the prosecution,
  - f) courts of law,
  - g) refugee centres, temporary accommodations of refugees,
  - *h*) social organisations, churches, foundations.
  - (2) The institutions and persons specified in subsection (1) above shall
  - a) notify the child welfare service of the endangerment of a child,
- b) initiate regulatory proceedings in case of the abuse or gross neglect of a child or the existence of other severe cause of engenderment, or the severe endangering conduct of the child.

Such notification may be made and initiative may be taken by any citizen or social organisation representing the rights of the child.

(3) The persons, service providers, institutions and authorities specified in subsections (1) and (2) above shall cooperate with and mutually inform one another in order to promote the upbringing of the child in a family and to prevent or eliminate endangerment.

### PART TWO

### **PROVISIONS**

Chapter IV

Cash and in-kind benefits

## Forms of cash benefits

- (1) For eligible children,
- a) regular child protection benefit shall be extended by the notary of the municipal government under the terms laid down in this Act,

- b) extraordinary child protection benefit shall be extended by the representative body of the municipal government under the conditions laid down in this Act and in the bylaw of the local government.
- (2) In the manner and with the conditions laid down in its bylaw, the representative body of the municipal government may supplement the benefit within its competence, and it may award other cash benefits, in view of social needs of the child or young adult.
- (3) Pursuant to this Act, the guardianship office may advance child support to the parent or other legal representative in custody of the child, it shall award home start assistance to eligible young adults, and provide for the disbursement of such cash benefits.
- (4) The award of the cash benefits listed in subsection (1) above may be initiated by institutions of education and instruction, guardianship authorities, other institutions or natural persons working in family protection or social organisations responsible for the protection of the interest of children.

# **Regular child protection benefit**

### Section 19

- (1) The purpose of the regular child protection benefit (hereinafter referred to as 'regular benefit') is to provide financial assistance to socially disadvantaged families to promote the upbringing of children in the family and to prevent the removal of the child from the family.
- (2) The notary of the municipal government shall award a regular benefit to a child if the per capita monthly income of the family looking after the child does not exceed
- a) 110% of the effective minimum old age pension (hereinafter referred to as 'minimum old age pension'), if the child is cared for by a parent or legal representative

aa) who is single,

*ab)* who cares for a permanently ill or disabled child in his or her own household,

b) in cases not falling under point a),

ba) 100% or

bb) 105 %

of the minimum old-age pension,

- and being raised in the family is not against the interest of the child, providing that in the course of the examination of the financial position as defined in subsection (5) below, the value of property per capita does not exceed, separately or in aggregate, the amount determined in subsection (7) below.
- (3) Section 131 (2) shall be applicable to the establishment of per capita income. Departure from that rule shall be allowed where a permanent deterioration in the income position may be assumed due to certifiable reasons.
- (4) For the calculation of the amount referred to in subsection (2) above, the following persons shall be considered as close relatives living in the same household at the time of the submission of the application:
  - a) the parent as well as the spouse or cohabiting partner of the parent,
  - b) a child under 20 years of age without any independent income,
- c) a child under 23 years of age without any independent income and pursuing studies qualifying as full time studies.
- d) a child under 25 years of age without any independent income and pursuing full time studies in an institution of higher education
- e) irrespective of age, a child who is permanently ill or have physical, sense organ, mental, speech or other impediment (hereinafter referred to as 'permanently ill or disabled child'),
- f) a relative not included in points a)-e) and maintained by the parent or the parent's spouse pursuant to the Family Act.
- (5) The validity of the information in the application and the income certificate may be ascertained by the preparation of a home study. For the assessment of eligibility, the notary of the local government may require the investigation of financial position if the procedure described in Section 131 (4) fails to produce results.
- (6) The examination of financial position shall cover the assets of close relatives living in the same household, as defined in subsection (4) above.
- (7) For the purposes of subsections (5)-(6) above, property shall mean exploitable real estate, vehicles, mechanically propelled means of production and implements of labour or intangible assets the per capita value of which, in the family rearing the child, exceeds
  - a) twenty-five times the minimum old age pension calculated separately, or
  - b) twenty-five times the minimum old-age pension in aggregate

and the exploitation of which does not endanger the livelihood of the owner. Real property in which the parent or other legal representative under an obligation of maintenance habitually resides and vehicles maintained due to limited mobility shall not be considered as property.

- (8) The notary of the local government shall reject an application for regular benefit if the persons listed in subsection (6) above possess, collectively or separately, assets reaching the value specified in subsection (7) above.
- (9) No regular benefit shall be awarded, and any awarded benefit shall be terminated, if the validity of the residence permit of the child expires without any extension, or if such permit is revoked.

### **Section 20**

- (1) The parent or other legal representative shall submit an application for regular benefit to the mayor's office of the municipal government with jurisdiction at his or her place of residence.
  - (2) The monthly amount of the regular benefit, per child, shall be
  - a) 30% of the minimum old-age pension in the case specified in Section 19 (2) aa),
  - b) 22% of the minimum old-age pension in the case specified in Section 19 (2) ab) and ba), c)
  - 13% of the minimum old-age pension in the case specified in Section 19 (2) bb).
- (3) If the regular benefit is awarded in a final and enforceable decision, it shall be payable as of the date of the submission of the application with the proviso that if the application was submitted
  - a) on or before the fifteenth day of the current month, the total amount of the benefit shall be payable,
  - b) after the fifteenth day of the current month, fifty per cent of the benefit shall be payable.
- (4) The notary of the municipal government shall review the criteria of eligibility for regular benefit at least once a year based on the provisions of Section 19. The period of disbursement shall extend until the eligibility criteria are fulfilled. If eligibility to regular benefit no longer exists, the benefit shall be payable up to the month of the termination of eligibility with the proviso that if such termination occurs
  - a) on or before the fifteenth day of the current month, fifty per cent of the benefit shall be payable,
  - b) after the fifteenth day of the current month, the full amount of the benefit shall be payable.
- (5) If the eligibility criteria are satisfied, the regular benefit can also be awarded after the child attains majority, or the awarded benefit can be continued while the child pursues studies qualifying as full time studies, but not after the twenty-third birthday of the child.
- (6) If the eligibility criteria are satisfied, the regular benefit can also be awarded after the child comes of legal age, or the awarded benefit can be continued while the eligible person is a full time student at an institution of higher education and is below 25 years of age. In case of marriage, the regular benefit shall be terminated exclusively if the per capita income or property in the new family of marriage of the eligible person exceeds the income or property ceiling specified in Section 19 (2).
- (7) If the eligible person comes of legal age, the regular benefit shall be paid to such person in his or her own right.
- (8) If the criteria specified in Section 19 are satisfied, an increased regular benefit shall be payable to a relative under a maintenance obligation who has no taxable income and receives a pension benefit, accident-related pension benefit, pension-type regular social benefit or elderly's annuity whom the custodianship office appointed guardian of the child. The monthly amount of the increased regular benefit shall be HUF 9200 per month per child in 2003. After the year 2003, Parliament shall decide upon the increase of the increased regular benefit upon the adoption of the Act on the annual budget.

### Section 20/A

A one-off benefit shall be payable, in the amount specified in a government decree, in respect of a child in student or pupil legal relationship for whom regular benefit is paid in June of the current year,. The one-off benefit shall be payable concurrently with the payment of the regular benefit accruing in June.

# Extraordinary child protection benefit

### Section 21

(1) The representative body of the municipal government shall award extraordinary child protection benefit (hereinafter referred to as 'extraordinary benefit') of the amount specified in its bylaws to a child if the family looking after the child faces temporary existential problems or is in an extraordinary situation endangering its livelihood.

- (2) Extraordinary benefit shall be awarded from time to time primarily to those children and families whose livelihood cannot be assured in any other manner or who are in need of financial assistance due to occasional extra expenditures, in particular the conservation of the child of a pregnant woman in a crisis, the expenditures relating to preparation for the birth of a child, the promotion of the maintenance of contact with the family of a child in foster care or the promotion of the re-unification of the child with the family as well as illness or schooling.
- (3) The parent or other legal representative of the child shall submit the application for the extraordinary benefit to the mayor's office of the municipal government with jurisdiction at his or her place of residence or to any other entity specified in the local government bylaw.

# Advance payment of child support

### Section 22

- (1) Child support shall be advanced if
- a) the child support has been awarded by a court of law in a final and enforceable ruling or there is a final and enforceable ruling of a foreign court or other authority which must be enforced for the benefit of a child living in Hungary pursuant to an international treaty or on the basis of reciprocity, and
  - b) the collection of the child support is temporarily impossible, and
- c) the parent or other legal representative looking after the child is unable to provide the necessary maintenance to the child,

provided that in the family looking after the child the per capita monthly average income is below twice the minimum old age pension.

- (2) The calculation of the per capita income shall be governed by Section 131 (2).
- (3) The guardianship office shall establish that the child support is incollectable following the failure of garnishment of the regular income or seizure of other assets of the person obliged to pay such child support. The unsuccessful garnishment or seizure report stating the stay of execution shall not be more than six months old.
- (4) For the calculation of the amount referred to in subsection (1) above, the persons specified in Section 19 (4) shall be considered as close relatives living in the same household at the time of the submission of the application.
  - (5) Child support shall not be advanced if
- a) the obligor resides in a state where child support is not enforceable pursuant to an international treaty or based on reciprocity, or
  - b) the whereabouts of the obligor abroad are unknown, or
  - c)
  - d) the obligor lives in the same household as the beneficiary
  - o)
  - (6) Furthermore, child support shall not be advanced
- a) in the case of instalment payment or the possibility of collection in instalments, if the extent of such exceeds fifty per cent of the basic child support awarded by the court, or
  - b) in case of expired child support.
- (7) If the eligibility criteria are satisfied, advance payment of child support may be awarded after the child becomes of legal age, or its disbursement may be continued while the child pursues full time secondary studies, but not past his twentieth birthday.

- (1) The guardianship office shall advance the amount established in the court ruling imposing the obligation of child support or, in case of a percentage ruling, the basic amount.
- (2) The guardianship office may award a sum lower than the amount specified in subsection (1) if the parent looking after the child is able in part to provide for the child. In such case, the advanced sum shall not be less than 50% of the amount awarded by the court.
- (3) The guardianship office may declare enforceable its ruling ordering the advancement of child support without regard to any appeal.
- (4) Pursuant to the ruling of the guardianship office, the notary of the municipal government with jurisdiction at the seat of the guardianship office shall provide for the advancement of child support from the central budget.

- (1) If the advance payment of child support is awarded in a final and enforceable decision, it shall be payable as of the date of submission of the application. The period of payment shall extend from the date of submission of the application throughout the expected existence of the underlying cause, but for a maximum of three years. In justified cases the advance payment may be renewed on one occasion, for a period of three years. No renewal of advance payment shall be ordered if the collection in the manner of taxes as defined in subsection (7) below was frustrated for three years.
- (2) In case of the establishment and termination of disbursement, the provisions of Section 20 (3)-(4) shall be applicable to the disbursement of the advanced amount.
- (3) The guardianship office, acting ex officio or upon the notification of the entities or persons specified in a separate legal regulation, shall suspend the payment of child support for a maximum of six months if
  - a) the circumstances of the applicant specified in Section 22 (1) change,
  - b) the garnishment of the regular income or seizure of other assets of the obligor is successful,
  - c) the obligor pays child support directly to the applicant,
  - d) temporary placement of the child has been ordered.
- (4) As a result of the investigation following such suspension, the guardianship office shall order the continuation of the payment of child support or it shall discontinue such advance payment.
  - (5) The guardianship office shall discontinue the advance payment of child support if
- a) the child is moved, pursuant to an enforceable decision of the guardianship office or of a court of law, to the care of the other parent living in a separate household or of another person,
  - b) the child attains majority and pursues no full-time studies,
  - c) the guardianship office takes the child into short-term or long-term foster care,
  - d) the obligor dies.
  - (6)
- (7) The obligor shall reimburse the state for the advanced child support, together with the interest specified in Section 232 (2) of the Civil Code. The unrecovered portion of the advanced child support shall be exacted in the manner of taxes in accordance with the provision of the Act on the Tax Procedure.

### **Home-start** assistance

- (1) The purpose of the home-start assistance is to facilitate the acquisition of a home or of a long-term housing arrangement by young adults leaving short-term or long-term foster care and to promote permanent housing arrangements.
  - (2) Those young adults shall be entitled to home-start assistance
- a) whose foster care, uninterrupted for at least three years at the foster place, ended upon his or her majority, and
- b) who have holdings of cash, deposits fixed for insurance or for any other reason, or real property not exceeding sixty times the minimum old age pension upon attaining majority.
- (3) Savings from the orphan benefit and from the earnings of the young adult shall not be included in cash assets. The duration of short-term foster care shall also be included in the duration of fostering provided that the child was placed temporarily with foster parents or in a children's home.
- (4) A young adult shall also be entitled to such assistance if he was taken in foster care for less than three years owing to reasons specified in Section 80 (1) a)-c).
- (5) Such assistance may be used, in part or in whole, for the purchase of a building plot, flat, house or homestead suitable for habitual residence, as well as the construction or conversion into habitable condition of such, the renovation or expansion entailing the acquisition of ownership or co-ownership, the payment of rent for rented accommodation, the renovation of municipal housing, the acquisition of a right to rent, the participation in a state subsidised housing programme, as well as the lump-sum repayment of a housing loan granted by a credit institution. In justified cases, the home-start assistance may be used towards the one-off contribution payable to a social residential institution under the scope of the Welfare Act which provides appropriate care to a permanently ill or disabled young adult.
- (6) In the application for home-start assistance, the young adult shall make a declaration concerning the conditions specified in subsections (2)-(4) above and he or she shall make undertake to cooperate with his or her after-care officer in the course of the utilisation of the home start assistance.

(7) Simultaneously with the award of the home-start assistance, the guardianship office shall appoint an after-carer of the district professional child protection service with jurisdiction at the place of residence to any young adult not in after-care or not receiving after-care provision at the time. The after-carer shall assist in the attainment of the objective of the home-start assistance until the financial settlement of the assistance, but for a maximum period of one year.

### Section 26

- (1) The amount of the home-start assistance shall be established based on the number of years continuously spent in foster care and on the aggregate value of the cash and property owned by the recipient in such a manner that it should reach, in itself in the case of a beneficiary without any property, and together with the property in case of a beneficiary possessing property,
- a) forty times the minimum old age pension effective at the time of the award of home-start assistance if foster care was less than four years,
- b) fifty times the minimum old age pension effective at the time of the award of home-start assistance if foster care exceeded four years,
- c) sixty times the minimum old age pension effective at the time of the award of home-start assistance if care exceeded five years.
- (2) The young adult shall present documentary evidence about the utilisation of the home-start assistance for the purposes approved by the guardianship office within thirty days of the execution of the contract (such as sale or rental agreement) but not later than in one year of the award of the assistance.
- (3) Pursuant to the decision of the guardianship office, the notary of the municipal government with jurisdiction at the seat of such guardianship office shall provide for the home-start assistance from the central budget.
- (4) The guardianship office shall be entitled to have a restraint on the alienation of the property acquired using the home-start assistance registered, for a duration of five years, in the property register to the benefit of the Hungarian state.
- (5) Upon the request of the young adult entitled to home-start assistance, if a material change occurs in his or her circumstances, the guardianship office may release the registered restraint on alienation. The guardianship office shall be entitled to have the restraint on alienation re-registered as defined in subsection (4) above for a new property obtained using the proceeds from the previous property, for a period up to the end of the previously prescribed restraint on alienation.
- (6) In any civil law relationship arising from the restraint on alienation specified in subsections (4)-(5) above the Hungarian State shall be represented by the Treasury Property Directorate.

### **Section 27**

- (1) The guardianship office shall inform the child in writing about the availability of the home-start assistance 6 months before the child attains majority.
  - (2) The applicant may submit an application for home-start assistance
  - a) after he or she attains majority but before his or her 24th birthday,
- b) if the young adult who attained majority is a pupil or a student, before the completion of his or her studies, but not later than his or her 25th birthday.

Failure to observe such deadline shall constitute the forfeiture of rights.

### **In-kind benefits**

- (1) Pursuant to the decision of the notary or representative body of the municipal government, the regular and extraordinary child protection benefit may also be extended in kind, in particular to a child under protection.
- (2) In-kind benefits shall include in particular contribution to the acquisition of schoolbooks and school equipment of elementary school pupils, tuition fee, the fee payable for health care services, or the assumption of payment for other services.

## Chapter V

# Provision of personal care

# General rules of provision of personal care

### **Section 29**

- (1) Local governments shall adopt bylaws governing the forms of provision of personal care (hereinafter referred to as 'personal care'), the use thereof as well as the fees payable.
  - (2) Unless an Act provides otherwise, the local government shall regulate in a bylaw
  - a) the forms of personal care provided by the local government,
- b) the mode of submission of applications for the use of personal care provided by the local government as well as the criteria of their assessment.
- c) the forms of care that can be provided within the discretion of the head of an institution, without any separate procedure,
  - d) the instances and mode of the discontinuation of care,
  - e) the rate of fees payable as well as the instances and mode of their reduction or remission.

### Section 30

Local governments as well as natural persons, legal entities or other unincorporated organisations (hereinafter referred to as 'non-government entities') that perform tasks of the local government pursuant to contracts concluded with such local governments, as well as non-government entities receiving normative state grants shall provide personal care under the conditions set forth in this Act and in separate legal regulations, unless provided otherwise.

# Manner of use of care provision

## **Section 31**

- (1) Unless this Act provides otherwise, the use of personal care provision shall be voluntary, upon the request of the person applying for such services (hereinafter referred to as 'applicant'). The application of an incompetent person shall be submitted by his or her legal representative, while a person with diminished legal capacity shall submit his or her application with the consent of his or her legal representative. In case of a disagreement between a person with diminished legal capacity and his or her legal representative concerning the use of care provision, the notary of the municipal government shall decide, having established the facts of the
- (2) If the protection of the child cannot be assured through the voluntary use of a service, this Act shall require the mandatory use thereof.
  - (3) Unless the bylaw of the local government provides otherwise, the applicant may submit the application
- a) to the head of the institution in case of a non-residential children's institution maintained by the local government with jurisdiction at his or her place of residence,
- b) to the mayor's office of the municipal government with jurisdiction at his or her place of residence in the case of any other institution.

- (1) The use of personal care provision shall be based on
- a) a resolution of the representative body of the local government,
- b) a resolution of the notary of the municipal government or of the guardianship office,
- c) an action of the head of institution in case of an institution providing short-term foster care backed by the municipal government,
- d) an action of the head of institution in case of the institutions, other than those under c), specified in the bylaw of the backing municipal government,
  - e) the agreement in the case specified in subsection (6) below.

- (2) If the service is used pursuant to subsection (1) a) or b) above, the operator as well as the head of the institution providing care shall be notified by forwarding a copy of the resolution.
- (3) In case of an institution maintained by the state, the head of the institutions shall notify the applicant or his or her legal representative in writing about the decision specified in subsection (1) c) and d) above. If the applicant or the applicant's legal representative disputes the decision of the head of the institution, he or she may seek remedy at the backer within eight days of the receipt of the notification about such decision. This rule shall also be applicable where the head of the institution fails to provide for the use of the care provision. In such case the backer shall decide in a resolution.
- (4) In case of an institution backed by the state, if the head of an institution decides about the use of the care provision, it shall conclude an agreement, upon the commencement of care provision, with the applicant or the applicant's legal representative, and forward such agreement to the backer within fifteen days. The agreement shall contain
  - a) the expected duration of care provision.
  - b) the form and manner of service provision,
  - c) the rules pertaining the establishment and payment of fees.
- (5) The head of the institution shall provide for the immediate placement of the child or young adult entitled to use the provision pursuant to
  - a) a resolution for the immediate execution of placement,
  - b) a justified application for expedited placement.
- (6) In case of an institution backed by parties other than the state, the backer of the institution or the person designated by such backer shall conclude an agreement with the applicant or the applicant's legal representative. The agreement shall contain, in addition to the items provided for in subsection (4) above, the date of commencement of care provision and the possible modes of its termination.

## **Disclosure requirement**

#### Section 33

- (1) The applicant shall be informed about the terms and conditions of personal care upon the submission of the application.
- (2) In case of the provision of personal care, the child entitled to use care provision and the child's legal representative, or the young adult, shall be informed, upon the commencement of the service, about
  - a) the duration and conditions of the such care provision,
  - b) the records kept by the institution about his or her person.
- c) in case of the personal care provisions under Sections 50 and 57 (hereinafter referred to as 'residential children's institution'), and in case of personal care provisions under Sections 49 and 54, the procedure for maintaining contact between the eligible child or young adult and his or her relatives, in particular the procedures of visitation, leave and return,
  - d) the mode of the safekeeping of valuables and assets,
  - e) the house rules of the institution,
  - f) the manner of exercising his or her right to complain,
  - g) the service fee or nursing fee payable,
  - h) the interest representation forum representing the rights and interests of the entitled person.
  - (3) The legal representative of the child entitled to receive care or the young adult shall
  - a) make a declaration that he or she has received the information specified in subsection (2) above,
  - b) provide information for the institutional records maintained pursuant to this Act,
  - c) report any changes in the eligibility criteria or in natural personal identification data.

## Contact between the child and his or her relatives

### Section 34

(1) In case of the forms of care specified in Section 33 (2) c), the forms of contact between the child and his or her parent or other relative entitled to maintain contact (hereinafter collectively referred to as 'person entitled to maintain contact') shall include in particular: continuous and periodic contact, including the right to remove the child and the obligation to return him or her, as well as visitation at the place of residence of the child, correspondence, telephone contacts, donation of gifts, sending packages.

