

**Report of the Government of the Republic of Hungary regarding the  
Durban Review Conference  
29 February 2008**

## **Question 1.**

Act XX. of 1949, concerning the Constitution of the Hungarian Republic (hereafter Constitution), declares in Section XII. those fundamental rights (and obligations) which are due to every individual equally, the enforcement of which is exercised by the Constitutional Court. Expounding these in detail, in relation to Question 1 of the Annex, the following point should be highlighted:

1.1. In practice the *Constitutional Court* regards the right to live in unity with the right to dignified human respect, and as a right determining human status, the Constitutional Court considers that it upholds it without restriction, according to Article 54, para. (1) of the Constitution: in the Hungarian Republic every individual has a congenital right for life and human dignity, of which no individual can be arbitrarily deprived. Article 54, para. (2) declares that no individual can be subjected to torture, ruthless, inhumane, humiliating treatment or punishment, and it is particularly forbidden to carry out a medical or scientific experiment on an individual without his consent.

1.2. The foundation of the *right for equal treatment in court* is given by Article 57 of the Constitution, according to which in the Hungarian Republic every person is equal in court, and every person has the right to have an independent and impartial court established according to Law to judge any charges raised against him, or to judge his rights and obligations in a case, in a just and public trial. This provision is further detailed by our laws covering procedural rights – Act III of 1952 concerning Civil Code and Act XIX. of 1989 concerning Criminal Procedure (hereafter CP) – based on which, according to the main regulations, the cases are judged in public trials, and the verdicts passed in trial will also be publicly declared. Furthermore, in court procedures, every person has the right to use his mother tongue, the language of his region or minority, and in order to realise these principles the court is obligated to employ an interpreter.

In cases prescribed by the law the opportunity is also provided by the court to help enforce the party's rights and legal interests before the court. The court is obligated to inform the party appearing without a representative about his lawsuit rights and obligations, and, in certain cases, the court has to appoint a legal representative. Our laws of procedural rights recognise the rights of freedom from fees, freedom from duty and the right for duty-memoranda [see e.g.: Civil Code, Article 88-84., Article 4-6 and 59-62 in Act XCIII of 1990 concerning duties, CP. Article 74. para. (3) and (4), and Article 343. para. (3)], which serve to support the enforcement of the rights and needs of those parties with difficult income or property situations.

The law concerning the general rules of official administrative procedures and services, Act CXL of 2004 (referred to hereafter as LAP), declares among its basic principles that in the course of official administrative procedure every such exclusion, discrimination or restriction is forbidden whose goal or consequence is the violation of the right to equal legal treatment, or an offence against the legal rights of the client and other participants involved in the procedure. In the course of the procedure the requirement of equal treatment has to be kept. [LAP. Article 2. para (2)] Based on Article 4, para. (2) in LAP, damage caused to the client in the course of unlawful procedure provides grounds for compensation according to Civil Law. Considering the language used in LAP, the law provides the broadest scale of rights, since the applications submitted in the language of a minority group have to be given a verdict written in Hungarian, and, at the request of the client, this verdict has to be translated into the

language of the application [LAP. Article 9. para (3)]. In addition, the right for legal redress is provided equally for every person in line with the Civil Code, Article 57, para (5) and is provided for in more detail in our procedural laws.

1.3. According to the Civil Code, Article 55, para. (1) - In the Hungarian Republic *every person has the right to freedom and personal security*; nobody can be denied his freedom in a way different from the causes determined by law or by procedures determined by law. The CP in Title II stipulates the personal protection of participants in criminal procedures, the institution of legal protection for particular witnesses, and the confidential handling of any witnesses personal data. The coercive measures determined in Section VIII. can only take place in cases determined by the law. The regulation of official crimes is found in Title IV. of Act IV of 1978 concerning the Criminal Code (hereafter CC) Under this heading in this sphere punishments for misdemeanours in official procedures are regulated [CC. Article 226], as well as third degree crimes [CC. Article 227] and unlawful confinement [CC. Article 228]. In addition to personal security, the Constitution confirms the rights of every person who legally stays in the territory of the country to unrestricted movement and it maintains the right to select accommodation, including the right to leave permanent residence or the country. [Constitution , Article 58. para. (1)]

1.4. According to the Constitution, Article 60, para (1), every person has the *right to freedom of thought, freedom of conscience and freedom of religion*, and the Article 70/B. para (1) provides everybody with the *right to work*, and the right to free choice of work and profession. On the basis of Article 70/D. para (1) the Constitution provides the right to the highest possible extent of physical and spiritual health for people living in the territory of the Hungarian Republic, which is realised by the organizing of labour safety, health institutions and medical attention, by the provision of regular physical training and the protection of constructed and natural environment. Article 70/F. supplies citizens with the right of education, and Article 70/G. para. (1) respects and supports the freedom of the sciences and the arts, the freedom of doctrine and the freedom of teaching.