- (2) In the course of the care provision specified in Section 33 (2) c), the maintenance of contact between the person entitled to maintain contact and the child shall be facilitated. The person entitled to maintain contact may visit the child in accordance with the house rules of the residential children's institution or pursuant to prior consultation with the operator of the foster parent network.
  - (3) During visits, appropriate and undisturbed conditions shall be assured for maintaining contact.
- (4) In case of the personal care provisions specified in Section 54 and in the residential children's institutions listed in Section 57, the visitation of children temporarily placed or of children taken in short-term or long-term foster care as well as the authorisation of leaves and holidays shall be based on the resolution of the guardianship office
- (5) For purposes of the designation of the child as adoptable (Section 48/A (1) of the Family Act) letters, telephone calls, packages, or one or two visits a year shall not be considered as regular contact. For the assessment of the form and frequency of contact, the guardianship office shall take into consideration the circumstances of the parent.

## **Interest protection**

### Section 35

- (1) The backer of the institution shall define, with the exception of the provisions specified in subsection (6) below, the rules of establishment and operation of the interest representation forum for the protection of the interest of care recipients.
  - (2) The following persons shall be elected members with voting rights of the interest representation forum:
  - a) representatives of the children's self-government,
  - b) parents or other legal representatives of the care recipient children, or the representatives of young adults,
  - c) representatives of the employees of the institution,
  - d) representatives of the backer of the institution.
- (3) The number of persons specified in subsection (1) a) and b) above shall not be lower than the total number of the persons in subsection (2) c)-d).
- (4) The interest representation forum shall investigate complaints submitted to it and decide on issues within its jurisdiction; furthermore, it may initiate measures to be taken by the backer, the children's advocate or other entities with jurisdiction.
- (5) The interest representation forum may express its opinion to the head of the institution concerning issues affecting the child or young adult, and it may make recommendations concerning the planning and operation of services performed in compliance with the core activity of the institution as well as the use of revenues from such operations. The interest representation forum shall have a right of consent to the house rules.
- (6) The backer shall operate an interest representation forum for the protection of the interest of recipients of child welfare services or day-time care in the form of child minding. The exercise of the right to complaint of such persons shall be governed by Section 36.

### **Section 36**

- (1) In accordance with the provisions of the house rules, the child, the parent or other legal representative of the child, the children's self-government and the young adult, as well as the interest representation and professional bodies protecting the interest of children shall have the right to lodge complaints with the head of the institution or with the interest representation forum
  - a) to redress complaints about care provision,
  - b) in case of the infringement of the rights of the child or a breach of duty by the employees of the institution.
- (2) The head of the institution or the interest representation forum shall investigate such complain and provide information about other potential remedies for the complaint. The parent or other legal representative of the child, as well as the children's self-government and the child or young adult may seek remedy from the backer of the institution or the children's advocate if the head of the institution or the interest representation forum fails to notify him or her, within 15 days, about the outcome of the investigation, or if he or she disagrees with the measures taken.

### Section 37

(1) Children placed in residential children's institutions may establish children's self-government to represent their interests.

- (2) A children's self-government elected by over 50% of the children may proceed on behalf of all the children in a residential children's institution.
- (3) Following consultation with the head of the institution, the children's self-government shall decide about its own operation. Its rules of organization and operation shall be adopted by the community of voting children's and approved by the head of the institution. Such approval shall be rejected exclusively if the rules violate the law or are contrary to the rules of organization and operation or the house rules of the institution.
- (4) The children's self-government may express its views to the head of the institution concerning all issues relating to the operation of the residential children's institution and to the children, which the head of the institution shall take into consideration.

### **Termination of care**

#### Section 37/A

- (1) Unless this Act provides otherwise, personal care provision shall be terminated
- a) at the end of the designated period, or extended period, in case of placement for a specific period,
- b) if eligibility criteria are no longer fulfilled.
- (2) The termination of voluntarily used child welfare and child protection provisions may be initiated by the entitled person or his or her legal representative; based on such request, the head of the institution shall terminate the provision. The provision shall be terminated upon the time of agreement or, failing that, in accordance with the provisions of the agreement.
- (3) The head of the institution shall terminate all voluntarily used child welfare and child protection provisions if the entitled person repeatedly and severely breaks the house rules, or if the criteria of care provision are no longer satisfied.
- (4) The head of the institution shall inform the entitled person or his or her legal representative about the termination of the child welfare or child protection provision used voluntarily, as well as the mode of lodging complaints against such termination. In case of disagreement, the entitled person or his or her legal representative may seek remedy from the backer within eight days of the receipt of such notification. The provision shall be continued until the backer passes an enforceable decision.
  - (5) If the care provision is based on Section 32 (1) a) or b), it shall be terminated exclusively by a resolution.

## Chapter VI

## Basic child welfare provisions

## Purpose of basic child welfare provisions

### **Section 38**

- (1) Basic care provision shall contribute to the promotion of the physical, intellectual, emotional and moral development and welfare of the child and to his or her upbringing in a family, to the prevention of endangerment and the elimination of existing endangerment, as well as the prevention of the removal of the child from the family.
- (2) Personal care provided within basic provisions shall be ensured, as far as possible, by the person or institution located closes to the place of residence or abode of the entitled person.

## Child welfare service provision

### Section 39

(1) Child welfare service provision is a special personal social service to protect the interest of the child that serves to promote, with the methodology and tools of social work, the physical and mental health of the child, his or her upbringing in the family, the prevention of endangerment of the child, the elimination of existing endangerment and the re-unification of the child with his family.

- (2) In order to promote the physical and mental health of the child and his or her upbringing in a family, child welfare service provision shall have the responsibility to
- a) provide information about the rights of the child and about support to assure the development of the child as well as assistance to gain access to such support,
- b) provide family planning, psychological, pedagogical, health, mental health and addiction prevention consultancy or organisation of access to such consultancy,
- c) support and assist pregnant women in a crisis, provide advice and organise access to care in the temporary home of families,
  - d) organise spare time activities,
  - e) assist in the handling of official matters.
  - (3) In order to prevent the endangerment of the child, child welfare service provision shall have the duty to
- a) operate a system to recognise and signal endangerment and to promote the participation of non-government entities and private persons in the preventative system,
  - b) identify of the causes of endangerment and prepare proposals for the resolution thereof,
- c) organise cooperation with the persons and institutions specified in Section 17 (1), and co-ordinate their activities,
- d) disseminate information about the incubators operating in heath care institutions and about the possibility of placement of children therein with the intent of consenting to their adoption.
  - (4) In order to eliminate existing endangerment, child welfare service provision shall have the duty to
- a) resolve the problems of the child and to compensate for malfunctions in the family through social work with the child and the family (hereinafter referred to as 'family support),
- b) promote the resolution of family conflicts, in particular in cases of divorce, child custody and contact maintenance issues,
- c) initiate health care and social services, in particular family support service, as well as intervention by authorities,
- d) prepare a recommendation for the removal of the child from the family, the proposed foster place or the change thereof.
- (5) In order to promote the re-unification of the child with his or her family, child welfare service provision shall have the duty to
- a) provide for family support, in cooperation with the institution providing a home and with the district professional child protection service, to create or improve the conditions necessary for the family to bring up the child and to re-establish the relationship between parent and child,
- b) provide after-care social work (hereinafter referred to as 'after-care'), in cooperation with the institution providing a home or the district professional child protection service, for the re-integration of the child in his or her family.

### Child welfare service

- (1) The municipal government shall arrange for its child welfare service provision responsibilities set forth in Section 39 in the form of an independent institution or as an organisationally and technically independent institution unit of the family support service or of a health care or public education institution specified in Section 96 (4)-(5), or by employing a person in possession of the qualifications specified in a separate legal regulation (hereinafter collectively referred to as 'child welfare service').
- (2) In coordination with the health care and educational institutions and services providing care to children, the child welfare service shall perform tasks of organisation, service and care provision. Within its scope of activities, over and above those specified in Section 39, it shall
  - a) closely monitor the social situation and endangerment of children living in the municipality,
  - b) hear complaints of children and take the necessary measures to remedy such complaints,
  - c) develop the plan for the care and upbringing of children placed under protection,
- d) organise the surrogate parent network, employing at least three surrogate parents, and it may operate such network or employ independent surrogate parents,
  - e) assist the educational institutions in performing their child protection functions.
  - f) prepare environment surveys upon request,
  - g) initiate the introduction of new forms of care with the local government,
- h) upon the request of the district professional child protection service, investigate and survey the circumstances of would-be adoptive parents,
  - i) provide the premises necessary for the work of the children's advocate,

- j) participate in the work of the Coordination Forum for Narcotics Issues specified a separate legal regulation,
- k) maintain records about surrogate parent facilities.
- (3) A child welfare centre shall be a child welfare service operating as an independent institution or as an organisationally and professionally independent institution unit which, over and above its general service functions, offers individual or group special services and programmes adapted to the needs and requirements of children to promote the upbringing of children in a family and to prevent the endangerment of children. Thus it shall provide
  - a) street and housing estate social work,
  - b) contact maintenance on-call service,
  - c) social work in hospitals,
  - d) an emergency service.
  - (4) The child welfare services listed in subsections (1)-(3) above shall be provided free of charge.
- (5) Child welfare services and child welfare centres may also be operated by church and other non-government backers.

## Daytime care of children

### Section 41

- (1) As daytime care of children, the daytime supervision, nursing, education, activities and meals for children living in families, as appropriate for their age, shall be organised for those children whose parents, supervisors or caregivers are unable to look after them during the day due to their employment, participation in programmes to promote their labour market participation or in training, their illness or for any other reason. The duration of services provided in the framework of daytime care shall be adjusted, if possible, to the work schedule of the parent.
  - (2) Daytime care shall be provided in particular to a child
  - a) who needs permanent care during the day to facilitate his or her development.
- b) raised by a single or elderly person, or living in a family together with three or more children, expect for a child in respect of whom his caregiver receives a child care fee,
  - c) whose parent or caregiver is unable to look after the child due to his or her social situation.
- (3) The daytime care of children may be organised, as appropriate for the age of the child, in particular in day nurseries, week nurseries, out-of-school care, child minding, summer day-care centres or day-care camps, as well as in kindergartens or after-school care facilities falling under the scope of Act LXXIX of 1993 on Public Education (hereinafter referred to as the 'PE Act').
- (4) Daytime care of children shall include daytime supervision and activities sports and other clubs, or playground, toy repository, playroom, and meals provided to children above the age of 10 who receive no afterschool care, in particular straggling children or those endangered for other reasons, provided that the operator possesses the necessary personal and material conditions specified in a separate legal regulation

## Day nursery

- (1) A day nursery is an institution providing daytime care, professional nursing and education to children under 3 years of age living in families. If a child reaches 3 years of age but is not mature for kindergarten education based on his physical or mental abilities, he or she may be looked after and nursed in a day nursery until 31 August following his or her 4th birthday.
- (2) In addition to the provisions of subsection (1) above, the day nursery may also provide for the care and nursing of disabled children for early habilitation and rehabilitation purposes. In the framework of day nursery services, a disabled child may receive early development and care, or pre-school training, to assure his or her development up to 6 years of age, based on the opinion of the expert and rehabilitation committee as defined in the PE Act.
- (3) In addition to basic care provision, the day nursery may assist families, as a service, with special counselling, periodic child minding, operation of a child hotel or other services to assist in child raising.
  - (4) Day nursery services shall be terminated
  - a) upon the end of the nursery school year if the child has reached three years of age,

### **Out-of-school care**

### Section 43

- (1) Care, for other than public education purposes, for children not receiving day nursery or kindergarten care, or the after-school care for children attending school outside the opining hours of school, or for children not receiving after-school care or study room services, shall be regarded as daytime care of children.
- (2) Out-of-school care shall provide day-time supervision, care, education, meals and activities for children living in families as appropriate for their age. Disabled children shall be provided care appropriate for their special needs.
- (3) Out-of-school care shall be provided by persons of legal age with full legal capacity and a clean criminal record
- a) whose personality and circumstances, as specified in a separate legal regulation, render them capable of providing day-time care for children, and
- b) who have successfully completed the course specified in a legal regulation, provided that there are no causes for their disqualification as specified in Section 15 (8).

# Child minding

### Section 44

- (1) In the framework of child minding, the daytime care of children shall be provided by a caregiver in the home of the parent or other legal representative if permanent or periodic care for the child cannot be assured in a day-time institution (for instance, due to illness), and the parent is partly or wholly unable to provide for the daytime care of the child.
- (2) The duration of the daytime care in the form of child minding shall be adjusted to the work schedule of the parent.
- (3) In the course of child minding, care and supervision appropriate for the age and health of the child shall be provided.
  - (4) Child minding shall be provided by persons satisfying the criteria laid down in Section 43 (3).
- (5) In the framework of child minding, assistance shall be given to school studies if the child pursues studies as a private student due to any disability or severe illness as defined in the PE act.

### Short-term foster care of children

- (1) In the framework of the short-term foster care of the child, food, clothing, mental hygiene and health care, nursing, education and accommodation (hereinafter referred to as 'full care') shall be provided to the child, promoting his physical, intellectual, emotional and moral development as appropriate for his or her age, health and other needs.
- (2) Short-term foster care shall be provided to a child temporarily, with full care, upon the request or with the consent of the parent or other legal representative with parental supervision rights (hereinafter collectively referred to as 'parent'), if the parent is unable to provide for the upbringing of the child in the family due to his or her health, lifestyle problems, justified absence or other incapacitation. Disabled children shall be provided care adjusted to their special needs.
- (3) The parent of the child who temporarily lost his home may also be placed at the location of the short-term foster care of the child. A child below 14 years of age shall be separated from his or parent only in exceptionally justified cases. The parent shall participate in caring for the child as allowed by his or her work schedule.
- (4) In the course of the short-term foster care of children, the schooling of children shall be assured without changing schools if possible.

- (5) The child welfare service with jurisdiction at the place of residence or, in the absence of such, the place of abode, of the parent shall be informed about the start of the short-term foster care of the child. If such short-term foster care is expected to be longer than 30 days, an individual plan for nursing and fostering shall be drawn up upon the start of short-term foster care of the child.
- (6) The short-term foster care of the child shall last until the elimination of the underlying cause but its duration shall not exceed twelve months.

- (1) In the framework of short-term foster care of children, temporary care appropriate for his condition and night accommodation (hereinafter referred to as 'temporary care') shall be provided to a child who left his or her place of residence arbitrarily and therefore is left without care and supervision.
- (2) In the course of temporary care, the causes leading to the child being left without supervision shall be investigated and simultaneously the parent or other legal representative of the child, as well as the child welfare service shall be notified promptly, with a view to the continuation of short term foster care or the adoption of other measures by the guardianship authority.
- (3) In case of the continued short-term foster care of the child as defined in subsection (2) above, the consenting statement of the parent or other legal representative shall be acquired in every case.
  - (4) The guardianship office shall be notified with a view to taking the necessary administrative measures if
- a) the parent or other legal representative fails to provide for the child within three days of the notification about temporary care,
  - b) the parent or other legal representative fails to consent to, or request, the short-term foster care of the child,
  - c) the return of the child to the parent is against the interests of the child.

### **Section 47**

- (1) Short-term foster care of the child shall be discontinued if such discontinuation is requested by the parent or if the grounds for such care no longer exist.
  - (2) The short-term foster care of the child shall be discontinued upon the expiry of the duration of foster care.
  - (3) If the duration of short-term foster care has expired but the child cannot be returned to his family,
- a) the placement may be extended by six months or, if necessary, until the end of the school-year, upon the request or with the consent of the parent or other legal representative, or
  - b) the guardianship office shall be informed without delay, with a view to taking the necessary measures.
- (4) The guardianship office shall be notified, with a view to taking the necessary measures, before the expiry of the term of the short-term foster care if
  - a) it becomes evident that the child may not return to his or her family,
- b) a parent or other legal representative requests the short-term foster care of the child from the same institution for the second time within two years.

### **Section 48**

- (1) The short-term foster care of the child may be arranged with a surrogate parent designated by the operator, in a temporary home of children or in a temporary home of families.
- (2) Upon the request of the parent, as temporary foster care in the home, a caregiver shall provide care to the child in his own home if the child cannot be cared for by placement with a surrogate parent or in a residential children's institution because of his or her physical or psychological illness, and if such care is in the best interest of the child.

## Surrogate parent

- (1) The surrogate parent shall provide short-term foster care to the child in his or her own household, in accordance with the individual nursing-fostering plan drawn up by the operator.
- (2) Those persons may become surrogate parents who have passed twenty-one years of age, have full legal capacity and a clean criminal record and
- a) are suitable for giving short term care to the child due to their personality, health and circumstances and undertake to nurse and foster the child to be place with them for the required duration, provided that no causes for disqualification as defined in Section 15 (8) apply, and

- b) have successfully completed the course specified in a separate legal regulation.
- (3) The surrogate parent may care for no more than 5 children, including his or her own, at a time.
- (4) The operator shall
- a) select, approach, prepare and register surrogate parents taking into consideration the professional requirements laid down in a separate legal regulation,
  - b) assist the activities of surrogate parents though regular professional counselling, and
- c) continuously monitor the surrogate parents in respect of the utilisation of the fostering allowance and the special allowance, and in their professional work.
- (5) The surrogate parent shall be entitled to a fostering allowance and special allowance as defined in Section 56 for the care of the child.
- (6) In particularly justified instances, upon the request or with the consent of the surrogate parent, the number of children laid down in subsection (3) above may be disregarded in the interest of the child.
- (7) The surrogate parent shall engage in such activity in a surrogate parent legal relationship as defined in this Act.

# Temporary home of children

### Section 50

- (1) A child living in a family may be placed in a temporary home of children if he or she is left temporarily without care and supervision, or would be left without care and supervision in the absence of such placement or if his or her care is endangered due to difficulties arising from the way of life of the family.
- 2) The temporary home of children, in cooperation with the child welfare service, shall assist the child in returning into his or her family.
- (3) The temporary home of children shall provide full care to no less than twelve and no more than forty children.
- (4) A temporary apartment-home is a home that provides short-term foster care to a maximum of twelve children in a separate apartment, in a family-like environment.
- (5) The temporary home of children may operate an independent surrogate parent or a surrogate parent network, and in such case it shall perform the related functions as defined in Section 47 (4). The surrogate parents employed by the temporary home may provide full care to children corresponding to half the maximum number of places in the temporary home.

# **Temporary home of families**

- (1) Upon the request of a homeless parent, the child and his or her parent may be placed together in a temporary home of families if their accommodation would not be assured in the absence of such placement, and therefore the child would have to be separated from the parent.
- (2) The temporary home of families shall provide care to at least twelve and at most forty adults and children. A temporary home of families may be operated in apartments or houses with maximum capacity of twelve persons per location. The total maximum capacity of such locations shall not exceed twice the capacity of the institution that serves as the head office.
  - (3) In the course of the joint placement of adults and children, the temporary home of families shall
- a) admit parents, together with their children, who became homeless due to problems with their lifestyle or other social or family crises or who seek protection,
- b) admit battered or pregnant women in crisis situations, as well as mothers and infants released from the obstetrics ward,
  - c) provide temporary care to children in need thereof and admit their homeless parents,
  - d) assist the parent in the full care, nursing and upbringing of the child,
  - e) give accommodation and provisions as necessary to the parent together with his child,
  - f) provide legal, psychological and mental health assistance as well as care,
- g) in cooperation with the child welfare service, participate in the elimination of the reason necessitating short-term foster care, the resolution of the situation of the family and the termination of homelessness.

# Chapter VII

# Professional child protection provisions

# The purpose of the professional child protection provisions

### Section 52

In the framework of professional provisions, care providing a home to children in short-term and long-term foster care and to children placed temporarily, the after-care of young adults and the full care of children needing professional provision for other reasons shall be assured.

## Care providing a home

- (1) In the framework of care providing a home, the following shall be ensured for a child in temporary placement or in short-term or long-term foster care:
  - a) full care as defined in section 45 (1),
- b) family support preparing for the re-unification of the child with his or her family and promoting the maintenance of family contacts, or if that is impossible, the promotion of adoption,
- c) after-care necessary for the re-integration of the child into his or her family and for the commencement of independent living.
  - (2) In the framework of care providing a home
  - a) extraordinary care shall be provided a child who is
  - aa) permanently ill or disabled,
  - ab) below the age of three and has special needs due to his or her age;
  - b) special care shall be provided to
- ba) a child suffering from severe personality disorder or exhibiting severe psychotic or neurotic symptoms (hereinafter collectively referred to as 'child with severe psychic symptoms'),
- bb) a child offender exhibiting severe integration disorders or severe antisocial behaviour (hereinafter referred to as 'child with severe dissocial symptoms') [hereinafter ba) and bb) collectively referred to as 'child with severe psychic or dissocial symptoms'],
- bc) a child suffering from alcohol, drug or other psychoactive substance addiction (hereinafter referred to as 'victims of psychoactive substance abuse').
- In the course of the care providing a home, the position of the child shall be continuously monitored and reviewed annually or, in case of a child below the age of three, semi-annually based on the opinion of the county or metropolitan child protection expert committee specified in this Act.
- (3) Special care shall comprise education, vocational training, activities adapted to the age, condition and needs of the child as well as his or her nursing, socialisation and resocialisation, and habilitation and rehabilitation treatment.
- (4) Accommodation and if required further provisions shall be assured in the framework of after-care service to those young adults leaving short-term or long-term foster care whose after-care provision has been ordered by the guardianship office.
  - (5)
  - (6) Care providing a home shall be extended by
  - a) a foster parent with the involvement of the operator or, if that is impossible,
  - b) a children's home or
- c) a residential institution for the nursing and care of the disabled or a residential home for disabled or psychiatric patients falling under the scope of the Welfare Act (hereinafter referred to as 'home for disabled or psychiatric patients') with the assistance of the district professional child protection service, in particular through family support and by providing legal representation to the child.

## **After-care provision**

#### Section 53/A

- (1) In the framework of after-care provision ordered by the guardianship office,
- a) the full care as defined in Section 45 (1), if required, and
- b) personalised counselling necessary for the start of independent living and assistance to promote integration into society (hereinafter referred to as 'after-care')

shall be provided to young adults.

- (2) After-care shall be provided by a foster parent, a children's home, an after-care home or by an external facility, in particular rented accommodation or other facility operated by the aforesaid entities or by the district professional child protection service (hereinafter referred to as 'external facility').
- (3) The provider of after-care and the young adult shall conclude an agreement, as provided in a separate legal regulation, about the specific form, manner and extent of the after-care provision.

## **Foster parents**

### **Section 54**

- (1) Those persons may become foster parents who have passed the age of twenty-four, have full legal capacity and a clean criminal record, and
  - a) are at least eighteen years older but not more than forty-five years older than the fostered child,
- b) are fit, in terms of personality, health and circumstances, to assure the balanced development of the fostered child and promote the child's re-unification with his or her family, provided that no grounds for disqualification as defined in section 15 (8), apply to their person, and
  - c) have successfully completed the preparatory training specified in a separate legal regulation.
- In exceptional cases, the provisions specified in point a) concerning the age and in point c) concerning the completion of preparatory training may be disregarded, in the best interest of the child, in accordance with the provisions of a separate legal regulation.
- (2) A person whose parental supervision right has been withdrawn by a court of law or whose parental supervision right has been suspended shall not be foster a parent expect if the reason for such suspension is that the child is under the supervision of his or her other parent living apart.
- (3) A professional foster parent shall be a foster parent who satisfies the qualification requirements specified in a separate legal regulation; departure from that provision shall be possible in exceptional cases, in the best interest of the child, as provided in a separate legal regulation.
- (4) A special professional foster parent shall be a professional foster parent who satisfies the qualification requirements and who is fit to provide balanced education to, and promote the reunification with his or her family of, a fostered child with severe psychic or dissocial symptoms, or suffering from psychoactive substance abuse and requiring special care.
- (5) A foster parent shall provide care for no more five children or young adults, including his or her own children.
- (6) A professional foster parent shall provide care for no less than three and no more than five children and young adults, including his or her own children.
- (7) A special professional foster parent shall provide care for no more than five children and young adults, including his or her own children.
- (8) Even if both spouses or cohabiting partners perform foster parent functions, the number of children placed in their common household shall not exceed the numbers specified in subsections (5) –(7) above.
- (9) When determining the number of children to be placed with a foster parent, professional foster parent or special professional foster parent (hereinafter referred to as 'foster parent'), the disability, personality disorder or other special circumstances of the child requiring special care shall be taken into consideration.
- (10) In particularly justified cases, upon the request or with the consent of the foster parent, departure from the numbers of children specified in subsections (5)-(8) above shall be possible in the best interest of the child.

#### Section 55

(1) Based on an individual nursing-fostering plan drawn up by the operator, the foster parent shall provide full care in his own household to the child in temporary placement or in short-term or long-term foster care or to the young adult receiving after-care provision.

To that end, the foster parent shall in particular

- a) promote the physical, intellectual, emotional and moral development of the child and the evolution of his or her personality,
- b) promote, with the assistance of the operator, the reunification of the child with his or her biological family and to that end cooperate with the family or, if that is not possible or is against the interest of the child, the child's placement in an adoptive family,
- c) promote the free choice, expression, exercise of the religious conviction or belief or the child and the child's participation in religious or divinity education,
- d) prepare the child for independent living and for the administration of his or her fundamental personal matters,
- e) assist the young adult in independent living, social integration and maintaining contact with his or her relatives.
- (2) Upon the appointment of the guardianship office, the foster parent shall perform the functions of the guardian.
- (3) The foster parent, pursuant to the resolution of the guardianship office, shall assure contact between the fostered child and his or her parent and close relatives authorised to maintain contact.
  - (4) Over and above the core responsibilities, the foster parent, with the consent of the operator, may
- a) provide extraordinary care and education to permanently ill or disabled children or special care and education to children with severe psychic or dissocial symptoms or suffering from psychoactive substance addiction.
- b) participate in the complex care of the biological family in accordance with the contents of the individual placement plan,
  - c) act as surrogate parent

provided that such foster parent is fit in his or her person and circumstances for such functions and that the operator assures special professional support to him or her.

- (5) The operator shall
- a) select, prepare and register the foster parent taking into consideration the criteria specified in a separate legal regulation,
  - b) assist the foster parent with professional consultancy, family support and after-care, and
- c) continuously assist and monitor the foster parent regarding the use of the fostering allowance and special allowance, and the discharge of his or her professional functions.

d)

(6) A foster parent shall perform his or her activities in the legal status of foster parent as specified in this Act, in the framework of a foster parent network consisting of at least five foster parents. A professional programme containing the objective, fundamental principles and methodology of education in the foster parent network, accepted by the foster parents and the foster parent consultants shall be the educational charter of the foster parent network.

- (1) For the care of a children in temporary placement, in short-term or long-term foster care, and young adult care-leavers, the foster parent shall receive a fostering allowance. The minimum fostering allowance shall be 120% of the minimum old age pension per child.
  - (2) The fostering allowance shall be
- a) one hundred and fifty percent of the minimum old age pension if the fostered child, according to the expert opinion of the county or metropolitan child protection expert committee referred to in Section 82 (1), displays severe psychic or dissocial symptoms or suffers from psychoactive substance abuse,
- b) one hundred and forty percent of the minimum old age pension if the fostered child is permanently ill or disabled.
- (3) In addition to the fostering allowance, the foster parent shall receive a separate allowance for the clothing, school books, school supplies and other instruments necessary for the studies of the child, for the pocket money of the child and as contribution to household expenses. The annual amount of such allowance per child shall not be less than 25% of the annual fostering allowance.
- (4) The special allowance specified in subsection (3) above shall be provided primarily in cash, and disbursed monthly together with the fostering allowance.
- (5) The foster parent shall use the allowances specified in subsections (1)-(3) above exclusively for the proper care of the child.

### Children's home

#### Section 57

- (1) The children's home shall
- a) offer care providing a home to children in temporary placement, short-term or long-term foster care,
- b) offer after-care provision to young adults,
- c) operate external facilities where required.
- (1) The children's home shall admit
- a) the child of a young adult receiving after-care provision,
- b) a child requiring care as defined in Section 46 for a maximum of three days, and it shall initiate the necessary measures to resolve the situation of the child,
  - c) a child requiring care due to a permanent illness or disability who is under the age of one,
- d) in the framework of care providing a home, on a temporary basis, children in short-term or long-term foster care who arbitrarily left their fostering place and it shall initiate the necessary measures.
  - (3) To facilitate the attainment of (1) and (2), the children's home shall
- a) provide for the admission of a child in temporary placement, short-term or long-term foster care, and notify to that extent the guardianship office, the child welfare service and the district professional child protection service,
- b) provide for the admission of a young adult receiving after-care provision and his or her child receiving short-term foster care, and notify to that effect the district professional child protection service,
- c) offer care providing a home, in accordance with the individual placement plan approved by the guardianship office and the individual nursing-fostering plan prepared by the home,
- d) provide, pursuant to the decision of the guardianship office, for the discharge of the duties of guardian and preparation for the regular review of the care offering a home, and accordingly
- da) promote the contact between the child and his or her family, the reunification of the child with the family and to that end, cooperate with the family, the child welfare service, the district professional child protection service and the guardianship office,
- db) regularly inform the guardianship office about the contact between parent and child to establish whether the child can be put up for adoption,
- dc) assist the free choice, expression and exercise by the child of his or her religious conviction or belief, and his or her participation in religious or divinity education,
  - dd) prepare the child for family life and independent living,
- de) assist the child in preparing for independent living by the successful completion of his or her school studies, the acquisition of vocational qualification and precautionary savings,
- dj) provide after-care for children previously in short-term or long-term foster care and to young adults receiving after-care provision.
- (4) The children's home may operate a foster parent network. The children's home, if it operates a foster parent network, shall perform the tasks set out in Section 55 (5). The foster parents employed by the children's home may provide full care to children, or after-care provision to young adults, in numbers corresponding to the number of places in the children's home.
- (5) The children's home shall design its organisation, educational and care system and the professional programme containing the objective, basic principles and methodologies of education in line with local needs and the professional rules specified in a separate legal regulation.
- (6) In conformity with its core activities and with the consent of the backer, the children's home may perform services to the public, in particular it may provide temporary care to children or pregnant women, but such services of the children's home shall not jeopardise the performance of its core functions as defined in subsections (1)-(3) above.

- (1) A special children's home or the special group of a children's home shall provide care, socialisation and re-socialisation, as well as habilitation and rehabilitation to children in temporary placement, short-term or long-term foster care displaying severe psychic or dissocial symptoms or suffering from psychoactive substance abuse.
- (2) In a special children's home or special group of a children's home, the duration of full care for the child shall not exceed two years except in exceptionally justified cases.

- (3) Upon the request of the county or metropolitan child protection expert committee, a special children's home, if the necessary personal and material conditions are satisfied, may perform personality testing of the child under a residential arrangement.
- (4) The care, maintenance, habilitation and rehabilitation of a permanently ill or disabled child or a child requiring special care due to his or her age shall be provided, based on the opinion of the expert and rehabilitation committee as defined in the PE Act, by a special children's home established for such purpose or by a children's home or group of children's home providing full care to children in short-term or long-term foster care, provided that the condition of such child does not justify his or her placement in a home for disabled or psychiatric patients under the scope of the Welfare Act, or such placement is impossible due to the absence of places.

- (1) The children's home shall offer care providing a home to no less than 12 and no more than 40 children arranged in separate residential units.
- (2) A group home shall be a children's home offering care providing a home to a maximum of 12 children in an individual apartment or house, in a family-like environment.
- (3) The different group sizes of children's homes providing care, maintenance, habilitation and rehabilitation to permanently ill or disabled children, children requiring special care due to their age, children with severe psychic or dissocial symptoms or suffering from psychoactive substance abuse shall be determined in a separate legal regulation.
- (4) If a children's home extends exclusively full after-care provision to young adults, such children's home shall operate as an after-care home.
- (5) If a special children's home performs exclusively the testing of special-needs children in a residential arrangement, such children's home may operate as a testing home.

# District professional child protection service provision

### Section 60

The district professional child protection service provision (hereinafter referred to as 'professional child protection service provision') shall, in the course of the procedure of placement in short-term or long-term foster care and the determination of the fostering place of the child following temporary placement,

- a) conduct the personality testing of the child and prepare, upon the request of the guardianship office, an expert opinion and placement recommendation in respect of the child,
- b) provide for the preparation of the individual placement plan of the child upon the request of the guardianship office,
- c) designate a foster parent or children's home operated or backed by a local government, which admits children in temporary placement.

### Section 61

The professional child protection service provision shall operate a network of foster parents and discharge the related functions as defined in Section 55 (5).

- (1) The professional child protection service provision shall have the responsibility, in order to facilitate the professional preparation for the adoption of a child and for the designation for adoption and putting up for adoption of a child in short-term or long-term foster care and to promote the implementation of adoption procedures, to
- a) maintain a register of children in short-term foster care designated for adoption by the decision of the guardianship office, about adoptable children in long-term foster care, as well as children adoptable pursuant to the notification of the parent, health care service provider entity or person, the child welfare service or other entity engaged in family protection,
- b) inform persons intending to adopt a child about the terms of adoption, in particular about the counselling and preparation course prior to adoption,

- c) examine the health and psychological fitness of prospective adoptive parents based on the professional requirements set out in a separate legal regulation and to maintain records about such parents, based on the decision of the guardianship office,
- d) take the necessary measures, within its jurisdiction as ad hoc curator, in case of children in short-term or long-term foster care.
- (2) The professional child protection service provision shall have the responsibility to inform, on a regular basis, the national adoption register maintained by the National Family and Social Policy Institute about the records kept pursuant to subsection (1) a) and c) above, as provided for in a separate legal regulation.
- (3) Under conditions specified in a separate legal regulation, the professional child protection service provision may organise pre-adoption counselling and courses for prospective adoptive parents.

In view of the tasks of a children's home as defined in this Act, the professional child protection service provision, in order to assist and professionally supervise the nursing and fostering activities of the guardian (legal guardian) or caregiver of a child in short-term or long-term foster care in accordance with the individual programme, shall

- a) prepare the individual nursing-fostering plan of the child,
- b) upon the request of the guardianship office or, in the absence of such request, semi-annually ex officio inform the guardianship office about the performance of tasks related to nursing and fostering, the relationship between child and parent, and the cooperation of the parent with the institution or person looking after the child, c)
- signal to the guardianship office if the powers of the guardian (legal guardian) should be restricted, or the guardian should be removed or suspended from his position,
- d) organise the implementation of the placement plan and, to that end, in cooperation with the child welfare service, provide family support to facilitate the creation of conditions necessary for the upbringing of the child in his or her biological family and the restoration of the relationship between parent and child,
- e) provide family support and after-care, in cooperation with the child welfare service, to facilitate the reintegration of the child in the family and to promote his or her independent living, if the foster place of the child is not a children's home.

### Section 64

The professional child protection service provision, to assure guardianship for a child in temporary placement, short-term or long-term foster care, shall

- a) represent the child, in its competence as ad hoc curator, if the guardian may not represent the child or if, in issues requiring special expertise, the guardian is unable to provide effective representation to the child,
- b) in its competence as ad hoc curator, provide asset conservator functions if the guardianship office has not authorised the guardian to manage the assets of the child,
- c) pursuant to Section 98 (4) of the Family Act, perform certain functions related to the guardianship of the child in its competence as legal guardian.

### Section 65

In the framework of professional counselling, the professional child protection service provision shall

- a) provide professional and methodological assistance to performing specialised tasks of personal care,
- b) prepare recommendations for the improvement of professional services and promote the practical application of scientific research.

- (1) The county and metropolitan local government shall
- a) provide for the tasks of the professional child protection service provision specified in Section 60 a), with the exception of the placement recommendation, through the county or metropolitan child protection expert committee,
- b) provide for the tasks of the professional child protection service provision not mentioned in point a) through the operation of a child protection institute or other institution providing professional services (hereinafter collectively referred to as 'district professional child protection service').
  - (2) The county and metropolitan local government shall perform the tasks specified in Section 63 in respect of
- a) disabled persons under the scope of the Welfare Act and children placed in a home for psychiatric patients, and

- b) the guardian or caregiver of a child placed in a foster parent network operated or children's home backed by such government, as well as a legal guardian employed by it.
- (3) The district professional child protection service shall perform service, organisation, consultancy and care giving tasks. Within its scope of activities, in addition to the items covered by Sections 60-65, it shall
  - a) operate a network of ad hoc curators, asset conservators and legal guardians,
- b) pursuant to the decision of the governments of the county, of Budapest and of cities with county rank, operate homes providing temporary placement to children,
  - c) operate the external facilities for the accommodation of young adults requiring after care provision,
- d) upon the request of the government of the county, of Budapest and of cities with county rank, make proposals concerning a foster parent or children's home to provide for children in temporary placement,
  - e) operate a emergency service,
  - f) operate the child protection expert committee.

Foster parent, professional foster parent and surrogate parent legal relationship

# Foster parent legal relationship

### Section 66/A2

- (1) A foster parent legal relationship shall be established between the operator and the foster parent pursuant to a written agreement laying down rights and obligations.
- (2) The foster parent legal relationship is established for an indefinite period of time. In exceptional cases, in the event of substitution or other appreciable reasons, such legal relationship may be established also for a definite term
- (3) The rights and obligation arising from a foster parent legal relationship shall accrue to the parties as of the date when the child or young adult is effectively transferred to the care of the foster parent.
- (4) A person living in a marriage or cohabitation shall be employed as a foster parent exclusively if his or her spouse or cohabiting partner consents to such foster parent activity.

### Section 66/B2

- (1) During the term of the foster parent legal relationship, the foster parent shall cooperate with the operator, the guardianship advisor, the guardianship office supervising care giving and guardianship activities and, if the guardian is a person other than himself or herself, with the legal guardian.
- (2) In the framework of cooperation, the foster parent shall immediately notify the operator if he or she is prevented from discharging his or her duties permanently or any significant change is expected in his or her living conditions.

### Section 66/C2

- (1) The operator may establish foster parent legal relationship with a foster parent living outside its seat or jurisdiction provided that it is able to regularly monitor the nursing and care of the child and the living conditions of the foster parent family and that it can perform the functions specified in Section 55 (5).
- (2) The operator shall determine the number of children and young adults to be placed with the foster parent in agreement with such foster parent. In the course of this, the age, health, maturity of the child or young adult or other consideration necessitating special care, as well as the personality and living conditions of the foster parent shall be taken into consideration.

### Section 66/D2

- (1) The operator and the foster parent may amend the agreement exclusively with mutual consent. Such amendment may be initiated by either party.
- (2) The amendment of the agreement is especially justified in case of the change in the number of children and young adults.
  - (3) The amendment of the agreement shall be governed by the rules pertaining to its conclusion.

### Section 66/A2

- (1) The foster parent legal relationship shall be terminated
- a) upon the death of the foster parent,
- b) upon the dissolution of the operator without a legal successor,
- c) upon the end of the definite term,
- d) if all children and young adults leave the care of the foster parent and the guardianship office fails to place other children or young adults in his or her care within the next six months.
  - (2) The foster parent legal relationship may be terminated
  - a) with the mutual consent of the parties,
  - b) with dismissal.
  - (3) The operator shall be obliged to terminate the foster parent legal relationship if
  - a) the foster parent emigrates,
- b) the foster parent has been placed, in the final and enforceable ruling of the court, under guardianship limiting or precluding legal capacity,
  - c) a disqualifying reason as defined in Section 15 (8) has arisen in connection with the foster parent,
  - d) the court has terminated the parental supervision rights of the foster parent in a final and enforceable ruling,
  - d) the foster parent committed actions covered in subsection (7) below.
- (4) In case of a foster parent performing the functions of guardian, the six-month duration specified in subsection (1) d) shall commence following the date of termination of his or her position as guardian.
- (5) If the operator or the foster parent initiates the termination of the foster parent legal relationship pursuant to subsection (2) a), the guardianship office shall be notified to that effect. In such event the agreement may be terminated only after sixty days of such initiative.
- (6) In case of a foster parent performing guardianship functions, the legal relationship of the foster parent shall be terminated exclusively pursuant to a final and enforceable resolution of the guardianship office dismissing, or suspending or removing with immediate effect, the foster parent from his or her position as guardian. In such event the time limit specified in subsection (5) above shall not be applicable.
- (7) If the foster parent applies unacceptable educational methods in the course of the nursing and care of the child, or if he or she mistreats the child, refuses to provide food, or severely neglects the nursing and care of the child, fails to provide for contacts between the child and his or her biological family, or fails to use the benefits provided for the maintenance of the child towards the needs of the child, the operator shall contact the guardianship office to initiate the designation of a new foster place for the child.
- (8) If the guardianship office takes cognisance of the facts specified in subsection (7) above from sources other than the operator, it shall initiate, simultaneously with the designation of a new foster place for the child, that the operator terminate the agreement and take the necessary disciplinary actions, with the exception of the case laid down in subsection (1) d).
  - (9) Upon discharge, the foster parent legal relationship shall be terminated with immediate effect.
- (10) Any agreement or statement aimed at the termination of the foster parent legal relationship shall be made out in writing.
- (11) With the consent of the operator, the foster parent may also perform surrogate parent duties. In such cases the provisions of Sections 66/O-66/P shall be applicable to him or her, mutatis mutandis.

# Remuneration of the foster parent

### Section 66/F 2

- (1) For his or her activities, the foster parent shall be entitled to remuneration as defined in the agreement for the establishment of the foster parent legal relationship (hereinafter referred to as 'foster parent fee').
  - (2) The minimum amount of the foster parent fee shall be determined in the effective annual Budget Act.
- (2) For the determination of the amount of the foster parent fee, the following shall be taken into consideration:
  - a) the number and age of the children and young adults placed with the foster parent,
  - b) any additional tasks performed, as specified in Section 55(4),
  - c) the acquisition of foster parent qualifications as specified in a separate legal regulation;
  - d) if the foster parent has undertaken, and has been appointed, to perform temporary placement tasks;
- *e)* if the child or young adult resides outside the household of the foster parent due to student hostel or student home accommodation, military service, pre-trial detention, confinement to a reformatory or imprisonment.

## Professional foster parent legal relationship

### 66/G 1

The professional foster parent legal relationship shall be an employment legal relationship created between the operator and the professional foster parent or special professional foster parent (hereinafter collectively referred to as 'professional foster parent') pursuant to a written agreement laying down rights and obligations.

(2) The provisions of Section 66/A (2), Section 66/B (2), Section 66/E and Section 66/F(3) shall be applicable, mutatis mutandis, to professional foster parents.

### Section 66/H 1

- (1) If the professional foster parent legal relationship is terminated by the dissolution of the operator without legal successor or, with the exception of the cases described in Section 66/E (3) e) and subsections (6)-(8) of same, with discharge by the operator, the professional foster parent shall be entitled to a severance payment.
- (2) By way of departure from subsection (1) above, the foster parent shall not be entitled to any severance payment if, at the time of the termination of the professional foster parent legal relationship, he or she is entitled to old age pension or receives any pension benefit in his or her own right.
- (3) Entitlement to severance payment shall be conditional on the existence of the professional foster parent legal relationship with the operator for the duration specified in subsection (4) below.
  - (4) The amount of the severance payment shall correspond to the professional foster parent fee for
  - a) one month in case of at least three years of professional foster parent legal relationship,
  - b) two months in case of at least five years of professional foster parent legal relationship,
  - c) three months in case of at least ten years of professional foster parent legal relationship,
  - d) four months in case of at least fifteen years of professional foster parent legal relationship,
  - e) five months in case of at least twenty years of professional foster parent legal relationship,
  - f) six months in case of at least twenty-five years of professional foster parent legal relationship.
- (5) The amount of the severance payment shall increase by an amount corresponding to three months of professional foster parent fee if the professional foster parent legal relationship is terminated in the manner specified in subsection (2) above in the five years preceding old-age retirement age.