1.5. Our Constitution assures the *right of participation in politics* with the right to vote, the right of association and the right of assembly, the right to take industrial action, freedom of expression of an opinion, and the right to become familiar with data of general interest [Constitution, Article 70, Article 62. para (1), Article 63 para (1), Article 70/C. para (2), Article 60], which are detailed in separate laws (Act XXXIV of 1989 concerning the election of members of Parliament, Act C of 1997 concerning the election procedure, Act LXIV of 1990 concerning the election of representatives of local government and mayors, Act CXIII of 2003 concerning the election of members of the European Parliament, Act II of 1989 concerning the right of association, Act III of 1989 concerning the right of assembly, Act VII of 1989 concerning industrial action, and Act LXIII of 1992, concerning the protection of personal data and the publicity of data of general interest).

1.6. Our Constitution declares in Article 68, para. (1) that *the national and ethnic minorities* living in the Hungarian Republic have a share in the power of the people: they are constituent factors of the state. According to para (2) the national and ethnic minorities are in defence of the Hungarian Republic. It provides for their collective participation in public life, the cultivation of their own culture, the use of their mother tongue, education in their mother tongue, the right for use of their name in their own language. Article 70/A. para (1) assures every person staying in its territory human and civil rights, without discrimination on the basis of race, colour, gender, language, religion, political or other opinion, financial situation, birth

or on any other grounds. Furthermore, the Hungarian Republic supports the realisation of equality before the law by measures aiming at eliminating inequality. [Constitution Article 70/A. para. (3)] In regards to this sphere, Act CXIV of 2005 concerning the alterations of certain laws related to national and ethnic minorities, and the election of representatives of minority governments is remarkable, in addition to which Act C of 1997 concerning election procedures settles the measures in the field of election procedure. Hungary is a partner to numerous international treaties including measures of minority protection. One of the most significant treaties is the European Charter for Regional or Minority Languages, founded in 1992, within the frame of the European Council; the other is the general agreement concerning the protection of national minorities (1995), which by their declaration have become parts of internal law (Act XL of 1999, established in Strasbourg, November 5, 1992, concerning the Declaration of the European Charter for Regional or Minority Languages, and the Act XXXIV. of 1999, established in Strasbourg, February 1, 1995, concerning the declaration of general agreement by the European Council on the protection of national minority groups).

1.7. Article 65 in para (1) of the Constitution also deserves special emphasis: According to the conditions determined in the Law Code – if neither their country of origin, nor another country offers protection to them – the Hungarian Republic provides those non-Hungarian citizens with the *right of asylum*, who, in their homeland, or in the country of their permanent residence, are persecuted on the basis of race, religion, political opinion, national or social origin, or (if) their fear for persecution is well-founded. Act LXXX of 2007 concerning the right of asylum, which was accepted by the Parliament on June 25, came into force on January 1, 2008. In the meantime, it repeals the former Act concerning the right of asylum, Act CXXXIX of 1997. The measures of the new law have to be applied to the foreigner who has submitted an application for recognition as a refugee or an asylum seeker or a protected refugee, or enjoys the right of asylum. It is the law's aim to enforce the principle of family unity, and Article 4. para (3) prescribes that the measures of the law have to be applied in relation to the people requiring special treatment, taking into consideration the special needs originating from their situation. The law, following the general measures, stipulates the legal status of the person applying for refugee status, the position of asylum seeker and the status of protected refugee. The addition to the law is in the initiation of the legal status of the protected refugee, which means supplementary protection as set forth in the policy of qualification approved in Hungarian Law. Each application is guaranteed significance, and is thus assessed on an individual basis. [Article 40]

## **Question 2.**

### **Legislative background**

2.1. The Constitution declares that Hungary respects the human rights and civil rights of all persons in the country without discrimination on the basis of race, colour, gender, language, religion, political or other opinion, national or social origins, financial situation, birth or on any other grounds.

2.2. Act LXXVII. of 1993 concerning the *rights of national and ethnic minorities* (hereafter NEM) assures the individual and collective rights, and declares that it is the fundamental right of minority communities to preserve, cultivate, strengthen and transmit their identity, mother tongue, history, culture and traditions. The collective participation of minorities in public life is ensured, realised on the one hand by the founding and operating of civil organisations, and

on the other hand through representation in organisations of public authority. Only those members of minority groups have the active or passive right to vote – that is, the right to vote and to be elected – who have identified their ethnic origin by completing a previously obligatory registration. Act IV of NEM has been effective since 25 November, and stipulates the local governments of minorities and the forming of these local governments. Section IX. assures for local minority governments the opportunity of association, the institutional forms of which are in line with Act LXV of 1990 concerning local governments. Article 32/B. para (2) of the Constitution stipulates that the parliamentary commissioner of national and ethnic minority rights is assumed to be an expert ombudsman, and details his task. The ombudsman can proceed in every case of disadvantageous discrimination against minorities, which in Article 3 para. (5) of NEM is forbidden separately, and, in the case of “positive discrimination”, in connection with minorities, which is also named in Article 6. § of NEM – in reference to Article 70/A. para. (3) of the Constitution.