### Section 66/I 1

- (1) The professional foster parent shall determine the scheduling of his or her tasks and the management of his or her time within his or her own discretion, in accordance with the requirements of child raising.
  - (2) The professional foster parent shall be entitled to twenty-eight days of holiday per year.
  - (3) The holiday specified in subsection (2) above shall increase to
  - a) twenty-nine days after age twenty-five,
  - b) thirty days after age twenty-eight,
  - c) thirty-one after age thirty-one, d)
  - thirty-two after age thirty-three, e)
  - thirty-three after age thirty-five,
  - f) thirty-four after age thirty-seven,
  - g) thirty-five after age thirty-nine, h)
  - thirty-six after age forty-one,
  - i) thirty-seven after age forty-three,
  - *i*) thirty-eight after age forty-five
- of the professional foster parent.
- (4) The professional foster parent shall be entitled to the longer holiday starting in the year in which he or she reaches the age specified in subsection (3) above.
  - (5) The full professional foster parent fee shall be payable for the duration of the holiday.
- (6) The granting and financial compensation of holiday time shall be governed, mutatis mutandis, by the relevant rules of Act XXII of 1992 on the Labour Code (hereinafter referred to as 'Labour Code').

### Section 66/J

(1) The professional foster parent shall be entitled to sick leave if he or she is unable to attend to his or her child raising responsibilities due to illness.

(2) The duration of sick leave shall be twenty-one days per calendar year, for which the professional foster parent shall be entitled to 80 percent of his or her remuneration. In all other respects the sick leave of the professional foster parent shall be governed, mutatis mutandis, by the provisions of the Labour Code.

### Section 66/K

- (1) In the event of the holiday, illness or other incapacitation of the professional foster parent, the operator shall provide for the full care of the child, if possible in his or her usual environment, by employing or appointing a child minder.
- (2) If the professional foster parent provides full care for at least five children, the operator shall arrange for assistance to the foster parent by employing or appointing a child minder.
- (3) The identity of the child minder shall be recommended by the professional foster parent. The child minder shall be primarily the spouse or linear relative of the foster parent.

# Remuneration of the professional foster parent

#### Section 66/L

- (1) The professional foster parent shall be entitled to remuneration specified in the agreement for the establishment of professional foster parent relationship, the minimum rate being determined in the effective annual Budget Act.
- (2) For establishing the rate of the professional foster parent fee, in addition to the circumstances specified in Section 66/F (3), the time spent by the professional foster parent in a foster parent legal relationship, professional foster parent legal relationship, surrogate parent legal relationship, or, prior to the effective date of this Act, in employment or public service legal relationship as foster parent or professional foster parent may be taken into consideration.
- (3) The payment of the professional foster parent fee and any deductions therefrom shall be governed by the provision of the Labour Code with the proviso that, for the purposes of such regulations, salary shall mean the remuneration of the professional foster parent.

### Section 66/M

- (1) The professional foster parent shall be entitled to a thirteenth month fee if he or she had twelve months of professional foster parent relationship in the year concerned. The professional foster parent shall be entitled to a prorated part of the thirteen month's fee if he or she had at least six months of professional foster parent legal relationship in the year concerned.
- (2) By way of derogation from subsection (1) above, the professional foster parent shall not be entitled to a thirteenth month fee if, due to his or her holiday, illness or other incapacitation, he or she did not discharge his or her child raising duties for a period exceeding six months in the year concerned.
- (3) The amount of the thirteenth month fee shall be identical with the amount of the professional foster parent fee for the month of December of the year concerned.
- (4) A professional foster parent with twenty-five, thirty or forty years of professional foster parent legal relationship shall be entitled to an anniversary bonus.
  - (5) The anniversary bonus shall be identical to the professional foster parent fee for
  - a) two months in case of twenty-five years of professional foster parent legal relationship,
  - b) three months in case of thirty years of professional foster parent legal relationship
  - c) five months in case of forty years of professional foster parent legal relationship.

### Section 66/N

- (1) The professional foster parent shall be liable for damages caused by the criminal negligence of his or her duties arising from his or her professional foster parent legal relationship under the rules of the Labour Code governing the liability of employees for damages.
- (2) The liability of the operator for damages shall be governed by the rules of the Labour Code pertaining to the liability of the employer for damages.
- (3) The Labour Court shall have jurisdiction in any legal dispute between the professional foster parent and the operator in connection with the rights and obligations arising from the professional foster parent legal relationship.

# Surrogate parent legal relationship

### Section 66/O

- (1) The surrogate parent legal relationship shall be a legal relationship created between the operator and the surrogate parent, taking into consideration the recommendation of the child welfare service, by virtue of the written agreement containing rights and obligations, for the purpose of the temporary nursing and care of the child(ren).
- (2) The provisions of Section 66/A (3), Section 66/B, Section 66/D (1) a)-c), (2)-(3) and (9)-(10) shall be applicable, mutatis mutandis, to the surrogate parent legal relationship.

### Section 66/P

- (1) For performing the nursing and fostering tasks, the surrogate parent shall be entitled to remuneration as defined in the agreement aimed at the creation of the surrogate parent legal relationship, in an amount identical to the remuneration of the foster parent (hereinafter referred to as 'surrogate parent fee').
- (2) During the term of the surrogate parent legal relationship, the surrogate parent shall cooperate with the operator, the legal representative of the child and with the guardianship office supervising the activities of the surrogate parent.
- (3) The establishment and payment of the surrogate parent fee shall be governed by the provisions of Section 66/F (3).
- (4) With the consent of the operator, the surrogate parent may also perform foster parent functions or tasks of providing day care to children. In such cases Sections 66/A-66/F and Section 43 shall be applicable to him or her.

## **PART THREE**

### CHILD PROTECTION CARE

### **Section 67**

- (1) If the care necessary for the physical, intellectual, emotional and moral development of the child cannot be assured with the consent of the parent and such situation endangers the development of the child, the notary of the municipal government or the guardianship office shall, depending on the extend of endangerment, take one of the measures listed in Section 15 (4),.
- (2) If there is matrimonial or child custody litigation ongoing between the parents and child protection care appears to be justified in the best interest of the child, the court shall promptly contact the guardianship office with a view to taking the necessary measures.
- (3) If the court rejects the motion of the guardianship office for the termination of parental supervision rights or for the placement of the child, some other manner of child protection care shall be selected.

# Chapter VIII

## Placement under protection

- (1) If the parent or other legal representative is unable or unwilling to eliminate the endangerment of the child by voluntarily making use of basic provisions but it is reasonable to assume that, with assistance, the development of the child can be assured in the family environment, the notary of the municipal government shall place the child under protection.
- (2) Furthermore, the notary of the municipal government, taking into consideration the recommendation of the child welfare service, may place under protection
- a) a minor who committed a misdemeanour as indicated by the notification of the authority with jurisdiction over misdemeanours,

- b) a child below the age of fourteen based on the writ ordering the retraction of an investigation of the investigating authority,
  - c) a minor accused of or indicted for a criminal act based on the notification of the police, prosecutor or court.
- (3) Simultaneously with placement under protection, the notary of the municipal government shall appoint a family caregiver of the child welfare service in order to continuously assist with the nursing of the child, organise his or her care and support parental care and, if necessary,
- a) oblige the parent to continuously make use of the day-time care of children, or education and instruction in a boarding school or dormitory accommodation under the scope of the PE act,
  - b) oblige the parent to contact, together with the child, a person or organisation engaging in family protection,
  - c) oblige the parent to have the child make use of health care services,
- d) initiate with the family physician or, in case of severe endangerment, with any physician, the medical examination of a parent or other relative living together with the child who is mentally incapacitated, permanently or periodically, due to an illness or addiction,
- e) take measures, in cooperation with the competent authorities, to eliminate circumstances endangering the health of the child,
  - f) establish rules of conduct for the child to eliminate any objectionable conduct,
- g) warn the parent of the consequences of his or her inappropriate lifestyle or conduct and call on him or her to terminate such.
- (4) Within fifteen days of the resolution ordering placement under protection becoming final and enforceable, the appointed family caregiver shall prepare a nursing-fostering plan for the minor person referred to in subsection (2) above; to that end, if necessary, he may contact the bodies or persons specified in Section 132 (1).
- (5) The notary of the municipal government shall review, at any time upon request or ex officio annually, the necessity for placement under protection. If the endangerment of the child cannot be eliminated by placement under protection, some other form of child protection care shall be selected in the best interest of the child. The parents shall be warned of such legal consequence.
  - (6) Placement under protection shall not affect the parental responsibility of the parent.

- (1) Placement under protection shall be terminated if
- a) the upbringing of the child in the family can be assured in the absence of protection,
- b) the guardianship office decides for some other form of child protection care,
- c) the probation supervision of a minor has been ordered,
- d) the minor serves a sentence of imprisonment or is in a correctional institution.
- (2) Placement under protection shall be terminated, with the exception specified in subsection (3) below, when the child attains majority.
- (3) If the notary of the municipal government ordered placement under protection pursuant to Section 68 (2) c), the protection shall last, in justified cases and upon the request of the juvenile, until the end of the criminal proceedings but not extending beyond the age of twenty.

# Chapter IX

# Acceptance of a child into another family

- (1) Upon the request of both parents with parental supervision rights or of the parent with sole parental supervision right, having consulted the other parent, the guardianship office may consent to another family designated by such parent temporarily accepting, nursing and fostering the child due to the health or justified absence of the parent or other family circumstance, for the necessary time period, providing that acceptance into the family is in the best interest of the child.
- (2) During the term of acceptance into the family, the parental supervision rights of the parent shall be suspended.
  - (3) Acceptance into another family shall not affect the obligation of the parent for maintenance.
- (4) Upon the submission of the application, the guardianship office shall inform the parent about the consequences of his or her legal statement.

- (1) The guardianship office shall consent to the acceptance of the child into another family if the admitting parent, due to his or her personality and circumstances, is fit for the nursing and fostering of the child, the performance of guardianship duties and undertakes to perform such responsibilities.
  - (2) The guardianship office shall appoint the admitting parent(s) as guardian(s).
- (3) Acceptance into the family shall last until the expected duration of the underlying cause. The guardianship office shall annually review acceptance into the family based on the information submitted by the guardian.
- (4) The parent shall be entitled to the right to maintain contact and to the right of co-decision in material issues affecting the child. Disputes about material issues affecting the child shall be settled by the guardianship office.
- (5) In particularly justified cases the guardianship office may confer on the parent the right of asset conservation and legal representation of the child in property issues.
- (6) Acceptance into another family shall be terminated if requested by the parent or the admitting parent. If the cause of the acceptance into another family continues to exist, the guardianship office, following the termination of acceptance into the family, shall provide for some other form of child protection care.

# Chapter X

# Temporary placement

### Section 72

- (1) If the child is left without supervision or the child's physical, intellectual, emotional or moral development is severely endangered by his or her family environment or by himself or herself, and therefore his or her immediate placement is required, the notary of the municipal government, the guardianship office, the border guard, the police, the prosecution, the court or the directorate of the penal institution (hereinafter referred to as the 'referring entity') shall temporarily place the child
- a) with a parent living apart or other relative or person fit for the upbringing of the child and willing to do so, or, where that is not feasible,
- b) with the nearest foster parents providing care to temporarily placed children or, if that is not feasible, in a children's home designated to provide temporary placement, and it shall promptly notify the guardianship office with jurisdiction or, in case of a non-resident child excluding persons specified in Section 4 (1) b), the Guardianship Office of the 5th District of Budapest.
- (2) Severe endangerment giving rise to temporary placement shall mean such mistreatment or neglect of the child which poses an imminent danger to the child's life or may cause significant and irreparable damage to his or her physical, intellectual, emotional or moral development.
  - (3) The referring entity shall provide for the transportation of the child to the foster place.
- (4) From the start of temporary placement, the right of the parent to the nursing and upbringing of the child shall be suspended. No appeal shall lie against the decision of the referring entity.

- (1) With the exception specified in subsection (3) below, the guardianship office shall, irrespective of the identity of the referring entity initiating temporary placement,
  - a) terminate the temporary placement within thirty days of its institution if the causes thereof do not exist, or
- b) within thirty days of the institution of temporary placement, order the placement of the child in short-term or long-term foster care, or
- c) within sixty days of the institution of temporary placement, initiate legal action to change the custody of the child or terminate parental supervision rights while maintaining or altering the temporary placement.
- (2) The decision of the court concerning the custody of the child shall be altered with the initiation of legal action as defined in subsection (1) c) above exclusively if the circumstances that served as the basis for the custody decision of the court changed significantly subsequently.
- (3) Following the temporary placement of a foreign citizen child, excluding persons defined in Section 4 (1) b), the Guardianship Office of the 5<sup>th</sup> District of Budapest shall promptly
- a) notify the police headquarters with jurisdiction with a view to arranging for the continued stay of the child in Hungary, if required, and/or
  - b) initiate the procedure for legal assistance with a view to the guardianship or adoption of the child, or

- c) notify the relevant foreign representation with a view to returning the child to the country of his or her citizenship.
- (4) The Guardianship Office of the 5<sup>th</sup> District of Budapest shall review the temporary placement of a foreign citizen child, excluding persons specified in Section 4 (1) b), immediately after the response of the country of origin of the child, or semi-annually ex officio, and subsequently decide upon the maintenance of the temporary placement or upon the guardianship or adoption of the child simultaneously with the termination of such temporary placement if appropriate.

- (1) If the guardianship office establishes based on the temporary placement that the reasons for the termination of parental supervision rights are not present but the development of the child is not assured in his or her previous environment, it shall initiate, within 60 days, legal action against the parent (parents) for the placement of the child with the other parent living apart or with a third person.
- (2) Simultaneously with the initiation of legal action, the guardianship office shall establish the suspension of the parental supervision rights of the parent, the revival of the parental supervision rights of the other parent living apart, or appoint as guardian of the child the person with whom the child is temporarily placed.

#### Section 75

If the guardianship office establishes, following the temporary placement of the child, that the reasons for the termination of parental supervision rights exist, it shall initiate, within 60 days, legal action against the parent for the termination of parental supervision rights, establish the suspension of the parental supervision rights of the parent simultaneously with the initiation of such legal action, furthermore,

- a) establish the revival of the parental supervision rights of the other parent living apart and call upon him or her to exercise such rights if the child has been placed with him or her temporarily,
  - b) appoint as guardian of the child the relative or other person with whom the child is placed temporarily,
- c) appoint a guardian (legal guardian) if the child is placed temporarily with a foster parent, in a children's home or other residential institution.

#### Section 76

- (1) The guardianship office shall terminate the temporary placement if
- a) it establishes that the preconditions of temporary placement do not exist and the development of the child can be assured in his or her previous environment, upon placement under protection if required,
  - b) the child is placed in short-term foster care,
- c) the court has issued a final and enforceable decision in a legal action for the termination of parental supervision rights or for the change of the custody of the child,
  - d) the child is accepted into another family,
  - e) the child is adopted,
  - f) the child is taken in long-term foster care.
- (2) In the course of the temporary placement, the guardianship office shall change the foster place of the child if it establishes that the conditions for temporary placement exist but
- a) it was discovered after the placement of the child with foster parents or in a children's home that there is a parent living apart, other relative or other person who is fit for fostering the child and willing to do so and with whom the child may be placed temporarily, or
  - b) the change of the present foster place of the child is justified for any other reason.

# Chapter XI

Taking the child in care

# **Short-term foster care**

#### **Section 77**

(1) The guardianship office shall place the child in short-term foster care if the development of the child is endangered by his or her family environment, and if such endangerment could not be prevented by services

offered in the framework of basic provisions or by placement under protection, or no results can be expected from such measures, and if the appropriate nursing of the child may not be assured within the family. Simultaneously with placement in short-term foster care, the guardianship office shall place the child with a foster parent or, if that is not feasible, in a children's home, or in a home for disabled or psychiatric patients, and appoint a guardian (legal guardian).

- (2) The parental supervision rights of the parent of the child taken in short-term foster care pursuant to subsection (1) above shall be suspended.
- (3) Short-term foster care shall give care providing a home to the child, in accordance with the individual placement plan, until such time when the family of the child becomes capable of re-admitting the child.
- (4) The guardianship office shall decide upon the short-term foster care of the child in an expedited procedure. The resolution may be declared as enforceable immediately, irrespective of any appeal.
- (5) The transport of the child to the foster parent or children's home or other residential institution shall be provided for, pursuant to the instructions of the guardianship office, by the legal representative of the child or other person in custody of the child or the notary of the municipal government with jurisdiction over the place of residence or place of abode of the child.

#### Section 78

- (1) The guardianship office shall continuously monitor the relationship of the child in short-term foster care and the parent, the cooperation of the parent with the foster parent, children's home, or home for the disabled or psychiatric patients, as well as the conduct of the parent and any changes in the life style and circumstances of the parent.
- (2) If the parent of the child in short-term foster care abuses his or her right to maintain contact to the detriment of the child or of the person in custody of the child, and endangers the upbringing, physical, intellectual, emotional or moral development of the child, the person looking after the child or the guardian (legal guardian) of the child may file a petition to the guardianship office or the court for the restriction, suspension or termination the right to maintain contact.
- (3) If the parent of the child in short-term foster care fails to cooperate, for reasons within his or her control and in a manner seriously violating the interests of the child, with the foster parent or institution looking after the child, fails to maintain contact with the child and refuses to change his or her conduct, life style, or circumstances with a view to terminating the short-term foster care of the child or if any reason for the termination of parental supervision rights applies, the guardianship office may initiate legal action against the parent for terminating his or her parental supervision rights.

#### Section 79

- (1) The guardianship office shall review annually or, in case of a child below the age of three, semi-annually the necessity of maintaining short-term foster care based on the briefing or recommendation of the guardian, legal guardian, foster parent or institution, and of the child welfare service assisting the biological family and of the district professional child protection service, furthermore, if required, the expert opinion of the county or metropolitan child protection expert committee. As a result of such review, the guardianship office shall decide upon the maintenance or amendment of the individual placement plan and foster place and, if the conditions apply, the initiation of legal action for the termination of parental supervision rights or, if that is not required, the declaration of the adoptability of the child, or the termination of short-term foster care.
- (2) Upon the request of the parent or ex officio, the guardianship office shall terminate the short-term foster care of the child if the reasons thereof no longer exist.
- (3) The short-term foster care shall be terminated if the child is placed in long-term foster care, is adopted, attains majority, or if he or she is placed with the other parent living apart or with a third person pursuant to the decision of the court concerning the custody of the child.

# Long-term foster care

- (1) The guardianship office shall place the child in long-term foster care if
- a) the parental supervision rights of the parent or of both parents have been terminated by the court,
- b) the parent or both parents have died and the child has no parent with parental supervision rights, c) the parents of the child are unknown.

provided that in the instances described in points a)-c) the upbringing of the child may not be assured through the appointment of a guardian pursuant to Section 95-97 of the Family Act,

- d) the parent has made a statement consenting to the adoption of the child without knowing the person and personal particulars of the adopting person, provided that the child cannot be placed temporarily with the prospective adoptive parent.
- (2) Simultaneously with placement in long-term foster care, the guardianship office shall place the child with a foster parent or, if that is not possible, in a children's home, or in a home for disabled or psychiatric patients under the scope of the Welfare Act, and appoint a guardian (legal guardian).
- (3) If the guardianship office, pursuant to subsection (1) d) above, places a child below the age of 6 weeks temporarily with a prospective adoptive parent, it shall appoint a legal guardian upon such placement, in view of the suspension of parental supervision rights pursuant to Section 91 (2) d) of the Family Act.
- (4) Long-term foster care shall give care providing a home to the child in accordance with an individual placement plan and prepare the child for adoption or for independent living.
- (5) The guardianship office shall decide upon the long-term foster care of a child in an expedited procedure. The resolution may be declared as enforceable immediately, irrespective of any appeal.
- (6) The transport of the child to the foster parent or children's home or home for the disabled or for psychiatric patients under the scope of the Welfare Act shall be provided for by the town clerk of the local government with jurisdiction over the place of residence or place of abode of the child.
- (7) The guardianship office shall review, annually or in case of a child below the age of three semi-annually, the long-term foster care based on the briefing or recommendation of the guardian (legal guardian), foster parent or institution, and of the district professional child protection service, in order to promote the adoption of the child as soon as possible or, it that is not feasible, his or her placement in a long-term family substitute environment (foster parent, children's home).

#### **Section 81**

- (1) Long-term foster care shall be terminated if
- a) the court restores parental supervision rights,
- b) following the child custody decision of the court, the child is placed under the guardianship of another person,
  - c) the child is adopted,
  - d) the child attains majority.
- (2) Upon the request of a parent authorised to maintain contact pursuant to Section 92 (3) of the Family Act, the guardianship office shall terminate long-term foster care if
  - a) the child has not been adopted and
  - b) the person and environment of the parent is fit for the upbringing of the child, provided that such termination is in the best interest of the child.
- (3) Upon the termination of long-term foster care, the legal representation made by the parent pursuant to Section 48 (3) of the Family Act shall cease to be effective.

# Supervised care

#### Section 81/A

- (1) If a child in short-term or long-term foster care, as a result of his or her health or psychical status, exhibits conduct directly endangering his or her own life or health or that of others, and such endangerment may be eliminated only with the immediate supervision of the child's full care in a restricted environment, the head of a special children's home may curtail the personal liberty of such child.
- (2) In the framework of the curtailment pursuant to subsection (1) above, the child shall not leave the premises of the children's home, or he or she shall remain in the rooms designated by the head of the children's home. The head of the special children's home shall inform the children's advocate, the county or metropolitan child protection expert committee and the guardianship office with jurisdiction, forthwith but within thirty-six hours at the latest.
- (3) Simultaneously with the notification of the guardianship office, the head of the special children's home shall initiate the issue of an order for the supervised care of the child in short-term or long-term foster care if the curtailment of personal liberty is expected to be necessary for a period exceeding forty-eight hours. Until the guardianship office adopts a decision, the examination of the child, the termination of the conduct causing endangerment and the prevention of fast deterioration of his status shall be the primary objectives.

#### Section 81/B

- (1) Acting ex officio or upon an application, the guardianship office shall order the supervised care of a child
- a) in short-term or long-term foster care placed in a special children's home,
- b) special-needs children affected by the short-term or long-term foster care procedure specified in Section 77 (1) and Section 80 (1)-(2)
- if the child, as a result of his or her health or psychical disorder, exhibits conduct which may severely endanger the life or health of himself or herself or of others or poses direct and severe endangerment, provided that such endangerment can be eliminated only with full care, examination and therapy conducted in a restricted environment.
  - (2) The duration of supervised care may not exceed two months.
- (3) In order to promote the attainment of the objective of supervised care, the guardianship office may order that the child specified in subsection (1) above
  - a) remain in the designated rooms of the special children's home,
  - b) maintain contact with his or her relatives in a restricted manner for a certain period of time,
- c) submit himself or herself to specific treatments or medical procedures with the consent of the guardian (legal guardian).
- (4) Prior to adopting its decision, the guardianship office shall, taking into consideration the condition of the child, consult the child, the child's legal representative, the children's advocate, the guardianship consultant and the head of the special children's home, and procure the opinion of the county or metropolitan child protection expert committee. Such hearing may be conducted outside the official premises of the guardianship office if necessary.
- (5) In issues of supervised care, the guardianship office may depart from the opinion of the county or metropolitan child protection expert committee in exceptionally justified cases only.
- (6). The guardianship office shall decide about the supervised care of the child within 8 days. Such decision shall be immediately enforceable, irrespective of any court review.
- (7) The guardianship office shall review the supervised care as appropriate, but at least monthly, based on the opinion of the county or metropolitan expert committee.

#### Section 81/C

- (1) No appeal lies against the resolution of the guardianship office concerning the ordering or review of supervised care. The guardianship office shall forward is resolution, within three days of its communication, to the court for review.
- (2) The court shall make a decision, in a non-litigious procedure, about the maintenance or termination of supervised care within fifteen days of the receipt of such resolution.
- (3) Unless otherwise required by this Act or by the non-litigious nature of the procedure, the court proceedings shall be governed, mutatis mutandis, by the rules laid down in Act III of 1952 on the Civil Procedure (hereinafter referred to as 'CP Act').
- (4) The appropriate representation of the child in the court proceeding shall be assured. The children's advocate shall also be entitled to represent the child. If the child has no representative in the proceeding, the court shall appoint a guardian ad litem for the child's representation.
  - (5) No appeal lies against the decision taken by the court on the merits of the case.

#### Section 81/D

Supervised care shall be terminated pursuant to a court decision to that effect, upon the end of the specified time period, or ex officio or upon the request of the child, the children's advocate or the head of the children's home. In the course of the procedure for the termination of supervised care, the opinion of the county or metropolitan child protection expert committee shall be sought in every case.

# Determination of the foster place of the child

#### Section 82

(1) The guardianship office shall determine the foster place of a child in temporary placement, or affected in a short-term or long-term foster care procedure relying on the expert opinion of the county or metropolitan child

protection expert committee referred to in subsection (6) below and the entity or person referred to in Section 132 (1), after hearing the opinion of the child and the parent of a child in short-term foster care.

- (2) With due regard to the considerations laid down in subsection (3) below, in the course of placement the child shall be placed primarily with an adoptive parent, foster parent or, failing that, in a children's home or in a home for disabled or psychiatric patients under the scope of the Welfare Act.
  - (3) In the course of placement, due regard shall be paid to the
  - a) age, health and social level of the child,
  - b) joint placement of siblings,
  - c) desirable continuity of the upbringing of the child,
  - d) religious conviction and beliefs of the child,
  - e) distance to the child's previous place of residence and educational institution,
  - f) records kept in the interest of the child pursuant to Section 141 (1) a) and b).
- (4) In order to promote the return of the child into his or her biological family or to assure a permanent, family-like environment, the district professional child protection service shall convene a placement conference. The placement conference shall prepare a placement plan, taking into consideration the views of the child, and the district professional child protection service shall propose such plan for acceptance to the guardianship office. The participants of the placement conference and the detailed rules of its operation shall be determined in a separate legal regulation.
- (5) The caregiver and guardian (legal guardian) of the child as well as the parent of a child in short-term foster care and the municipal government with jurisdiction at the place of residence of the parent shall cooperate in the implementation of the individual placement plan and in the performance of responsibilities.
- (6) The county or metropolitan child protection expert committee shall be operated by the county or metropolitan district professional child protection service. The national child protection expert committee shall be appointed, upon the nomination of the National Family and Social Policy Institute, by the Minister of youth, family, social affairs and equal opportunities for a term of five years.
- (7) The county, metropolitan or national child protection expert committee shall consist of at least three members or, for the examination of special-needs children, of at least five members. Permanent members of the expert committee shall include one paediatrician, one paediatric psychologist and one social worker. In case of special-needs children, the three-member committee shall be supplemented with one psychiatrist and one remedial specialist. Upon the request of the child protection expert committee, ad-hoc experts may be involved in the work of the committee as required by the health, mental and general personality status of the child.
- (8) The county, metropolitan and national child protection expert committee shall report on its activities annually to the county or metropolitan guardianship office and to the Minister of youth, family, social affairs and equal opportunities.
- (9) The opinion of the county and metropolitan child protection expert committee shall contain in particular a reasoned recommendation for the form of care appropriate for the condition of the child and for the individual placement plan.
- (10) No appeal shall lie against the opinion of the county or metropolitan child protection expert committee, however, its review may be requested in the appeal procedure against the decision on the merits of the case. In the appeal procedure, the national expert committee shall review the expert opinion of the county or metropolitan exert committee and prepare a new expert opinion where appropriate.

- (1) In the course of the annual or, in the case of a child under the age of three, semi-annual, review of care, the guardianship office shall decide about the maintenance or amendment of the individual placement plan or the change of the foster place of the child if appropriate; to that end, it may consult the county or metropolitan child protection expert committee.
- (2) The purpose of the annual review is to establish whether the current form of care and the individual placement plan are appropriate for the individual needs of the child.
  - (3) The guardianship office shall change the foster place of the child ex officio or upon request if
  - a) the circumstances that served as the basis for the placement decision subsequently changed materially,
  - b) the designated foster place is against the interest of the child,
  - c) the address of the children's home or the residence of the foster parent changes,
- and therefore the upbringing of the child can no longer be assured, or adequately assured, in the previous form of care. The guardianship office shall decide about the change of the foster place in an expedited procedure. The resolution may be declared to be immediately enforceable irrespective of any appeal.
- (4) The guardianship office shall change the foster place of the child with immediate effect if the previous foster place severely endangers the interest of the child.

- (5) In the event of the dismissal or discharge of the guardian (legal guardian), the guardianship office shall simultaneously appoint a new guardian (legal guardian) and, if required, determine a new foster place for the child.
- 6) A child temporarily staying outside his or her foster place shall also be regarded as a child at the foster place, in particular if he or she
  - a) is in hospital, or
  - b) resides in a dormitory or student home, or
  - c) stays abroad for a period exceeding 30 days to pursue studies or on vacation, or
  - d) is in pre-trial detention, or serves his or her imprisonment or other sentence.
- (7) For the determination or alteration of the place of abode of the child, with the exception of subsection (6) a) and d), the guardian shall procure the prior consent of the guardianship office. In the case specified in subsection (6) a) and d), the guardian shall inform the guardianship office about the determination or alteration of the place of abode.
- (8) The guardianship office shall decide about the approval of the request referred to in subsection (7) above within eight days of its submission. If the guardianship office fails to respond in eight days, the request shall be deemed to have been approved. The guardianship office may refuse to approve the request of the guardian if the designation or alteration of the place of abode is against the best interest of the child.

# Chapter XII

# Guardianship of certain children under child protection care

# Appointment and legal status of a guardian

#### **Section 84**

- (1) The guardianship office shall appoint a guardian for the child if
- a) it has placed the child temporarily with a foster parent, in a children's home or other residential institution and brought legal action for the termination of parental supervisory rights,
  - b) it has taken the child in short-term or long-term foster care.
- (2) Guardianship duties shall be performed by the foster parent, if he or she undertakes guardianship, as well as by the head of the children's home. The head of the special children's home of the Ministry of youth, family, social affairs and equal opportunities shall not be appointed guardian of the children placed in the home.
- (3) With the exception specified in subsection (4) below, the guardianship office shall appoint a legal guardian designated by the district professional child protection service for the child if
- a) the child in temporary placement, short-term or long-term foster care has been placed in a home for disabled persons or psychiatric patients under the scope of the Welfare Act,
  - b) the foster parent does not undertake guardianship,
- c) the parent consented to the adoption of the child by an unknown person and the guardianship office placed the child temporarily with the prospective adoptive parent.
- (4) If the foster parent network is operated by a body other than a state entity, the guardianship office, in the case specified in subsection (3) b), shall appoint primarily the legal guardian designated by the operator.
  - (5) A legal guardian may act as guardian for no more than forty children at the same time.

- (1) If guardianship functions are performed by the guardian specified in Section 84 (2), the guardian shall be governed by the provision of the Family Act pertaining to guardianship, with the exception specified in this Act.
- (2) If the foster parent appointed by the guardianship office or the head of a children's home performs the duties of guardian, the guardian shall be the caregiver, supervisor and legal representative of the child and, if the guardianship office so authorised the foster parent, the conservator of the child's property.
- (3) Unless the place of abode of the child prevents the commencement of nursing-fostering, the rights and obligations arising from guardianship shall accrue to the guardian as of the day following the date of service of the resolution appointing the guardian.
- (4) The activities of the guardian shall be controlled and supervised by the guardianship office, and the guardian shall be assisted by the district professional child protection service in the discharge of his or her duties.

- (5) The guardian shall report semi-annually, in writing, to the guardianship office about his guardianship activities and the affairs of the child under his or her ward. Such reporting obligation shall not prejudice the statutory financial reporting obligation.
- (6) If the guardianship office removes the guardian for his or her position, or suspends the guardian with immediate effect, simultaneously with such measure it shall appoint a new guardian and, if appropriate, determine the new foster place of the child.

# Nursing and fostering of the child

#### Section 86

- (1) The guardian shall promote the physical, intellectual, emotional and moral development and fostering of the child and provide for the full care of the chid.
- (2) If a foster parent acts as guardian, such foster parent shall nurse and foster the child in his or her own household.
- (3) The guardian shall not have the right of placement of the child, and he or she may change the place of abode of the child as defined in Section 83 (6) b) and c) exclusively with the consent of the guardianship office.
- (4) The guardian shall choose, together with the child, the career of the child, taking into consideration the opinion of the parents of a child in short-term foster care as well as the abilities and other circumstances of the child. The guardianship office shall settle any disputes concerning the choice of career.

# Representation of the child

#### Section 87

- (1) The guardian shall have the right and obligation to represent the child in personal and, if the foster parent is so authorised by the guardianship office, in property matters.
- (2) The guardian shall not issue a consenting statement to the adoption of the child. The validity of the legal representation of the guardian shall be subject to the approval of the guardianship office if such legal representation relates to the family status of the child or the initiation of legal action relating thereto.
- (3) The guardian shall have the responsibility to monitor and assist in the submission of application for homestart assistance and for after-care provision.
- (4) Upon the request of the guardian or acting ex officio, the guardianship office may appoint an hoc curator to represent the child if the guardian as legal representative may not represent the child pursuant to the Family Act or if, in matters requiring special expertise, the guardian does not endeavour to represent the child. Application for family allowance, schooling grant or orphan benefit or the placement and management of such in a guardianship authority deposit shall not constitute an issue requiring special expertise.
- (5) The guardianship office shall appoint the ad hoc curator primarily from among the staff of the district professional child protection service or, if the children's home or foster parent network is maintained or operated by entities other than a state body, the staff of the operator entrusted with such function.
- (6) The guardian shall not represent the child in proceedings relating to supervised care. The public guardianship authority shall appoint the children's advocate as representative of the child,.

# Management of the property of the child

- (1) If a foster parent acts a guardian, the guardianship office may authorise the guardian, upon his or her request, to perform tasks of management of the assets of the child.
- (2) No authorisation of the guardianship office shall be required for the validity of legal representations aimed at the conclusion of minor agreements for usual everyday necessities.

- (3) The authorisation of the guardianship office concerning asset management may pertain to the entirety of assets or a specific category of issues.
- (4) The guardian authorised to manage the assets of a child shall have the right and obligation to protect the interest of the child in his or her sphere of duties, to assure the appropriate exploitation of assets and to discharge matters in accordance with the rules of due care and caution.
  - (5) The guardian shall take over the assets of the child based on an inventory.
- (6) The child shall not be obliged to contribute to the expenditures of the household of the foster parent from his or her own earnings, and the guardian shall not require the child to reimburse him or her for the expenditures incurred during his or her activities.

- (1) If the guardianship office did not authorise the guardian to manage the assets of the child, it shall appoint an ad hoc asset conservator primarily from among the staff of the district professional child protection service or, if the children's home or foster parent network is maintained or operated by entities other than a state body, the staff of the operator entrusted with such function.
- (2) The guardianship office shall assess the ad hoc, regular and final settlement of accounts of the guardian or asset conservator.

# Legal status of the legal guardian

#### **Section 90**

If a legal guardian as specified in Section 84 (3) acts as guardian, his or her responsibilities shall be governed by the provisions concerning guardianship of the Family Act, with the derogations specified in Section 85 (3)-(8) and in Section 91.

#### Section 91

- (1) If a legal guardian performs the functions of guardian, the responsibilities relating to the nursing and fostering of the child shall be performed by the foster parent, children's home or home for the disabled or for psychiatric patients.
- (2) The legal guardian shall not have the right of placement of the child, and he or she may alter the place of abode of the child as defined in Section 83 (6) b) and c) exclusively with the permission of the guardianship office.
- (3) The guardianship office shall appoint, ex officio or upon the request of the legal guardian, an ad hoc curator to represent the child if the legal guardian as legal representative may not represent the child pursuant to the Family Act.
- (4) The legal guardian shall have the obligation of assisting in the submission of application for home-start assistance and for after-care provision, and the monitoring thereof.
- (5) The legal guardian shall not require the child to reimburse the expenditures incurred in the course of his or her activities.

# Chapter XIII

#### After-care

- (1) Following the termination of short-term or long-term foster care, except if the child has been adopted, the guardianship office shall order the after-care of the child or young adult for a period of at least one year, provided that such young adult himself requests after-care.
- (2) The purpose of after-care is to assist the child or young adult in reintegration into the family environment and in starting independent living.
- (3) After-care to a child shall be provided by the child welfare service with jurisdiction at the place of residence of the child, and after-care to a young adult by the children's home, the operator of the foster parent network or, in case of a child placed in a home for disabled or psychiatric patients under the scope of the Welfare Act, by the district professional child protection service.
- (4) Volunteers, non-governmental organisations, foundations and church legal entities may also be involved in the provision of after-care.

- (5) The guardianship office shall re-institute after-care upon the submission of an application for home-start assistance; in such instance primarily the former after-carer of the young adult or, failing that, the after-carer of the district professional child protection service with competence at the place of residence of the young adult shall be appointed.
- (6) The guardianship office shall extend after-care until the date of settlement with the home-start assistance disbursed during the term of such after-care.

# **After-care provision**

#### Section 93

- (1) Upon the request of a young adult or, prior to the majority of the child, taking into consideration the recommendation of the guardian (legal guardian), the guardianship office shall order after-care provision if the short-term or long-term foster care of the child or young adult was terminated upon his or her attaining majority and
  - a) he or she is unable to independently provide for his or her livelihood, or
- b) he or she pursues studies qualifying as full time studies or pursues full time studies in an institution of higher education,
  - c) he or she awaits admission into a residential social institution.

d)

- (2) A young adult may request after-care provision until the age of twenty-four.
- (3) For the purposes of subsection (1) a) and d), the livelihood of the young adult is not assured if
- a) his or her monthly income does not exceed three times the minimum old age pension, or
- b) at the time of attaining majority, the cash assets made available to him or her do not exceed forty times the minimum old age pension,

provided that his or her residence is not assured in his or her own residential environment or that of a close relative.

- (4) The guardianship office shall order the after-care provision of a young adult who received home start assistance if such young adult is in an extraordinary life situation jeopardising his or her livelihood or housing.
- (5) Prior to ordering after-care provision, the guardianship office shall request a statement of admission from the foster parent, children's home or after-care home ensuring such provision or a statement of the district professional child protection service concerning an external facility. If a statement of admission is denied, the pubic guardianship office shall seek the opinion of the interest representation forum of the institution.
- (6) After-care provision may be ordered repeatedly before the twenty-fourth year of age of the young adult. Such repeated order shall not be possible where the after-care provision was terminated pursuant to subsection (10) c) or d), and one year has not elapsed from the terminating resolution becoming final and enforceable.
- (7) A young adult receiving after-care provision, not pursuing full time studies in an education institution and fit to work shall cooperate with the county or metropolitan labour centre.
- (8) The provider of after-care shall contact, within fifteen days of the receipt of the resolution of the guardianship office on after-care provision, the guardianship office with jurisdiction and initiate the termination of care if the young adult fails to make use of the provision and fails to notify the provider of care about the reasons.
  - (9) After-care provision shall be terminated
- a) upon the end of the time period, as defined in the house rules, following the notification of the young adult about the termination of care,
- b) when the young adult reaches the age of twenty-four, or, in case of a young adult pursuing full time studies in a higher education institution, upon the completion of studies but not later than on his or her twenty-fifth birthday.
  - (10) The guardianship office shall terminate after-care provision if
  - a) the criteria for the care for the young adult no longer apply,
  - b) the young adult is provided care by a residential social institution,
- c) the young adult exhibits unacceptable conduct against his or her foster parent or other provider of after-care which severely infringes the rules of coexistence,
- d) the young adult repeatedly and severely violates the house rules and the interest representation forum of the institution agrees to the termination of care.

#### PART FOUR

# PERFORMANCE AND CONTROL OF CHILD PROTECTION ACTIVITIES

# Chapter XIV

# Responsibilities of the local government

# Responsibilities of the municipal government

#### **Section 94**

- (1) The municipal government or, in the capital, the Budapest district government shall have the responsibility to establish and operate the local system of child protection and to organise the care for children living in its area of jurisdiction.
- (2) In accordance with the provisions of this Act, the municipal government shall provide the extraordinary child protection benefit, as well as, within basic provisions assuring personal care and taking into consideration subsections (3)-(4) below, the child welfare services, care for children during the daytime, short-term foster care of children, and organise and mediate access to provisions available elsewhere.
  - (3) A municipal government or, in Budapest, a district government in the territory of which
  - a) over ten thousand permanent residents live shall operate a day nursery,
- b) over twenty thousand permanent residents live shall operate, in addition to the items listed in point a), a temporary home of children,
- c) over thirty thousand permanent residents live shall operate, in addition to the items listed in points a) and b), a temporary home of families,
- d) over forty thousand permanent residents live shall operate, in addition to the items listed in points a)-c), a child welfare centre [section 40 (3)]
  - (4) A city of county rank shall operate a child welfare centre irrespective of its number of residents.
- (5) The area of service provision of the institutions maintained by the municipal government shall cover the inhabitants of the municipality concerned except where the institution is maintained jointly in the framework of an association or where the municipal government has agreed, in a contract, to provide services to the inhabitants of other municipalities.
- (6) If the area of service provision of the institution extends beyond the jurisdiction of the backing local government, services shall be provided with identical terms and conditions to all beneficiaries, except where agreed otherwise. This provision shall also be applicable to the termination of services.
- (7) A municipal government maintaining an institution shall not deny the request of another municipal government which has no such assure provision if such provisions are already assured upon the entity into force of this Act or pursuant to a separate agreement.

#### Section 94/A

Municipal governments may also assure basic child welfare provisions involving personal care, in particular the operation of a day nursery, temporary home of children, temporary family home and child welfare centre, through a micro-regional association as specified in a separate legal regulation.

# Responsibilities of the county and metropolitan governments and governments of cities with county rank

#### **Section 95**

(1) The county and metropolitan governments and, over and above the tasks specified in Section 94 (2), the governments of cities with county rank shall assure, in accordance with the provisions of this Act, care providing

a home and after-care provision, and the county and metropolitan governments shall assure district professional child protection service provision.