2.3. The law CXXV of 2003 concerning *equal treatment and promotion of equal opportunity* (hereafter ET) came into force on 27 January, 2004. The aim of creating this law is to proceed against all forms of discrimination, the right for dignified human respect, the protection of human and fundamental civil rights and the provision of efficient legal defence for those suffering discrimination. ET supplies a detailed list of the legally competent bodies of the state or authorities, and those public institutions providing service or supply (thus ministries, the police, local government, the court of guardians, hospitals, homes for the elderly), which are obligated to keep the requirement of equal treatment. On the basis of this requirement not only discrimination is forbidden, but also the harassment of individuals or groups, their unlawful segregation and retaliation.

ET has stipulated the establishment of the *Equal Treatment Authority* (hereafter Authority). Based on an application, the Authority – or, in certain cases an individual officer – conducts an examination to determine whether the requirement of equal treatment has been violated. On the basis of the right for enforcing the need to uphold the general interest it can take legal action; it reports on the draft of laws concerning equal treatment, other legal means of public administration, and other relevant reports; it can make proposals for governmental measures and legal regulations concerning these subjects, and, among other duties, it regularly informs public opinion and the Government about the situation related to the success of equal treatment.

The governmental decree on the measures to ensure *Roma integration* was initially adopted in 1995. This was then repealed as part of a package of new measures which defined the most urgent tasks for the period of 2002-2003. After that in March 2004, the Hungarian Government adopted its decree No. 1021/2004. (III. 18.) on the Governmental Program and measures for the promotion of Roma people’s social integration which defined governmental actions for the period of 2004-2006. In June 2006 the Hungarian Parliament adopted the Decade of Roma Inclusion Program Strategic Plan. – 68/2007 (VI.28.) resolution. For the implementation of the Parliamentary resolution in December 2007 the Government approved a governmental action plan for the period of 2008-2009 – governmental decision 1105/2007 (XII.27.).

2.4. Act I. of 2004 concerning *sports* in Article 71 para. (2) prescribes for the organizer of an event as an obligation to order any such participants who endanger the holding of the sports event or jeopardize personal security or security of property, or who incite to hatred or racism, to discontinue these activities.

2.5. The Decision 115/2003. (X. 28.) of the national assembly, concerning the *national strategy of social crime prevention* refers in particular to the recommendation of the European Council concerning racism, xenophobia and intolerance based on race, manifested in sport (Recommendation Rec (2001)6 of the Committee of Ministers to member states on the prevention of racism, xenophobia and racial intolerance in sport), and it drafts proposals for the prevention of racist, xenophobic, intolerant and discriminative behaviour as part of the national strategy for social crime prevention. It calls attention to the necessity of this issue and it takes sides in the sense that there is an urgent need for a survey on the frequency of the gypsy (Roma) population falling victim, and creates the professional and organisational conditions for such prevention.

2.6. In the field of *antidiscrimination*, the tasks and objectives determined in the governmental verdict 68/2007. (VI. 28.) concerning the Decade of Roma Inclusion Program Strategic Plan, primarily based on regional and social aspects, refer to the most important complex measures that may for a significant period of time assure the real social and economic integration of the poor – among them, in great proportion, the Roma. It sets as its goal the development and further improvement of anti-discriminational elements in public education; it drafts measures in the interest of suppressing Roma discrimination in the labour market. In addition, it contains a programme supporting exemption from prejudice and solidifies antidiscrimination practices, which can be incorporated into the training order of medical and other relevant institutions of health training. Title VI. of the governmental Decision has set the enforcement of equal treatment as its goal, and above all, the reduction of discrimination against the Roma. It strives to achieve equal opportunities, through the enforcement of rights. The draft of governmental measures, in addition to the Strategic Plan for 2008-9, is stipulated by governmental Decision 1105/2007. (XII. 27.). Among the long term plans and governmental measures the governmental Decision 47/2007. (V. 31.) concerning 2007-2032, "Better future for children" National Strategy, and the governmental Decision 1029/2007. (XI. 29.) concerning the governmental tasks in connection with its execution are to be highlighted. According to the latter, the development and operation of the anti-discriminational sign system has to be continued in the institutions of public education. Moreover, a Roma Antidiscrimination Law Service Network is also in operation in Hungary.