- (2) The area of service of institutions providing a home or after-care provision backed by the county or metropolitan government shall cover the county, with the exception of the territory of cities with county rank, and the capital city, respectively.
- (3) The agreement between the metropolitan government and the metropolitan district government may provide that the metropolitan government shall assure the forms of temporary care for children as defined in this Act

# Manner of performing tasks

- (1) A local government shall assure personal care provision as defined in this Act in accordance with Section 81 (1) of Act LXV of 1990 on Local Governments (hereinafter referred to as 'LG Act') and, taking into consideration the service obligation of institutions covering the jurisdiction of more than one local governments and Section 94/A, through a service contract concluded with other entities or persons or in an association.
- (2) During the definition of the service area of institutions consideration shall be given to the requirement that, as much as possible, the distance between the institution and the residence of care recipients shall not exceed fifty kilometres.
- (3) A multipurpose institution may be established if the financial, personal and material conditions of establishment and of operation are separately assured for the performance of each task.
- (4) Jointly managed child welfare and/or child protection institutions shall perform the tasks of different types of institutions in organisationally and professionally independent units.
- (5) In an institution specified in subsection (4) above, a unit providing functions relating to the care for and fostering of children but not constituting child welfare or child protection activities may also be operated, in particular a family support service or family protection service, child nurse service, family paediatrician service as well as units providing kindergarten or elementary school education and instruction, dormitory services and educational counselling.
- (6) The local government shall prepare, by 31 May every year, a comprehensive assessment of the performance of its child welfare and child protection tasks, with the content specified in a separate legal regulation, which the representative body or the assembly shall discuss. Such assessment shall be forwarded to the county guardianship office. The county guardianship office may, within thirty days of the receipt of the assessment, make recommendations to the local government. The local government shall consider on its merits the recommendations of the county guardianship office within sixty days, and inform the guardianship office about its position and any measure taken.
- (7) The maintainer shall initiate at the county guardianship office the designation, from among child welfare services and group homes possessing a license for providing personal care, of an institution performing methodological functions, with the proviso that there may be one methodological institute in a county and two in the capital city for each type of care provision. Such designation shall be for a term of five years; subsequently, the institution may be designated again.
- (8) The Minister for youth, family, social affairs and equal opportunities shall, through a tender and with the consent of the backer, designate
- a) an institution performing regional methodological functions from among the institution providing day care to children and children's homes.
- b) an institution performing methodological functions with national competence from among homes providing short-term foster care, foster parent networks, special children's homes, district professional child protection services as well as organisations providing innovative child welfare and child protection services as their core activity which have legal personality and possess an operating license.
- Such designation shall be for a term of five years, subsequently, the institution may be designated again.
  - (9) Within its scope of responsibilities, the designated methodological institution shall
  - a) participate in the elaboration of quality development principles,
- b) prepare recommendations, in respect of the designated tasks, for the application of more efficient service methods,
- c) assist with consultancy the professional work of the providers of child welfare and child protection services in its territory with respect to its designated tasks,
- d) participate as expert in the professional supervision of providers of child welfare and child protection services and in the assessment of professional programmes,
  - e) initiate the further training and exchange of experiences of persons working in the child protection system.

#### Service contract

#### Section 97

- (1) The local government or government entity may assure the provision of personal care as defined in this Act or of certain clearly definable and separable tasks though a service contract concluded with a non-government agency.
- (2) If, pursuant to a service contract, a non-government agency with religious or ideological affiliation participates in the performance of a task, the conclusion of the contract shall not relieve the local government or government entity from the service obligation in respect of a child whose parent does not whish to make use to the service provided by such non-government agency.
- (3) The parties shall be free to decide the contents of the service contract at their discretion with the proviso that such contract shall contain, over and above the items listed in Section 121 of the Welfare Act,
  - a) the term of the contract, which may not be less than 5 years in case of residential children's institutions,
- b) the representation of the non-government agency providing the service with respect to the knowledge of and compliance with the record keeping obligation, data management and data protection rules.
  - (4) The conclusion of the service contract shall be published in the locally customary manner.
- (5) The representative body of the local government shall not delegate the right of concluding, amending or terminating service contracts.

# Licensing of the operation of providers of child welfare and child protection services

#### Section 98

- (1) Any natural person, legal entity or unincorporated economic association specified in Section 5 s) who (which) possesses the personal and material conditions specified in this Act and in a separate legal regulation may pursue child welfare and child protection service activities and may, to that end, establish institutions, employ surrogate parents and operate surrogate parent or foster parent networks.
- (2) Such services that are delegated by a legal regulation into the exclusive competence of a government agency shall not be performed in the framework of child protection services.

#### Section 99

- (1) Child welfare and child protection service provision shall satisfy the requirements set out in this Act and in professional standards.
- (2) Services in the framework of child welfare and child protection activities may be provided exclusively by persons possessing qualifications specified in a separate legal regulation.

- (1) Child welfare and child protection activities shall be subject to an operating license. The detailed rules of the issue of an operating license shall be set out in a separate legal regulation.
  - (2) Upon the request of the backer, the decision on the issue of the operating license shall be adopted
- a) in the case of child welfare services and day care of children, by the notary of the town, metropolitan district with jurisdiction over the head office or local office of the service provider (institution), as specified in a separate legal regulation, or of the village government of the seat of the micro-region as defined in a separate Act,
- b) in case of a surrogate parent network, foster parent network or after-care service provided in an external facility, by the county guardianship office with jurisdiction over the head office of the operator,
- c) in case of a service provider not covered in points a)-b), by the county guardianship office with jurisdiction over the head office or local office of the service provider (institution) (hereinafter the entities covered by points a)-c) collectively referred to as 'licensing entity').
- (3) The licensing entity shall ascertain whether the service is provided in compliance with the operating license and legal regulations.
- (4) The licensing entity shall revoke the operating license as regulated in a separate legal regulation if the service provision fails to comply with the requirements set out in legal regulations or in the operating license.

# Chapter XV

# Tasks of the Minister of Youth, Family, Social Affairs and Equal Opportunities

#### Section 101

- (1) The Minister of youth, family, social affairs and equal opportunities shall be responsible for the sectoral control of child protection functions.
- (2) In his or her sectoral control competence, the Minister of youth, family, social affairs and equal opportunities shall
- a) determine the professional and qualification requirements for child protection functions and the procedure of the compliance and professional supervision of such functions,
  - b) establish and maintain the national professional institutes and colleges,
  - c) perform functions relating to the professional supervision and management of guardianship offices,
  - d) designate institutions responsible for national and regional methodological tasks,
- e) assure the conditions necessary for scientific research into the protection of children and for the development of international relations,
- f) initiate, in cooperation with the other ministers concerned, the adoption of measures for the care of Hungarian citizen children left unattended abroad,
- g) coordinate and organise the record-keeping and information systems necessary for the management and uniform operation of the child protection system,
  - h) provide for the operation of the national child protection expert committee,

i)

- *j*) provide for the operation of the national adoption register.
- (3) The Minister of youth, family, social affairs and equal opportunities shall provide for the requisite conditions for the care of children
  - a) exhibiting psychic or dissocial symptoms or suffering from psychoactive substance abuse, or
- b) suffering from acquired immune deficiency syndrome not necessitating medical attendance but requiring individual care
- in short-term or long-term foster care provided that, according to the opinion of the national child protection expert committee, their care cannot be assured elsewhere or that their separate placement is required. To this end, the Minister shall maintain special children's homes.
- (4) The Minister of youth, family, social affairs and equal opportunities shall organise care for foreign citizen children staying in Hungary without parental supervision and, to that end, he or she may maintain a children's home in the event that a child protection institution must be designated for such child as a mandatory residence pursuant to a separate legal regulation.
- (5) The Minister of youth, family, social affairs and equal opportunities shall provide for the conditions of education of juvenile offenders sentenced by the court to a correctional institution or accommodated in such institution during their pre-trial detention; to that end, the Minister shall maintain correctional institutions and, in conjunction with the Minister of Justice, perform tasks relating to their supervision.

(6)

# The National Family and Social Policy Institute

- (1) The National Family and Social Policy Institute is a further training, scientific and methodological institution. The Institute shall engage in methodological activities and perform special tasks and services relating to child welfare and child protection professional supervision, the support of scientific research and international relations as well as other tasks delegated into its competence by a separate legal regulation.
- (2) The training of persons undertaking tasks of professional curator and further training of professional curators shall be organised by the metropolitan or county guardianship office.
- (3) The particulars of persons successfully completing professional curator training or further training shall be registered by the National Family and Social Policy Institute. The Register shall contain the following particulars:
  - a) name as well as place and date of birth of the professional curator, mother's name;
  - b) name and address of employer;
  - c) start date of employment;
  - d) number of certificate of training, place and date of issue, and name of the issuing institution;

- e) particulars of further training completed as required by legal regulations.
- (4) The county guardianship office shall inform the entity maintaining the register about
- a) the hiring of a professional curator by providing the data specified in subsection (3) above, as well as
- b) any changes in the registered particulars.

The county guardianship office shall communicate such data within 30 days of the start of employment or of the date of data change.

- (5) The National Family and Social Policy Institute shall delete from the register the particulars of a professional curator
  - a) who has died,
  - b) in respect of whom disqualifying reasons as defined in an Act arise in the course of his activities,
- c) who no longer has employment relationship, public service relationship or other legal relationship aimed at employment with the municipal government with jurisdiction at the head office of the appointing guardianship office
- (6) Data may be released from the register, in compliance with data protection regulations, to the registered person, the county guardianship office and to persons performing scientific or statistical data processing.

#### **Section 103**

# **National Directory of Child Protection Experts**

#### Section 103/A

- (1) The National Directory of Child Protection Experts (hereinafter referred to as 'Directory') shall contain the name, area of expertise, address and employer of those who may participate in the professional supervision of providers of child welfare and child protections services, in the assessment of professional programmes and in the evaluation, requiring special expertise, of material facts or circumstances relating to the personality of the child in child protection or guardianship proceedings.
- (2) Those persons shall be eligible for entry into the Directory who have a clean criminal record and possess specialised tertiary qualification or education as defined in a separate legal regulation and at least five years of experience in their field of expertise and are recognised representatives of their field of expertise.
- (3) Entry into the Directory shall be through an application procedure. Entry into the Directory shall be for a term of five years, which may be renewed repeatedly. Any applicant may specify no more than two areas of expertise.
- (4) The terms of application shall be published in the official gazette of the Ministry of Youth, Family, Social Affairs and Equal Opportunities . Applications shall be submitted to the National Family and Social Policy Institute. The Institute shall provide for the maintaining of the Directory. The detailed rules of the admission procedure into the Directory shall be laid down in a separate legal regulation.

# Chapter XVI

# The tasks and powers of the backer

- (1) The backer of a government or non-government institution providing child welfare and child protection services shall
- a) decide about the charter of the institution, its financial management powers, reorganisation, termination, amendment of its scope of activities and the selection of its name,
  - b) establish the budget of the institution as well as the fees payable for its services,
  - c) supervise the financial management of the institution and the legality of its operation,
  - d) approve the rules of organisation and operation of the institution and its professional programme,
- e) control and, once a year, evaluate the effectiveness of the professional work, the implementation of the professional programme as well as the regularity and effectiveness of financial management,
  - f) provide for the training and further training of experts
  - g) exercise employer's rights over the head of the institution,

- h) provide for the conditions for the establishment of the interest representation forum,
- i) seek the opinion of the county guardianship office before adopting material decision relating to the operation of the institution, in particular in case of the abolishment of the institution or the change of its responsibilities,
- *j*) investigate any complaints submitted pursuant to Section 36 (2) and take measures for the elimination of the cause of the complain if required, and inform the licensing entity about such measures.
- (2) The backer of a government or non-government institution may refuse to approve the rules of organisation and operation if they violate any legal regulation. The backer may refuse to approve the professional programme if it fails to comply with the requirements set forth in this Act or in professional regulations.
- (3) In order to assure compliance with legislation, the backer shall control the legality of the house rules and of other internal regulations. As a result of such control, the government or non-government backer shall call on the head of the institution to redress any infringement or, if such measure is ineffective, annul the infringing house rules or other internal regulation.
- (4) The backer of the government or non-government institution shall asses the effectiveness of professional work in particular based on the expert opinion prepared by an expert listed in the Directory, the professional inspection of the county guardianship office and the report prepared by the institution.
- (5) Government and non-government institutions may be obliged to prepare comprehensive, professional and financial reports about their activities once a year.
- (6) The church backer of a child welfare or child protection service provider shall assure, over and above the tasks specified in subsection (1) a), b), f), g) and i),
  - a) the preparation of the rules of operation and organisation and professional programme of the institution,
  - b) the legality of the financial management and operation of the institution.
- (7) The powers of the backer specified in subsections (3) and (5) shall not prejudice the independence of the institution as defined in its professional programme.

#### **PART FIVE**

# THE ORGANISATION AND TASK OF THE CHILD PROTECTION AND GUARDIANSHIP ADMINISTRATION

# Chapter XVII

# Agencies of child protection and guardianship administration

#### **Section 105**

- (1) The supervision of guardianship matters and of the operation of the child protection system shall be a state responsibility.
  - (2) The state shall perform the tasks specified in subsection (1) above through
  - a) the notary of the municipal government,
  - b) the municipal or county guardianship office.

c)

(3) The supervision of the tasks specified in subsection (1) above shall be the responsibility of the Minister of youth, family, social affairs and equal opportunities.

- (1) In child protection and guardianship administration matters,
- a) the notary of the municipal government,
- b) the municipal guardianship office
- shall proceed as the authority of first instance.
- (2) The designated municipal guardianship office and the correspondingly designated municipal or, in the capital city, district government notary shall also exercise its tasks and powers in the municipalities within its jurisdiction as defined in a government decree.
- (3) With the exceptions specified in this Act, the municipal guardianship office shall perform all the tasks delegated by a legal regulation into the competence of the first instance public guardianship authority.

(4) The county guardianship office shall act as the authority of second instance in child protection and guardianship administration matters.

# Chapter XVIII

# The responsibilities and competences of the notary of the municipal government

#### Section 107

- (1) The notary of the municipal government shall
- a) draw up perfect statements of paternity,
- b) in instances specified in a separate legal regulation, appoint a curator ad litem or ad hoc curator, dismiss such appointed curator and establish his or her remuneration,
- c) upon the request of the guardianship office, take inventory and prepare home studies in guardianship and curatorship matters and cooperate in the execution of the resolution of the guardianship office,
  - d) draw up the statement of the parent consenting to the adoption of a child by an unknown person,
  - e) decide about the placement of a child under protection and the termination thereof,
- f) in instances requiring immediate action, place the child with the other parent living apart, other relative or other appropriate person, or with a foster parent or, failing that, in a children's home or a home for the disabled or for psychiatric patients,
  - g) appoint and dismiss an expert pursuant to Section 132 and establish his remuneration,
  - h) extend regular support to eligible children under the terms and conditions specified in this Act,
- i) participate in the enforcement of the child support claim in accordance with the provision of an international treaty.
  - j) participate in the collection of the nursing fee and advanced child support,
  - k) perform other guardianship functions delegated into his authority by an Act or government decree.
- (2) The notary of the designated municipal government or, in the capital city, of the district government shall decide upon the licensing of the operation of the child welfare service provider specified in Section 100 (2) a).

# Chapter XIX

# The responsibilities and competences of the guardianship office

#### **Section 108**

- (1) Within its area of jurisdiction, the guardianship office shall have the responsibilities and competences specified in this Act and in a separate legal regulation.
  - (2) The guardianship office shall
  - a) supervise the provision of personal care,
  - b) supervise the discharge of guardianship administration functions,
  - c) comment on proposals for the reform of the system of care provision,
  - d) participate in the performance of training and further training functions,
  - e) act as first instance authority in matters specified in an Act or government decree,
- f) act as superior organ in guardianship administration regulatory matters specified in an Act or government decree.
  - g) perform other administrative functions delegated to its competence by an Act or government decree.

# The responsibilities and competences of the municipal guardianship office

#### Section 109

In order to ensure the protection of children, the municipal guardianship office shall

- a) place the child temporarily with the other parent living apart, another relative or appropriate person or with a foster parent or, failing that, in a children's home or other residential institution,
  - b) establish the recovery of the right of parental supervision,
  - c) decide about the termination or alteration of temporary placement implemented by another agency,

- d) take the child in short-term foster care, and concurrently appoint a guardian (legal guardian), e) take the child in long-term foster care, and concurrently appoint a guardian (legal guardian), f) decide about the maintenance of contact with a child in short-term or long-term foster care,
- g) monitor the relationship of the child in short-term foster care and the parent, and the cooperation of the parent with the care-giving person or institution,
  - h) decide about the termination of the short-term or long-term foster care of the child,
  - i) decide about the institution of after-care or after-care provision,
  - j) decide about the institution or termination of a nursing fee payment obligation,
  - k) establish the place of residence of the child in short-term or long-term foster care,
  - l) decide about the supervised care of special-needs children in short-term or long-term foster care,
  - m) participate in enforcement procedures ordered by the court.

In respect of cash benefits, the municipal guardianship office shall decide upon

- a) the award of home start assistance,
- b) the advancement of child support.

#### **Section 111**

In order to settle the legal status of the child within the family, the municipal guardianship office shall

- a) draw up perfect statements of paternity,
- b) establish the family and given names of the child,
- c) in case of an incapacitated eligible person, consent to the filing of action for the establishment of family status and simultaneously appoint an ad hoc curator.

#### Section 112

In respect of adoption, the municipal guardianship office

- a) shall decide about the fitness of prospective adoptive parents and, upon request, order the entry into the relevant register of persons fit for adoption,
  - b) shall decide about the designation of a child as adoptable,
- c) shall assess and approve the legal statement of a parent consenting to the adoption of his or her child by an unknown person,
  - d) shall decide about the authorisation of adoption,
  - e) shall decide about the annulment of adoption upon the joint request of the parties,
  - f) upon request, may provide information about the particulars of a biological parent.

#### **Section 113**

- (1) The municipal guardianship office may bring or initiate legal action for
- a) the placement or release of a child,
- b) the enforcement of a support claim in respect of the child,
- c) the termination or restoration of the right of parental supervision,
- d) the annulment of the adoption of a child,
- e) placement under guardianship affecting legal capacity and the termination thereof,
- f) the imposition of financial reporting obligation and establishment of the accuracy of such reporting.
- (2) The municipal guardianship office shall press charges for
- a) the endangerment of a child or failure to provide support, b)
- a crime committed against a child.

#### Section 114

In connection with the right of parental supervision and child support, the municipal guardianship office shall

- a) decide about the maintenance of contact between the parent and child,
- b) provide for the execution of the maintenance of contact as ordered by the court or by the guardianship office.
  - c) decide about the approval necessary for the validity of the legal representation of the parent,
- d) decide about issues within parental supervision where parents exercising joint legal supervision fail to reach agreement,
  - e) approve the acceptance of a child into another family,
  - f) approve affidavits regarding the removal of the child abroad with permanent effect,

- g) authorise the child to leave the home of the parent or other place of abode designated by the parent and, where circumstances change, withdraw such authorisation,
  - h) decide about the authorisation of the marriage of a child,
  - i) proceed in connection with a claim for child support of a person living or residing abroad,
- *j)* authorise the employment of a child subject to compulsory school attendance in the field of artistic, sporting, modelling or advertising activities.

In connection with guardianship and curatorship, the municipal guardianship office shall

- a) appoint a guardian or legal guardian for a child,
- b) appoint a temporary curator, curator or professional curator,
- c) control and supervise the activities of a guardian or legal guardian,
- d) suspend, remove or discharge a guardian or curator,
- e) in instances specified in a separate legal regulation, order sequestration, appoint a sequastrator, appoint and dismiss an ad hoc curator, curator ad litem, and a curator for an incapacitated person and for an unborn child, and establish the remuneration of such persons.

#### **Section 116**

In connection with asset management, the municipal guardianship office

- a) shall decide about the placement of the cash assets of a child or of a person under curatorship in a trust or current account as well as the utilisation of the cash thus placed, the investment thereof into securities with sovereign guarantee or insurance policies, management by a custodian as well as the depositing of other assets into safe custody,
- b) shall decide about the approval of the legal representation of a guardian or curator relating to the management of assets and of rented housing necessary for the validity of such representation,
- c) may exercise regular supervision over asset management where parents fail to perform their duties in respect of the management of the assets of a child,
  - d) shall assess the regular and ad hoc financial reports and, in specified cases, final accounts,
- e) shall participate in matters relating to the movable and immovable property and intangible assets of children and persons under curatorship,
  - f) shall participate in probate proceedings.

## **Section 117**

Pursuant to Section 132, the municipal guardianship office shall appoint and dismiss experts and establish their remuneration.

# The responsibilities and competences of the county guardianship office

#### Section 118

- (1) The county guardianship office shall exercise professional control and supervision of the notaries of municipal governments and municipal guardianship offices within its area of jurisdiction and act as second instance authority in regulatory child protection and guardianship issues of the notaries of municipal governments and municipal guardianship offices.
- (2) The county guardianship office shall, following consultation with the National Family and Social Policy Institute and experts in the Directory, designate, from among institutions responsible for basic child welfare provision and professional child protection provision, the institutions to perform professional methodological functions.
- (3) The county guardianship office, with the participation of the National Family and Social policy Institute or the designated institution performing methodological functions and of an expert in the Directory as required, shall control, in the manner specified in a separate legal regulation, the activities of government and non-government providers of child welfare and child protection services, with the exception of health care professional supervision.

**(4)** 

- (1) In the course of performing its duties specified in Section 118, the county guardianship office shall be entitled to
  - a) request documents and information and gather information on site,
  - b) convene a coordination conference.
- (2) In the event of the violation of a legal regulation, the county guardianship office shall notify the licensing agency and the backer.

#### Section 120

- (1) The county guardianship office shall decide as the authority of first instance about the licensing of the operation of a child protection service specified in Section 100 )2) b).
- (2) In accordance with the instructions of the Minister of youth, family, social affairs and equal opportunities, the county guardianship office shall participate in the organisation of sectoral training and further training.

#### **Section 121**

- (1) With the participation of the National Family and Social Policy Institute, the county guardianship office shall comment on proposals for the reorganisation of the system of care provision of the local governments and initiate the modification of such proposals where appropriate.
  - (2) The local government shall seek the opinion of the county guardianship office in advance where it
- a) intends to close an institution providing personal care or to change the territory supplied or the scope of supply obligation of such institution,
  - b) intends to use the assets serving the operation of the system of care provision for some other purpose,
  - c) intends to introduce some new form of provision not regulated in this Act or in a separate legal regulation.