2.7. The Lisbon Treaty, which concerns the modifications of the Treaty on the European Union and the Treaty Founding the European Council, was announced in Act CLXVIII. of 2007. Article 61. para.(3) of the Treaty determines as the goal of the Union the prevention of crime, racism and xenophobia, and a high level guarantee of security. In respect of this, Article 57 of the Constitution will be complemented with a new para. (4), according to which nobody can be declared guilty or punished because of a deed that at the time of commitment, according to Hungarian law or – in order to enforce the principle of mutual recognition of decisions in the sphere determined by the legal acts of the European Union, not restricting the essential contents of fundamental rights – the law of another state cooperating in the establishment of the territory based on freedom, security and the enforcement of rights, was not considered a crime. This measure was declared in Article 1 of Act CLXVII of 2007 concerning the amendment of Act XX. of 1949, which concerned the Constitution of the Hungarian Republic. This Act will be enforced from January 1, 2009, the time of enforcement of the Lisbon Treaty concerning the treaty of the European Union and the modification of the treaty establishing the European Community, provided that by that time all confirming documents are deposited.

Furthermore, in the founding document of the Tempus Public Foundation, among the goals set by the foundation, the following are represented: the advancement of equal opportunities for men and women within the frame of Hungarian education, supplying of needs of physically or mentally challenged people, support in overcoming racism and xenophobia.

2.8. Our country puts a special emphasis on the suppression of “hate speech” by legal means. The attempt to realise this would have been to complement Section VII of Act IV of 1959 concerning the Civil Code with a new measure, "Protection against hate-speech"; however, the Act approved of by Parliament was not signed by the President of the Republic, and he turned to the Constitutional Court, requesting a preliminary investigation of the constitutional conflict. The Constitutional Court has not issued a decision on this matter, and will not do so until the completion of the report.

2.9. Eventually, the draft of the frame decision prepared by the Committee of the European Union in 2001 will have to be highlighted, which intends to support the *more efficient European action* against racism and xenophobia. The draft – without listing those certain groups who fall victim to racist behaviour – tackles all forms of racism. On the basis of the frame decision the member states will assure that the maxim punishment for such forms of behaviour will be at least a 1-3 year period of imprisonment. The frame decision does not modify the obligations referring to the respect of fundamental rights – among them, the freedom of speech and the right for association. After accepting the frame decision the member states are given two years to conform to its standards.

On the basis of these things we affirm that in national law and governmental objectives, the suppression of discrimination based on race or other differences is widely assured, as is the positive affirmative action directed toward those groups concerned.

### **Question 3.**

The Hungarian Government welcomed the Durban Declaration and Program of Action. One of the most discriminated target groups in Hungary is the Roma minority. Therefore the government adopted concrete measures to eliminate racial discrimination, violence and structural discrimination against Roma. Regarding the number of the *Roma/Gypsy population* estimates (based mostly on the minority government’s data) differ from 142,000 to 600,000. According to a study sponsored by the Sociology Institute of the Hungarian Academy of Sciences and research by István Kemény, Gábor Havas and Gábor Kertesi completed in 1994, there are about 550,000 Roma/Gypsy – about 5% of the population in Hungary. According to the 2001 census 190,046 people identified themselves as Romani – approximately 1.8% of the population (KSH, 2002, 9-10).

Since 1993, Hungarian law does not allow the handling of data on racial and ethnic origin except with the written consent of the person concerned.

3.1 *Decade of Roma Inclusion.* The idea of a Decade of Roma Inclusion emerged in 2003 at a high-level regional conference on Roma titled "Roma in an Expanding Europe: Challenges for the Future," which was held in Budapest. After that, Prime Ministers of the involved countries signed the Declaration of the Decade in Sofia on 2 February 2005 and they designated the period of 2005-2015 as the Decade of Roma Inclusion. Their agreement was made on the basis of the common frames, but they also took into consideration the local economic and

social situation in all counties as they each prepared a National Action Plan on Roma inclusion.

The Decade is an international initiative and its goals are to bring governments together, as well as intergovernmental and nongovernmental organizations, as well as Roma civil society associations with the purpose of accelerating progress towards an improving welfare for Roma peoples and an ongoing review of such progress in a transparent and quantifiable way.

Each year during the Decade one country will act in turn as president of the associated countries, in accordance with a pre-established rota. At present Hungary holds the Presidency from 1 July 2007 until 30 June 2008. During the Hungarian presidency we organise an anti-discrimination workshop for the representatives of all of the countries (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Hungary, Macedonia, Montenegro, Romania, Serbia, Slovakia, Slovenia and Spain) involved in the Decade. The goal of this workshop is to share best practices.