- (1) The county (metropolitan) guardianship office shall promote and coordinate the launching of programmes to prevent crime or recidivism targeting endangered children or children who committed a crime but are not punishable or children subject to criminal proceedings. For the discharge of such functions, the guardianship office shall employ and child and youth protection coordinator.
  - (2) In order to perform the function specified in subsection (1) above, the county guardianship office shall
- a) request information from the local governments, social organisations and the institutions backed by such about the launch of programmes specified in subsection (1) above, and it shall maintain records of such programmes,
- b) coordinate the crime prevention programmes targeting children launched within the municipality and the county,
- c) cooperate with local governments, social organisations, persons and institutions providing child welfare and child protections services, institutions of public education, the probation service, the police, prosecution, court, as well as institutions working in drug prevention and drug rehabilitation,
- d) participate in the work of the conciliation forum for narcotics issues and the crime prevention council operating in the county.
- e) liase with social organisations participating in victim protection and with the victim protection officer of the police,
- f) act as mediator in respect of programmes and training sessions operating in other counties or initiated by national organisations and provide assistance to participation therein.
- (3) In its annual report, the county guardianship office shall analyse the position of child and juvenile crime and assess crime prevention activities. It shall convene a county coordination meeting, with the participation of stakeholders in crime prevention issues, in order to disclose the report and discuss the tasks of crime prevention.

# Chapter XX

# Main rules of child protection and guardianship administration

#### Section 123

# **General jurisdiction**

#### **Section 124**

- (1) The representative body or notary of the municipal government or the guardianship office (hereinafter referred to as 'proceeding agency') in the territory of which the place of residence of
  - a) the parent or guardian of the child with parental supervision rights
  - b) the incapacitated person or person under curatorship affecting legal capacity,
- c) a person affected by the appointment of a temporary curator or of a sequestrator or by a procedure of placement under curatorship
- is located shall have jurisdiction to proceed.
- (2) If the registered place of residence of parents with joint parental supervision rights is in different jurisdictions, the jurisdiction of the proceeding agency shall be governed by the registered place of residence of the child. If the registered place of residence of the child is different from the place of residence of both parents, the entity in the territory of which the place of residence of the mother is located shall proceed.
- (3) In the absence of a place of residence, the jurisdiction of the proceeding agency shall be determined by the place of abode, as set forth in subsections (1) and (2).
- (4) In the absence of a domestic registered place of residence or place of abode, the jurisdiction of the proceeding agency shall be determined by the last known domestic place of residence or place of abode or, in the absence of such, the notary of the local government of the 5<sup>th</sup> District of Budapest or the Guardianship Office of the 5<sup>th</sup> District of Budapest shall have jurisdiction.

# Other jurisdiction

- (1) The representative body of any municipal government shall provide extraordinary child protection benefit to any child in need if in the absence thereof the delay would endanger the life or physical integrity of the child. The municipal government providing such benefit shall forthwith notify the municipal government with jurisdiction, and may demand the reimbursement of the benefit paid from such government...
- (2) The notary of any municipal government or any guardianship office shall provide for the temporary placement of a child if statutory conditions are satisfied, and notify the guardianship office with jurisdiction forthwith
  - (3) The notary of any municipal government and any guardianship office shall have jurisdiction to
- a) draw up a statement of a parent consenting to the adoption of a child without knowing the identity and personal particulars of the adoptive parent,
- b) draw up a statement of paternity in respect of a child with unsettled family status with the proviso that the registrar with jurisdiction at the place of birth of the child and the notary of the municipal government with jurisdiction at the place of residence shall be notified by sending a copy of such statement to each.
- (4) If the child or incapacitated person or person under curatorship affecting legal capacity has no legal representative or if the identity of such cannot be established, the entity in the territory of which the appointment of a guardian or curator became necessary shall have jurisdiction to proceed.
- (5) The notary of the municipal government of the place of residence of the obligor shall have jurisdiction for the recovery of the nursing fee and of the advanced child support.
- (6) The jurisdiction shall remain unchanged until the conclusion of any judicial proceedings for placement under curatorship.
- (7) The guardianship office in the territory of which the place of residence of the mother is located shall have jurisdiction to appoint a curator for an unborn child.

- (8) It any change occurs in the person of the guardian or curator (ad hoc curator), the former guardian or curator (ad hoc curator) with asset management powers shall submit final accounts to the guardianship office which acquired jurisdiction.
- (9) The notary of the municipal government or the guardianship office in the territory of which the operation of the curator becomes necessary shall have jurisdiction to appoint an ad hoc curator. The establishment of the jurisdiction of the guardianship office entitled to initiate legal action for ruling out alleged paternity shall be governed by the rules set forth in Section 124.
- (10) If a child above sixteen years of age intends to get married, the guardianship office with jurisdiction at the place of residence of either party to the marriage may grant preliminary authorisation, with the proviso that the other guardianship office shall be notified.
- (11) If the child has left the parental home with the permission of the guardianship office, the subsequent jurisdiction of the guardianship office shall be determined by the place of residence of the child.
- (12) In the instance specified in Section 80 (3), the guardianship office with competence at the place of residence of the child shall have jurisdiction for adoption-related proceedings.
- (13) A pregnant woman in a crisis situation who wishes to keep her pregnancy secret from her environment and relatives (hereinafter referred to as 'concealed pregnancy') shall be taken in, upon her request, by any temporary home of families.
- (14) In case of a concealed pregnancy, the guardianship office with competence at the place of birth of the child shall have jurisdiction to conduct the adoption procedure.

- (1) Where statutory conditions are satisfied, the notary of the municipal government with jurisdiction at the actual place of stay of the child shall order the placement of the child under protection and forthwith inform the notary of the municipal government with jurisdiction.
- (2) If the child has been temporarily placed by the guardianship office with the parent living apart, another relative or other suitable person, the jurisdiction shall remain unchanged until the conclusion of the legal action for the custody of the child with a final and enforceable decision.
- (3) If a child has been taken into short-term foster care, the jurisdiction of the guardianship office shall remain unchanged unless the place of residence of the child is altered. If the place of residence of the child is altered, the jurisdiction of the guardianship office shall be determined by the place of residence of the child.
- (4) The jurisdiction of the guardianship office shall remain unchanged during the long-term foster care of the child. The guardianship office ordering placement in long-term foster care shall have jurisdiction to proceed in all issues relating to the child, whether child protection or guardianship matters are concerned.
- (5) In respect of after-care provision to a young adult, the guardianship office which decided upon the legal independence of such young person shall have jurisdiction.

(6)

- (7) If the right of parental supervision of a parent looking after the child has been terminated or suspended, the guardianship office in the territory of which the place of residence of the parent that looked after the child is located shall have jurisdiction to file legal action for the recovery of the parental supervision right of the other parent or for the placement of the child with a third person.
- (8) The guardianship office which filed legal action for the termination of the right of parental supervision shall have jurisdiction to place the child in long-term foster care.
- (9) The guardianship office in the territory of which the place of residence of the prospective adoptive parent is located shall have jurisdiction for the pre-adoption proceedings. If the places of residence of prospective adoptive parents are located within the territory of two different guardianship offices, either guardianship office shall have jurisdiction to proceed upon mutually notifying the other guardianship office.
- (10) If the adopted person is of legal age upon the annulment of adoption, jurisdiction shall be determined by the place of residence of the adopted person or, in the absence of such, by the place of residence of the adopting person.

# Other procedural rules

- (1) Unless a legal regulation provides otherwise, the notary of the municipal government or the guardianship office may start proceedings ex officio in matters within his (its) competence.
- (2) Power of representation in the proceedings shall be certified by a public document [Section 195 (1)-(2) of the CP Act] or a private document of full probative value [Section 196 (1) of the CP Act)].

(1) In guardianship procedures, a hearing shall be granted to the parent and other legal representative, the caregiver, the person of diminished legal capacity and incompetent child in possession of power of judgement, and, in every case, a person on whom an obligation is to be imposed, as well as other close relatives of the child if appropriate. Such hearing may be omitted where the delayed caused by such hearing would result in inevitable damage or danger.

(2)-(5)

#### Section 129

- (1) During the procedure, the proceeding agency shall in every case examine the citizenship, legal status and personal law of the applicant.
- (2) In order to assess eligibility for a benefit, the proceeding agency may oblige the applicant to make representations or present certificates of the property and income of his or her family.
- (3) The parent or other legal representative or caregiver of the child may be obliged to make representations or present certificates concerning his or her or the child's health, employment, pupil or student status.
- (4) In the course of its proceedings, the guardianship office may initiate that the family physician or, in case of severe endangerment, any physician, examine the parent or other legal representative or other relative living with the child who is permanently or periodically mentally incompetent due to an illness or addiction.

#### Section 130

- (1) If the proceeding agency conducts a site inspection to clarify the property, social, health, cultural, housing or other circumstances of the applicant, it shall record all material statements and representations concerning the matter in a report (hereinafter referred to as 'home study').
- (2) The proceeding agency may use, in the proceedings, a home study prepared by some other authority or other entity or person working in family protection, provided that less than 6 months have elapsed since the completion thereof.
- (3) The guardianship office may request the notary of the municipal government to prepare a home study of the circumstances of the application listed in subsection (1) above.
  - (4) The proceeding agency shall prepare home study upon the request of the court or prosecution.
- (5) The recipient of care shall inform the proceeding agency about any change in the material facts or circumstances pertaining to the eligibility criteria within 15 days.

(6)

#### Section 131

- (1) In the case of benefits falling in the jurisdiction of the local government, the content of certificates and representation, the detailed rules of their submission, the detailed assessment criteria and the period applicable to the calculation of income shall be regulated by the local government in a bylaw.
- (2) Unless an Act provides otherwise, the period applicable to the calculation of income shall not exceed three months in case of income that can be measured regularly on a monthly basis, or one year in case of other income.
  - (3) Cash and in-kind benefits, if awarded with final effect, shall accrue as of the submission of the application.
- (4) If, based on information officially received or on the home study, the local government or the notary thereof disputes the contents of the income declaration as defined in Section 129 (2) due to the living conditions of the applicant, it (he or she) may call on the applicant to submit documents certifying the costs of maintenance of the accommodation he or she lives in or of property owned by himself or herself or by a close relative living in the same household. If the costs of maintenance exceed 70% of the income disclosed in the statement of income, the actual income shall be determined taking into consideration the certified costs of maintenance.
- (5) Upon the request of the representative body or notary of the municipal government or of the guardianship office, the competent directorate of the state tax authority shall communicate, within 15 days, the personal income tax base of the parent or other legal representative applying for cash benefits and, pursuant to a written authorisation, of the close relative as defined in Section 19 (4) to be taken into consideration for the calculation of the per capita monthly income.

#### Section 132

(1) If in a particular case special expertise if necessary to assess a material fact or circumstance relating to the personality of the child, an expert shall be contacted primarily from among educational and behavioural counsellors, expert and rehabilitation committees, psychiatric institutions providing professional care, entities engaging in family protection or person in the directory of experts.

- (2) In the instance specified in subsection (1) above, the notary of the municipal government or the guardianship office may oblige the parent or legal representative to visit, together with the child, the entity or person appointed as expert and promote with his or her cooperation the effectiveness of the expert examination.
- (3) The expert and rehabilitation committee as defined in Section 25 of the PE Act or an educational and behavioural counsellor shall issue an opinion in issues whether the child suffers from any physical, sense, mental, speech or other impediment or integration, learning or behavioural disorders.
- (4) The county, metropolitan or national child protection expert committee shall make recommendations concerning the care for a child in short-term or long-term foster care exhibiting severe psychic or dissocial symptoms or suffering from psychoactive substance abuse as well as the mode and form of such care. The detailed rules of the procedure of such expert committee shall be laid down in a separate legal regulation.
- (5) Children shall be placed in a home of disabled or of psychiatric patients under the scope of the Welfare Act under the terms and conditions set forth in the Welfare Act.
- (6) The guardianship office may, in order to resolve any conflict arising in proceedings for the regulation of the maintenance of contact between a child and his or her relatives or for the enforcement thereof, initiate that the conflict is resolved in the framework of a mediation procedure. The rules of the mediation procedure shall be set out in a separate legal regulation.

- (1) Any benefit provided in the absence of criteria set forth in this Act or in violation of the provision of this Act shall be terminated.
- (2) Persons making use of benefits illegitimately and in bad faith shall be obliged to repay cash benefits or, in case of an in-kind benefit, to pay the cash value, or, in case of personal care, to pay the service fee of the institution (hereinafter referred to as 'reimbursement').
- (3) Reimbursement for continuously provided benefits shall be ordered retrospectively for a maximum of one year.
- (4) The proceeding agency may order the reimbursement of a provision within 3 months of taking cognisance of the illegitimacy of its use. No reimbursement shall be ordered if one year has passed since the use or termination of the provision.
  - (5) The proceeding agency may reduce or waive reimbursement for reasons of equity.

#### Section 133/A

- (1) With the exceptions provided in subsections (2)-(5), the costs of the guardianship procedure shall be borne by the proceeding agency. In case of regulatory issues relating to child protection care, the costs of the procedure shall always be borne by the proceeding agency.
- (2) If a procedure had to be initiated due to an infringement, the person to whom the infringement is attributable shall bear the costs of the procedure.
  - (3) The costs of the procedure shall be borne by the client in
  - a) adoption procedures,
- b) property-related issues commenced upon an application where the value at issue exceeds one hundred times the minimum effective old age pension,
  - c) contact maintenance cases.
- (4) In cases described in subsection (3) above, where an expert is appointed, the guardianship authority may oblige the client to advance the expert fee.
- (5) If costs were incurred for reasons attributable to the parties, the party to whom such costs are attributable shall bear the costs.

#### PART SIX

#### **MISCELLANEOUS PROVISIONS**

# Chapter XXI

# Data management

#### General rules

#### Section 134

- (1) A government or non-government agency with responsibilities and competences to protect children (hereinafter referred to as 'data manager') may manage, in order to perform the functions specified in this Act, the personal data listed in Sections 135-136 that are indispensable for attaining the objectives specified therein.
  - (2) The data manager shall assure that, in order to protect personal data,
- a) the affected person may, except where an Act provides otherwise, access his or her data and exercise his or her right to their correction or deletion,
- b) the stored data are deleted where the reason for their storage no longer exists pursuant to the provisions of this Act.
- (3) The data manager shall assure the protection of data against accidental or intentional obliteration or destruction, alteration or disclosure as well as the prevention of access by unauthorized agencies or persons.
- (4) Pursuant to the authorisation of this Act, the agency authorised to manage data may use or release such, without personal identification data, for statistical purposes.
- (5) In the course of child protection and guardianship administration procedures, the agency with jurisdiction may request data, in order to establish eligibility, from the agency maintaining records of the personal particulars and addresses of citizens.
- (6) In the manner and to the extent specified in this Act, the Minister of youth, family, social affairs and equal opportunities, the local government, the agency with child protection and guardianship administration powers or social powers, a person or institution providing personal care, institutions of public or higher education, judicial and real property registration agencies, as well as financial institutions, foreign authorities and courts shall be entitled to use personal data.
- (7) In other respects, the data management required pursuant to this Act and the protection of data shall be governed by the provisions of Act LXIII of 1992 on the protection of personal data and the disclosure of data of public relevance.

- (1) In order to promote the enforcement of the rights set forth in this Act, the following entities and persons shall be authorised to manage the data specified in subsection (2) below in the course of extending the provisions and taking the measures specified in Section 15 (1)-(4) and the control and safeguarding thereof:
- a) the agencies and persons with regulatory responsibilities and competences of child protection (Section 16),
  - b) the metropolitan chief notary,
- c) the head of a service or institution providing child welfare basic provision or child protection professional provision,
  - d) the surrogate parent or foster parent,
- e) the children's advocate and, if indispensable for redressing the complain of a child, the patient's advocate or care recipients' advocate.
  - (2) The entities listed in subsection (1) above shall be entitled to manage the following data:
  - a) in respect of the child:
  - aa) personal identification data,
  - ab) data concerning the child's mother tongue,
  - ac) data concerning the child's family status,
- ad) data necessary and sufficient to establish endangerment, in particular concerning the child's financial position, environment, food, clothing and living conditions,
- *ae*) data necessary and sufficient for the child's adequate care and nursing, in particular relating to his or her personality, behaviour, personal relations, habits, school achievement and social level,

- af) data concerning the child's health status,
- ag) data concerning the child's clean criminal record or any proceeding or decision of an authority or court relating to him or her,

dta relating to any addiction,

- b) in respect of the parent, legal representative, surrogate parent, foster parent:
- ba) personal identification data,
- bb) data concerning his or her financial position, employment, qualification and relations,
- bc) data relating to child raising, in particular to the his or her life style and child raising practices,
- bd) data relating to his or her health,
- be) data relating to his or her clean criminal record;
- c) in respect of the
- ca) child's siblings, the personal identification data,
- cb) child's own child, the personal identification data,
- cc) child's relative entitled to maintain contact, the personal identification data,
- *cd*) persons habitually residing at the place of residence of the child, personal identification data and data pertaining to their personal circumstances,
- ce) persons significant for the planning of the future of the child, in particular former caregivers and neighbours, contact information,
- cf) the child's family physician, district nurse and, if the child attends a kindergarten or school, the head of the public education institution, contact information
- (3) The entities and persons providing personal care as defined in subsection (1) above shall plan the upbringing of the child based on a home study, placement proposal, individual placement plan and individual nursing-fostering plan, as defined in a separate legal regulation, with the data content specified in subsections (1) and (2). The exact content of the data categories set forth in subsection (2) above shall be recorded in the child protection register regulated in a separate legal regulation.
- (4) Over and above the data specified in subsection (2) above, data relating to a crime committed by a child or adolescent or a crime committed by the parent or other legal representative to the injury of the child may be managed by the child welfare service, the notary of the municipal government, as well as the guardianship office in the course of assuring the provisions and taking the measures specified in Section 15 (2)-(4).
- (5) The personal identification data of an adoptive parent or a person accepting a child into a family as well as the data relating to the health and financial position of such persons may be managed by the district professional child protection service and the guardianship office.
- (6) The entities and persons listed in subsection (1) above may release to each other the personal identification data of the affected persons as well as the data of the child specified in subsection (2) above for the purposes defined in Section 15 (1)-(4).

- (1) The personal identification data of the child as well as
- a) data relating to real property in case of any change in title to real property may be passed on the agencies of real estate registration,
- b) data relating to cash assets may be forwarded to a financial institution for the purpose of the management a trust deposit or current account or the conclusion of other contracts.
- (2) The personal identification data of the child and the data relating to the health and financial conditions of the child may be passed on
  - a) to the agency exercising social jurisdiction for the purpose of establishing social benefits,
- b) to the police, prosecution, court, forensic expert for the purposes of law enforcement, crime prevention or court proceedings,
- c) to a foreign authority or court for purposes of establishing family status, child support, maintenance of contact, guardianship, adoption, preliminary injunction or the termination of the abduction of a child to a foreign country.
  - (3) Over and above the personal identification data of the child, data
- a) relating to the health status of the child may be released to the agencies of defence administration for purposes of compulsory military service,
  - b) relating to health status may be released to a health institutions for purposes of medical treatment,
  - c) relating to educational attainment may be released to a public education or higher education institution.
- (4) The personal identification data of a parent or other legal representative as well as data relating to the health and financial condition thereof may be released to the agencies specified in subsections (1)-(3).
- (5) If there is a criminal procedure ongoing against the parent on account of a crime committed against a child or against the other parent looking after the child, the guardianship authority or the employee or head of a child

welfare or child protection service providing personal care may, in respect of the place of abode of the child and of the parent looking after the child

- a) refuse to provide any information to the parent,
- b) restrict the right of the parent to access documents.
- (6) The restriction provided for in subsection (5) above shall be reviewed upon the termination of the criminal proceedings.

# **Record keeping**

#### Section 137

- (1) Institutions and persons providing care shall maintain the records set forth in this Act, and supply the data specified in the National Statistical Data Collection Programme and in the bylaw of the local government.
- (2) The National Family and Social Policy Institute shall assure the keeping of the operation register, as defined in the Welfare Act, of the data of persons performing child welfare and child protection activities providing personal care and possessing professional qualifications specified in a separate legal regulation.
- (3) Pursuant to a separate legal regulation, the National Family and Social Policy Institute shall maintain a national register of the service providers and institutions providing services, as well as the surrogate parent and foster parent networks.
- (4) Any data storage device or technique which assures the protection required in Section 134 (3) may be used as record keeping media.

#### **Section 138**

- (1) The notary shall maintain records to facilitate the establishment, alteration or termination of eligibility to for care provision. Such records shall contain
- a) the natural identification data of the child, parent, other legal representative or person obliged to maintain the child.
- b) in case of a person referred to in Section 4 (1) b), the legal title of stay in Hungary and, in case of a relative, the relationship,
  - c) data relating to eligibility criteria and any changes thereof,
  - d) decisions relating to care provision,
  - e) income figures necessary for establishing eligibility and service fees.
- (2) The notary shall maintain records about children placed under protection with regulatory measures. Such records shall contain
  - a) the data specified in subsection (1) a),
  - b) data regarding the child's health and social level,
  - c) the decision on the regulatory measure and the date thereof,
  - d) the date and outcome of the review of the regulatory measure.
- (3) The notary shall maintain records about the decisions concerning the regulatory procedure in respect of children registered without their parents' data, over and above the data specified in subsection (1) a).
- (4) The notary of the municipal government or, in the capital city, of the district government shall maintain records about child welfare service activities authorised by such notary as well as decisions relating to control.