3.2 The tasks and measures are invariably required to demonstrate the effectuation of *equal opportunity* and the principle of equal access, which may promote the efficient representation of Roma interests. During the planning and implementation of developments, it is essential that the parties concerned (in particular local governments) should devote special attention to the following criteria:

- the implementation of developments that promote equal opportunity should not increase the extent of residential and school segregation;
- a precondition of access to resources should be the existence of segregation-free residential conditions and education.

Both on the level of planning and implementation, the tasks and measures are to ensure the participation of Roma experts, and moreover a network of Roma experts should be established in order to allow for their full participation in the decision-making processes.

The main objective which the Parliament wishes to achieve via the legislation is the enforcement of the requirement of equal treatment, and thus a reduction in discrimination against Roma people, as well as the promotion of their right to equal opportunities.

The accomplishment of these aims calls for the execution of the following tasks, as well as the implementation of the measures related to these tasks with the additional condition that the actual modes, methods of the implementation of the tasks and measures shall be described in the action plans to be worked out every second year.

- Promotion of the identification and successful handling of discrimination cases affecting Roma people, and towards this end the improvement of the required institutional system, as well as the establishment of cooperative mechanisms.
- Examination of the mechanisms and potential handling of hidden (unidentified) discrimination cases.
- With the aim of reducing discrimination, support to non-governmental organizations acting as the legal representatives of Roma people in addition to governmental institutions.



## **Question 5.**

5.1. *Decade of Roma Inclusion Program Strategic Plan.* Having regard to the common framework the Hungarian National Strategic Plan, as well as the governmental action plan focus upon four priority areas - education, employment, health, and housing - it has also given concerted attention to assigned 'horizontal' aspects such as combating poverty, promoting gender equality and eradicating discrimination.

The Strategic Plan aims at creating proper conditions for the social and economic integration of the Roma population, improving their living conditions, bettering the access of Roma people to public services, as well as closing up – and in the long run eliminating – the gap that has opened up between the living conditions of Roma and non-Roma people. The tasks set down in the Strategic Plan have been defined in a way to enhance the formulation of a more efficient economic policy, as well as the long-term sustainability of the same (e.g. enhancement of competitiveness, improvement of the employment situations, social transfers, reduction in the number of dependents).

Additional objectives in the respective priority areas:

- expansion of the scope of integrated schools, desegregation in public education, an increase in the level of the Roma people's school qualification;
- facilitation of the integration of Roma people in the labour market, increase of the participation rate in employment;
- improvement of housing in association with the large-scale reduction of segregation in the villages and regions concerned;
- improvement of the health conditions of Roma people, increase the life expectancy at birth, as well as the improvement of their access to healthcare services;
- alleviation of the discrimination against Roma people, promotion of equal chances by way of the enforcement of rights.

5.2. *Governmental Action Plan for the period of 2008-2009 related to the Decade of Roma Inclusion Program Strategic Plan.* (Measures relating to the promotion of the mainstreaming of equal treatment and anti-discrimination – based on the Strategic Plan)

- The Roma Antidiscrimination Law Service Network will be developed by the further professional training of lawyers who are contributing to the work of the Network and by adding fifty locations which can serve as customer service points.
- By involving right protection organizations (with a special regard to organizations representing Roma women) and Roma minority self-governments, an antidiscrimination 'alarm system' has to be created for exploring cases where there is evident violation of the law which prohibits discrimination.
- Adequate support needs to be provided for the antidiscrimination activities initiated by various agencies that have been established by Roma civil organizations in rights protection, conflict settlement and crisis treatment .
- The capacity of the national Equal Treatment Authority has to be increased in order that all stakeholders can have easier access to its work.

## **Question 6.**

6.1. *Housing and social integration program* of people living in Roma settlements. In Hungary the number of people living in settlements or settlement-like environments is estimated at several tens of thousands. The buildings in these locations – inhabited primarily by Roma people – have a low degree of comfort and quality, as well as small floor areas, and access to infrastructure and public services is significantly lower than in other parts of the contiguous villages. The majority of the over five hundred segregated settlements can be found in the most disadvantaged areas of the country, in Borsod, Szabolcs, Somogy, Heves and Baranya Counties, and the poor housing situation of families living there has is further exacerbated by unemployment, inadequate social and health care systems, as well as inadequate infrastructure and equipment for educational institutions. At present 40% of the Roma population (about 250,000-300,000 people) in Hungary live in small villages with less than 1000 inhabitants.

The Hungarian Government, primarily through the Ministry of Social Affairs and Labour, has taken significant steps to respond to the objectives announced by the Decade of Roma Inclusion. In 2005, the Ministry's predecessor, Ministry of Youth, Family and Social Affairs and Equal Opportunities, mounted the well-planned and rapidly implemented "Housing and social integration program of people living in Roma settlements" by initiating coordinated activities to improve housing conditions as well as address educational disparities, enhance employment possibilities and access to social and other services.

The first round of the program started as a pilot program in 2005 and was implemented in nine settlements. The participating municipalities were identified through a self-selecting, competitive tendering process. The Hungarian Government allocated HUF 680 million for the first phase of implementation from the national budget. Direct beneficiaries of the program were 4500 people, and indirect beneficiaries are all the inhabitants of the 9 municipalities (altogether 12 000 people). In addition to the scheme's housing elements, a mobilization strategy was prepared, with emphasis upon school integration of children and young people, integration of adults into the labour market, promotion of access to social and health services and community development programs. In order to facilitate school integration, the Roma Education Fund supported the program by allocating HUF 90 million. This additional fund served to provide for upgrading equipment and supported extracurricular programs and afternoon-schools.

The second round of the program started in 2006 and was completed at the end of 2007. Eleven municipalities were involved, and the total budget of the program was HUF 505 million. From this amount HUF 105 million had been allocated by the National Employment Public Foundation for components in the fields of education and employment.

In September 2007 the third round of the program was announced. The evaluation of submitted applications is currently under way. The implementation of the program is expected to be completed by the end of 2008. The total budget of the third round is HUF 700 million, ensured by the Ministry of Social Affairs and Labour, and the National Employment Public Foundation.

The Department for Roma Integration of the Ministry of Social Affairs and Labour administers the program, but the focus of the program's implementation is at a municipal level. It has in place an innovative "mentoring system" - a network of specialized social

workers - assigned to each municipality participating in the program. These highly qualified “mentors” - experienced community developers and Roma specialists - act as “third party” intermediaries to the municipalities, communities and project administration. They advocate, facilitate, trouble shoot and help with conflict resolution.

The mentor system is built into the application process and is also part of the ongoing monitoring in both follow-up and as the activity funds are spent. The mentors work closely with local activity-groups, involving all important local decision-makers, and jointly responsible for the realization of the local program. Local programs are based on housing components (building new houses, infrastructure development, renovation), and social components (employment, social care, health care, etc.). Municipalities are requested to harmonize local programs with other Governmental initiatives, such as:

- desegregation in public education system;
- labour market initiatives for Roma people;
- enhanced access to social and health care facilities.

6.2. *Transition Facility Program.* Project No.2004/016-689.04.02, 2005/17/520.03.02 and 2006/018-176.03.01 Civil services and the *enforcement of equal opportunity policies* and the *effective implementation of the anti-discrimination law*. The overall objective of the project is to promote equal treatment of all persons without discrimination on any grounds in Hungarian society.

- To support the enforcement of equal opportunity policies and the effective implementation of the anti-discrimination law through the capacity development of the Equal Treatment Authority.
- Clarify the anti-discrimination policy of the Hungarian Government and make it more consistent and effective
- Develop an overall strategy for the Equal Treatment Authority which will co-ordinate, strengthen and implement the anti-discrimination policy based on the best practices of other EU Member States.

6.2.1. *Project No. 2004/016-689.04.02, which consists of two components*

*Twining project:* development of the institution and the strategic plan of Equal Treatment Authority (ETA) for its scope of activities, methodology of advocacy techniques, litigation strategies, mediation, assistance to victims in court, identification and evidence of latent discrimination. The Equal Treatment Authority (ETA) was established by Act No.125 of 2003 on Equal Treatment and Promotion of Equal Opportunities. The Authority is an independent organization, which was set up by the Hungarian Government to receive and deal with individual and public complaints about unequal treatment and to implement the principles of equal treatment and non discrimination.

*Training project* for the staff of the ETA and other public administration representatives working in various policy fields and public services. The aim of the training will be to train public administration staff on the sectorial strategies of the ETA (including police, judiciary, employment, education, health).

*Methodological training:* training the staff of the ETA on advocacy techniques, litigation strategies, assistance for victims in court as well as on the identification and evidence of latent discrimination. Team building seminars will be organized in order to facilitate co-operation

and co-ordination among central public administration staff responsible for implementing the strategies of ETA developed by the twinning experts

*6.2.2. Project No. 2005.17/520.03.02 and Project No.2006/018-176.03.01*

*Financial fund:* Grant program for civil organizations in the field of anti-discrimination to strengthen their capacity building and management skills. Topics: education, employment, jurisdiction, police, health and social care.

*Technical assistance:* Foundation for development of democratic rights (between July 2007 and December 2008). Support will also be provided for contracting a suitable technical assistance (TA) for managing grant program, financial and administrative tasks.