#### Section 139

The caregiver or the head of the institution shall maintain records about persons receiving personal care. Such records shall contain

- a) the data specified in Section 138 (1) and (2),
- b) the date of the use and termination of care,
- c) data relating to the payment or non-payment, collection and prescription of the service fee or nursing fee.

- (1) The municipal guardianship office shall maintain records about
- a) cash benefits awarded and paid by the guardianship office,
- b) children temporarily placed or taken into short-term or long-term foster care as well as persons under guardianship and curatorship, with the data content set forth in Section 139,

- c) any property of the persons specified in points a) and b) and of children which is not managed by a parent, which is under the regular supervision of the guardianship office or surrendered to the guardianship office,
  - d) children with property, in accordance with the date of attaining legal age.
- (2) The guardianship office of the 5<sup>th</sup> district of Budapest shall maintain records about foreign citizen children temporarily placed, excluding persons specified in Section 4 (1) b), and regularly inform the Minister of youth, family, social affairs and equal opportunities about the data therein and changes thereof. Such records shall contain the data specified in Section 139.
- (3) The county guardianship office shall maintain uniform records about child protection services authorised by such guardianship office and decisions relating to their control.
- (4) The county guardianship office shall maintain uniform records about adolescents under its probation supervision, with data content specified in Section 138 (1) a) and (2)...

- (1) The head of the district professional child protection service shall maintain records on
- a) children placed with foster parents, in children's homes or in homes for disabled or for psychiatric patients as well as on vacancies.
  - b) foster parents and children's homes providing care to temporarily placed children,
- c) children designated as adoptable and adoptable children, as well as prospective adoptive parents, with the data content specified in Section 136 (5).
  - d) persons designated by such service as qualified for ad hoc curator or legal guardian functions,
- e) days of care of children temporarily placed in an institution operated by a government or non-government backer or with foster parents, or taken in short-term or long-term foster care, as well as of young adults receiving after-care provision or after-care.
- (2) Upon request, the district professional child protection service shall inform the parents and prospective adoptive parents about the records specified in subsection (1) c), except in case of secret adoption.
- (3) The district professional child protection service shall inform the county guardianship office, on a quarterly basis, about the records specified in subsection (1) a b and (1) a b and (2) a b and (3) a -
- (4) The district professional child protection service shall continuously forward the data in the records specified in subsection (1) c) and any changes therein to the national adoption register maintained by the National Family and Social Policy Institute.

#### Section 142

- (1) Unless an Act provides otherwise, data of a particular person shall be deleted from the records maintained pursuant to Sections 138-141 after 25 years have elapsed from entitlement or from the majority of the child.
- (2) The provisions of Sections 138-141 shall also be applicable to the assumption of the organisation of personal care by a non-government agency from the local government and to records maintained about provisions within the responsibilities and competences of the representative body or notary of the local government but not regulated by an Act.

# Chapter XXII

# Main rules of financing the protection of children

- (1) The funding necessary for the operation of the child protection system shall be provided by the contribution of the central budget and of the local government, supplemented by the service fee and nursing fee paid by the applicant.
- (2) The state shall contribute to expenditures of cash and in-kind benefits awarded and extended by the local government as well as to the costs of operation and development of forms of personal care backed by the local government.
  - (3) The state shall contribute to the performance of duties by the local government through
- a) a differentiated social and child welfare normative government grant payable in respect of permanent residents (hereinafter referred to as 'social and child welfare normative grant'),
  - b) normative government grant payable in respect of children looked after in the institutions maintained,

- c) normative government grant payable in respect of children temporarily placed pursuant to a resolution of the notary of the municipal government or of the guardianship office and children taken in short-term or long-term foster care, as well as in respect of formerly fostered young adults,
  - d) earmarked grants for particular purposes.
- (4) The amount of the social and child welfare normative grant shall vary as a function of the social situation of the population living in the territory of the municipal government and on the number of permanent resident children. The indicators serving as the basis for such differentiation shall be determined annually in the Budget Act.
- (5) The mode and extent of support through the normative government grants as appropriate for professional objectives shall be specified in the Budget Act.

- (1) The central budget shall provide full funding for the advancement of child support and for home start assistance by extending an advance.
- (2) The promotion of the forms of care specified for the local government and of the development and modernisation enabling the local government to meet its obligations set forth in this Act shall be assisted by the launch of professional programmes.

#### Section 145

- (1) The following entities providing child welfare or child protection personal care and performing public functions shall be entitled to the normative grant as specified in a separate Act:
  - a) church legal entity,
  - b) foundation,
  - c) public foundation,
  - d) non-profit organisation,
  - e) social organisation,
  - f) sole proprietorship or business association.
- (2) The normative government grants for child welfare or child protection personal care shall be requested and disbursed in accordance with the provisions of a government decree. Disbursement shall be conditional on the compliance of the operation and activities of the care provision and the service fee payable to the institution with legislative provisions.

#### Service fees

- (1) Unless this Act provides otherwise, service fees shall be payable for the day-time care provision to children, temporary care of children as well as after-care provision to young adults provided in the framework of personal care child welfare basic provision or child protection professional provision.
  - (2) In accordance with the provisions of this Act, the personal service fee shall be paid to the institution by
  - a) the entitled person of legal age who uses the service,
  - b) the parent or other legal representative with parental supervision rights in case of a child using the service,
  - c) the legal representative in case of a person under curatorship using the service.
- (3) With the exception of meals provided in the framework of the day-time care provision to children, the regular monthly income of the entitled person using the service or, in case of a child, of the parent or other legal representative, shall be taken into consideration for the establishment of the personal service fee payable for personal care basic provisions.
- (4) The rules governing meals in the framework of day-time provision for children shall be applicable to meals provided in
  - a) a day or week nursery,
  - b) out-of-school care,
  - c) a kindergarten,
  - d) a summer day-care centre or day-care camp,
- e) student hostel or dormitory of elementary or secondary schools and in non-residential care organised in such,

- f) the framework of the school cafeteria of an elementary school and, unless a separate legal regulation provides otherwise, of a secondary school,
  - g) institution providing education and instruction to disabled children and pupils.

School meals may be provided to children not making use of the after-school care facility.

#### Section 147

- (1) The institutional service fee for personal care provision shall be determined by the backer twice a year.
- (2) The head of institutions or, in case of independent surrogate parent care, the operator shall determine the amount of the service fee payable pursuant to sections 148-151 (hereinafter referred to as 'personal service fee') and inform the person obliged to pay such fee in writing following the use of the service but not later than in thirty days after such use. The personal service fee shall not be greater than the institutional service fee.
  - (3) The backer may reduce or waive the personal service fee pursuant to Section 29 (2) e).
- (4) If the obligor disputes the amount of the personal service fee, he may seek remedy from the backer within eight days of the receipt of the notification specified in subsection (2) above.
- (5) The amount of the personal service fee may be reviewed and altered twice a year except where the income of the obligor declines to such extent that he or she is unable to meet the service fee payment obligation as defined in this Act. The obligor shall not be obliged to pay the newly established service fee in respect of the period prior to such review.
- (6) The entitled person shall receive care free of charge if the person obliged to pay the service fee has no income.

- (1) The personal service fee for daytime care provision to children provided in the framework of personal care basic provision shall be payable by the parent or other legal representative with parental supervision rights.
- (2) In an institution providing day-time care for children, the provision of meals shall be the only service for which a service fee may be imposed.
- (3) The basis of the institutional service fee for the day-time provision for children (hereinafter referred to as 'provision of meals to children') shall be the daily raw material cost of food per care recipient.
- (4) The head of the institution shall determine the personal service fee taking into consideration the daily amount specified in subsection (3) above plus value added tax and the number of meals consumed, as well as the normative grant specified in subsection (5) below.
  - (5) In case of the provision of meals to children,
- a) for children attending day nursery and for children receiving regular support and attending kindergarten, a 100% allowance from the institutional service fee,
- b) for children and pupils receiving regular support but not falling under point a), 50% allowance from the institutional service fee,
  - c) for families with three or more children, 50% allowance from the institutional service fee per child,
  - d) for permanently ill or disabled children and pupils, 50% allowance from the institutional service fee,
- e) for children and pupils receiving dormitory or non-residential care provision, 30% allowance from the institutional service fee
- shall be granted (hereinafter points a)-e) collectively: normative allowance).
- (6) The normative allowance shall be used under one legal title only. The pupil shall not be entitled to any allowance in respect of meal provision for which he is already entitled to an allowance pursuant to his study agreement concluded under provisions on vocational training. No normative allowance shall be available in respect of a child receiving child protection care looked after by a foster parent, children's home or other residential institution -, temporarily placed or taken in short-term or long-term foster care.
- (7) The local government with jurisdiction at the place of residence of the child or, if the child receives meals in a public education institution, the head of the educational institution may award additional allowances, within the constraints of rules established by the backer, to the child based on the individual means testing of the child.
- (8) For establishing the normative allowance specified in subsection (5) above, the following persons shall be regarded as living in the same household:
  - a) a child under eighteen years of age,
- b) a child under twenty-five years of age who pursues full-time studies in public education or in a higher education institution, and
  - c) a permanently ill or severely disabled child, irrespective of age.
- (9) Normative allowance in respect of the child shall be assured until the completion of his studies in full-time education.

- (1) The determination of the service fee for child minding to assure day-time care provision to children shall be governed by the provisions of Section 148, with the derogations set out below.
- (2) The institutional service fee for the personal care provided in the framework of child minding shall be the hourly fee determined based on the costs of such care.
- (3) The personal service fee payable for such care shall not exceed 15% of the regular monthly income of the obligor.
- (4) If meals are provided in the framework of child minding, the aggregate amount of the personal service fee shall not exceed 20% of the regular monthly income of the obligor.

#### Section 150

- (1) In the case of temporary care, the basis of the institutional service fee for personal care basic provisions shall be the daily amount of the prime costs per care recipient.
- (2) The personal service fee payable for such care shall not exceed 25% of the monthly income of the obligor or, in case of more than one children, 50% of the monthly income of the obligor.

#### Section 151

- (1) In the case of after-care provision to a young adult, the basis for the institutional service fee for professional personal care provision shall be the daily amount of the prime costs per care recipient.
- (2) The personal service fee payable for such care shall not exceed 30% of the monthly income of the obligor.

# **Nursing fee**

#### **Section 152**

- (1) The determination of the nursing fee shall be governed by the rules set forth in the Family Act concerning child support, with the derogations set out in this Act.
- (2) Unless an Act provides otherwise, the person obliged to support the child pursuant to the Family Act shall contribute to the costs of nursing the child taken into short-term or long-term foster care or to those of a young adult attending full-time studies in a higher education institution and receiving after-care service.
- (3) The obligation to pay a nursing fee shall commence upon the taking of the child in short-term or long-term foster care. If the child is taken into care before such time, the guardianship office may impose a payment obligation as of the start of care but for not more than six month retroactively.
- (4) The guardianship office shall separately impose an obligation to pay a nursing fee on parents equally obliged to provide maintenance of the child.
  - (5) Such resolution may be declared to be executable immediately irrespective of any appeal.

#### Section 153

- (1) The social circumstances of the person obliged to pay shall also be taken into consideration when determining the nursing fee.
- (2) If the regular income of the person obliged to pay the nursing fee cannot be established, the nursing fee shall be determined based on the minimum old age pension.

- (1) No nursing fee shall be imposed if
- a) the parent has consented to the adoption of his or her child by an unknown person or, in case of a child past six years of age or afflicted by severe health impairment, the guardianship office has approved the statement of the parent,
  - b) the parent looks after his or her child in a children's home,
  - c) the obligor has no regular income.
- (2) The child shall not be obliged to pay any nursing fee, his or her earnings, scholarship, orphan's benefit, other income or property shall not be used for such purpose.
- (3) The guardianship office may waive nursing fee arrears designated for collection on grounds of equity, or it may authorise deferred payment or payment in instalments.

# Chapter XXIII Closing provision **Entry into force**

#### Section 155

- (1) This Act shall enter into force, with the exception set forth in subsection (2) below, on 1 November 1997.
- (2) Section 22 of this Act shall enter into force on 1 January 1998.

# **Transitory provisions**

#### **Section 156**

- (1) This Act shall be applicable to procedures commenced after its entry into force. Ongoing first and second instance proceedings shall be governed by previously effective regulations.
- (2) The local government shall assure personal care provision, with the exception of Section 40, gradually but by 1 December 1999 at the latest.
- (3) A new children's home shall be established and an existing home shall be reorganised exclusively in accordance with the provisions of the Act. The transformation of the personal care child protection provision and of provision of temporary care to children shall be assured gradually by 31 December 2005 at the latest.
- (4) If a child temporarily placed or taken in short-term or long-term foster care is placed in a student's home or dormitory, such child shall receive care providing a home pursuant to Section 53 (5)
- a) the institution of education and instruction shall, provided that it accommodates at least fifteen children in short-term or long-term foster care, be transformed into a multi-purpose institution of public education providing for functions of school, student home or dormitory and children's home, by the date specified in subparagraph (3), or
- b) if care providing a home cannot be assured in accordance with point a), the child shall be placed with a foster parent or in a children's home while maintaining care in the student home or dormitory.
- (5) Following the entry into force of the Act, kindergartens and schools operating in a children's home shall continue to function, as multifunctional jointly managed child protection institution, in the form of independent units pursuant to the provisions of the PE Act.

#### **Section 157**

- (1) The necessity of maintaining the care of a child taken into institutional care or state care prior to the entry into force of this Act shall be reviewed within two years if such entry into force, and, if such care is maintained, the institutional guardianship shall be terminated and a guardian or legal guardian shall be appointed.
- (2) Any records violating the provisions of this Act shall be terminated. The safekeeping of data previously collected, as provided for in this Act, shall be assured continuously but at most until the conclusion of the review specified in subsection (1) above.
- (3) Service and nursing fees payable for personal care provision shall be reviewed and re-imposed within 1 year of the entry into force of this Act.
- (4) The county or metropolitan government shall operate, within the framework of the district professional child protection service, a temporary home for the temporary care of children placed temporarily or taken in short-term or long-term foster care or for children in need, as of the entry into force of this Act, until such time when a foster parent or a children's home assuring temporary care is designated.
- (5) Local governments shall satisfy their obligation to adopt bylaws as defined in this Act within 6 months of the entry into force of this Act.
- (6) The regular child raising allowances and other forms of cash benefits awarded and extended before the entry into force of this Act by local governments shall be reviewed within 6 months of the entry into force of the Act.

#### Section 158

If an institutionally placed child is looked after in the home of a foster parent or in a children's home, the parent shall declare, within six months of the entry into force of this Act, whether he intends to change the placement of the child. If the parent agrees to the unchanged placement of the child, the child shall remain in the

home of the foster parent or in the children's home with the terms and conditions set out in the legal regulations effective prior to the entry into force of this Act.

#### Section 159

- (1) The child support may be advanced by the guardianship office pursuant to an application submitted following the entry into force of Sections 22-24 of this Act, with the derogations provided in subsection (2) below
- (2) In cases where the court has not decided upon the advance payment of child support prior to the entry into force of this Act, the procedure shall be terminated and the application shall be referred to the guardianship office with jurisdiction at the place of residence of the entitled person.
- (3) If, pursuant to a court decision, the advancement of child support is under way, disbursement shall continue to be the responsibility of the court for the period specified in the court ruling, in accordance with the previously effective legal regulations, but the advancement of child support shall not be ordered again. This rule shall also be applicable to the recovery of the disbursed amount from the debtor in cases where only the collection of the advanced amount is under way.
- (4) The court shall notify the guardianship office with jurisdiction at the place of residence of the entitled person about the ongoing advancement within 60 days after the entry into force of this Act.

#### Section 160

- (1) Home-start assistance may be awarded exclusively based on an application submitted by a young adult who attained majority after the entry into force of this Act. The years during which the young adult was institutionally placed, institutional or state ward without interruption shall be included in the duration of fostering as provided in Section 25 (2).
- (2) Applications of young adults who attained legal age before the entry into force of this Act for support to the start of independent living shall be assessed based on the Ministry of Welfare and Health Care Decree No. 21/1989. (VII. 25.), and support shall be assured in the manner specified by the county or metropolitan government.

#### Section 161

Where a legal regulation refers to

- a) protective-safeguarding measures, it shall be interpreted as taking under protection,
- b) institution or state care, it shall be interpreted as short-term or long-term foster care,
- c) assignment to an institution with temporary effect, it shall be interpreted as temporary placement,
- d) institutional placement, it shall be interpreted as temporary care,
- e) institutional guardianship, it shall b interpreted as guardianship, f)
- state care, it shall be interpreted as child protection care,
- g) child and youth protection institution, it shall be interpreted as district professional child protection service,
- h) infant or nursing home, it shall be interpreted as children's home.

#### Authorisation

- (1) The Government is hereby authorised to establish, in a decree,
- a) the detailed rules of home-start assistance and the advancement of child support,
- b) the range of evidence to be used for the application of various benefits,
- c) the detailed rules governing service fees,
- d) the detailed responsibilities and competences of the guardianship office and the detailed rules of its procedures,
  - e) the qualification requirements for persons performing professional child protection supervision functions,
  - f) the area of jurisdiction of the municipal guardianship office,
  - g) detailed procedural rules for the management of personal data.
  - h) certain issues of the surrogate parent and foster parent legal relationship,
- i) the detailed rules of the licensing of providers of child welfare and child protection services as well as the area of jurisdiction of the notary of the municipal government,

- j) the activities of private organizations promoting adoption and the licensing of their operation,
- k) the detailed rules of the child protection mediation procedure,
- l) the detailed rules of professional control of providers of child welfare and child protection services,
- (2) The Minister of youth, family, social affairs and equal opportunities is hereby authorised to regulate, in a decree.
- a) the professional tasks of institutions and persons providing child welfare and child protection personal care and the conditions of their operation,
- b) the qualification requirements for persons performing certain child welfare and child protection personal care functions.
- c) the qualification requirements of the heads of institutions extending certain child welfare and child protection personal care provisions, their appointment and the application procedure for the position of head of institution,
  - d) the operating conditions of the National Family and Social Policy Institute,
- e) the professional and examination requirements for out-of-school care, surrogate parent and foster parent training,
  - f) procedural rules of the preparation of the National Expert Register and of entry in the register,
- g) the detailed rules governing the recognition of diplomas certifying qualifications obtained in foreign elementary, secondary and tertiary vocational training and specialised training as well as the proceeding agency, its responsibilities and competencies,
  - h) the detailed rules governing the national adoption register,
  - i) the detailed rules of pre-adoption counselling and preparatory training course.
- (3) The Minister of youth, family, social affairs and equal opportunities, the Minister of justice and the Minister of finance are hereby authorised to determine, in a joint decree, the detailed rules of the application for, disbursement and settlement of grants to municipal governments for social meal provision to children.
- (4) The Minster of justice is hereby authorised to provide for the amendment of the implementing decrees of the Family Act in accordance with the provisions of this Act.
- (5) Local governments backing institutions of education and instruction are hereby authorised to determine, in a bylaw, the rules based on which the head of such institution may grant an allowance, on a means-tested basis, for the payment of the service fee for the provision of meals to children.

# Repealed provisions

#### Section 163

Upon the entry into force of this Act, the following provision shall be repealed:

- a) Section 69/E and Section 92/A of the Family Act, and subtitle "6. State care of minors" preceding Section 92/A of same, the provision of Section 24 of Act IV of 1986 amending the Family Act which enacted Section 69/E of the Family Act, the provision of Section 31 of same enacting Section 88 (1) b) of the Family Act, the provision of section 32 of same enacting Section 91 (2) of the Family Act, the provision of Section 33 of same enacting Section 92 (3) of the Family Act, Section 34, Section 35, Section 36, the provision of Section 38 enacting Section 106 (2) of the Family Act, as well as the provision of Section 3 of Act XV of 1990 on the amendment of the Family Act which enacted Section 48 (3) of the Family Act, the provision of Section 4 of same enacting Section 48/A (1) of the Family Act, Section 7, the provision of Section 9 of same enacting Section 98 (1) of the Family Act,
- b) Section 129 (2) b)-f), Section 130, Section 134 b)-d) and Section 135 n) and p)-s) of Act XX of 1991 on the responsibilities and competences of local governments and their agencies, commissioners of the republic and certain centrally subordinated agencies,
- c) Section 57 (1) a), Section 60, the subtitle "Day-time care of children" preceding Section 60, Section 61, Section 80 (3) a), Section 81, Section 85 b), Section 111, the subtitle "Special rules governing the temporary home of children" preceding Section 111 and Section 115/A of Welfare Act,
- d) Sections 1-21 and the introductory text "State care of minors" to Chapter I of the Council of Ministers Decree No. 51/1986. (XI. 26.) on state care of minors and the regulation of maintaining contact between parent and child.

# **Amended legal regulations**

**Section 164** 

**Section 165** 

**Section 166** 

**Section 167** 

**Section 168** 

**Section 169** 

**Section 170 (1)** 

(2)

**Section 171** 

**Section 172** 

**Section 173** 

**Section 174** 

**Section 175** 

**Section 176** 

**Section 177** 

**Section 178** 

**Section 179** 

**Section 180** 

**Section 181** 

**Section 182** 

# Section 184 Section 185 Section 186 (1) (2) (3) (4) (5) (6) Section 187 (1) (2) Section 188 (1)

(2) (3)-(4)

#### **Section 189**

This Act contains regulations on matters contemplated in the European Agreement signed on December 16 1991 in Brussels establishing a partnership between the Republic of Hungary, of the one part, and the European Communities and their Member States, of the other part, in harmony with Section 3 of Act I of 1994 that promulgated the Agreement, compatible, together with the relevant provisions of the Labour Code, with Council Directive 94/33/EC on the protection of young people at work..