### **Question 7.**

See also question 6, point 6.1

### **Question 10.**

No such data are collected under the jurisdiction of the Police or the State Secretary of Law Enforcement of the Ministry of Justice and Law Enforcement.

### **Question 11.**

11.1. *Educational policy* remains a priority field within the Government's programme. The Government deems educational policy an essential tool for economic development, social cohesion and well-being. Hungary can only be successful in the future if a competitive and highly qualified labour force with modern knowledge and a capability of further improvement is present in the economy.

The success of future development greatly depends on the Government ability in harmonizing the various aspects of development within the different sub-sectors and in asserting the principles that constitute the cornerstones of educational policy throughout the system. The main priorities are the following:

- The improvement of quality must become a cornerstone of Hungarian education;
- Equal opportunities must be provided for everyone through education;
- Education is a capital asset in a knowledge based economy and therefore one of the major prerequisites to economic development.

11.2. Hungary has one of the most advanced systems for minority protection in the region. A number of mechanisms have been developed to *ensure that minority groups enjoy cultural and political rights*, but Hungary's largest minority, the Roma, still face obstacles to equality in many fields. Education in particular has been an area where Roma have been handled worse than their non-Roma peers, despite governmental policies aimed at reducing barriers based on both ethnicity and socio-economic status. As one of the Governments leading program, the "Decade of Roma Inclusion", Hungary has achieved a high profile for its efforts to improve education for Roma, but much remains to be done before real change takes place for the majority of Roma children.

11.3. *Segregation* is illegal in Hungary; however, researches indicate that the practice for separating Roma children into segregated schools and classes has strengthened over the past 15 years. Roma are overrepresented in schools and classes for children with intellectual disabilities, and this is largely due to flaws in assessment procedures; Roma children are also frequently assumed into segregated classes at otherwise mixed schools, where they are likely to study a remedial or “catch-up” curriculum. More strict regulations could counteract these trends and could contribute to a more equal apportionment of children from disadvantaged backgrounds and those with special needs.

11.4. A number of different programmes and policies have been adopted to address issues relevant to Roma children. Most of these Government initiatives aim to support the education of children from “*socially disadvantaged*” families, rather than Roma as such, although it is clear that Roma are intended to benefit from such programmes. Target groups for the reforms within the Ministry of Education and Culture are the socially disadvantaged as defined in Act No. 79 of 1993 on Public Education (PEA) and those with special educational needs. The PEA defines socially disadvantaged children as follows:

Children taken into protection by the notary on the basis of their family conditions or social status and/or children whom the notary declares eligible for regular child protection benefits. Multiple disadvantage results from the educational level of the parents not exceeding eight grades – including unsuccessful further education – and also from the practice of long-term State care.

11.5. Since September 1 1993 *pre-school education* is available for children aged three until the age at which they start primary school. Following amendments effective as of 1 September 2003, pre-schools must not refuse the admittance of disadvantaged children and from 2005 must not refuse the admittance of multiply disadvantaged children - many of whom are Roma - from the age of three, otherwise pre-school is compulsory for a minimum of four hours a day from the age of five.

In September 2003 the 1993./LXXIX. Law on education was modified. Many alterations were proposed for the integration of children and pupils with disadvantages. The law was enriched by anti-discriminatory elements which supported schools and municipalities in finding solutions for organizing education that are lawful and contribute to the harmonized cooperation of all participants involved. Pre-school education is free of charge. The expenses of the meals provided are to be covered, but the ones supported on the basis of the child protection system receive free meals as of September 2003. In order to support the development of equal chances of disadvantaged and provide for the right to the free choice of schools available for children coming from families with a social-economic disadvantage. The modified public educational act says that if there is not enough room for the children the local government should solve the room problem of multiply disadvantaged children until September 1 2008.

The modifications of the law introduced many new actions to provide for an available pre-school education for the children living in poverty or with disadvantages. In regard with the significance of pre-school education the children who are eligible for daycare according to the law and whose applications are initiated by the trusteeship authority may not be rejected by the kindergarten. (Furthermore, it is against the law to reject any child who is obligated to attend kindergarten.)

In addition, the 2007 PEA obliges municipalities to review their own contribution to the equal opportunity issue. “*Equal Opportunity Plans*” are part of the executive plans which are drawn up by municipalities and sub-regional partnerships overseeing public education institutions. This is a prerequisite for applying for national or international public education projects. The Ministry of Education and Culture provides for such plans and offers the help of experts.

11.6. The Government has implemented a funding scheme intended to integrate schools, offering a subsidy through the *National Network of Educational Integration (OOIH)*. Equal access to education of higher quality for Roma: The OOIH programme aims at establishing a network of educational institutions and cooperating organizations working for the educational integration of socially disadvantaged – in particular Roma – students. The programme aims at significantly decreasing the segregation of the target group in schools, promoting their successful further education, suitable for their abilities and interests, by ensuring the quality of their education, and strengthening their status in the labour market.

11.7. The Government has set up several *educational programmes*. Several years ago a new financial incentive was introduced to address social disadvantages. In 2002 Article 39/D of the Ministerial Decree on the Operation of Educational Institutions was amended by providing competence development that can foster socially disadvantaged children’s catching up with their education. Competence development is envisaged as taking place in an integrated environment and requires written parental approval. Since amendments in 2005 State support for competence development can only be obtained for children who are multiply socially disadvantaged. All such support goes to maintainers (such as municipalities) on a per capita basis and is then transferred to schools.

To prevent the dismissal of disadvantaged and Roma students and to reduce segregation, from September 2003 a programme of integrated education has been set up in primary schools and in vocational schools. Schools participating in this programme were required to integrate disadvantaged students with non-disadvantaged students, thereby eliminating segregation. The National Network of Educational Integration (OOIH), through its regional coordinators, assists schools engaging in the programme. Altogether 360 schools (45 basic institutions) operate in regions where a high proportion of Roma live.

11.8. The aim of the *Arany János Support Program for Gifted* initiated by the Ministry of Education is to support talented students living in small settlements and to provide the educational service and access to these services for them so that they can improve their talent. The program, aimed at the expansion of accessibility, at working out sustainable pedagogic practices, at the adaptation of those into local programs, continuously provides the professional and supplementary activities necessary for the successful realization of development programs, provides the sufficient pedagogical expertise and institutional framework.

A new boarding school program was introduced in 2003, called the *Arany János Boarding School Program*. The eligibility for this program is not based on ethnic, but the child’s social background.

After compulsory education, many disadvantaged young Hungarians choose vocational education. These students, who often struggle with learning difficulties, are the most likely to be dismissed from the education system. But recently, new initiatives were introduced to lower the dropout rate and offer this vulnerable group more opportunities. One such project is

the *Arany Janos Vocational School Residential Program* for multiple disadvantaged students, This allows student residences that also supply pedagogical support to vocational students to apply for supplementary public funding, provided at least 85% of their students obtaining a competitive qualification. The aim is to enable more students facing multiple social disadvantages to successfully carry on with their studies.

The grant allows student residences to provide an inclusive pedagogic environment for such students with social and cultural disadvantages. Teachers help improve performance on the basis of individual development plans drawn up in cooperation with the student after a preliminary competence assessment. The emphasis is on the innovative learning methods and on the cooperation with the families of students. Students are encouraged to define longer-term goals (education or employment) with the help of a professional staff, who also track students progress toward the objectives laid down in their training plans.

11.9. In 2005 the government launched a *new scholarship program* called: „for the journey” through which disadvantaged children and students showing special interest towards sciences, technology and mathematics can apply for support. One of the main goals of the program is to establish the necessary educational requirements for the successful social-economic integration of children coming from poor, less competitive families. Sub-programs of the scholarship program are the following: „the path to secondary school”, „the path to the matura”, „the path to a profession” and „the path to the scientific world”. The program does not merely offer scholarships, but it makes the remuneration of mentors possible.

11.10. The Ministry of Education initiated the „*From the last school bench*” program in 2003 with the main purpose to review the skills of the approximately 5000 second and third grade students who are given forth as having mild mental disabilities and to support the integration of children with no disabilities. Besides this initiative the government offers temporary per capita support to help the integration of children into the mainstream classrooms and further support to insure that they meet the curricular requirements. Furthermore, among its goals, the program aims at improving the conditions under which expert committees function.

11.11. In the *National Development Plan’s* Human Resources Development Operational Programme (HRDOP) (under the priority: Fighting social exclusion by promoting access to the labour market) measures have been developed to promote equal opportunities in education for disadvantaged pupils. The target groups of the measures are the disadvantaged, especially Roma children and youth; and the children and youth with special educational needs. In this measure 30,356,701 EUR (22,767,525 EUR from the European Social Fund and 7,589,176 EUR from the Hungarian central budget) was available between 2004 and 2006 for programmes aiming:

- to prevent school failure and drop-outs of disadvantaged pupils
- to promote the educational success and, thereby improve the labour-market prospects and social integration of disadvantaged youth
- to eliminate segregation in the public education system, and to promote non-discriminatory, inclusive educational practices.

The HRDOP measures contain the following programme elements, which will be implemented through a central programme:

- Training of educational professionals involved in the education of disadvantaged, especially Roma pupils, and pupils with special educational needs;

- Development and introduction of teacher training programmes and modules;
- Development and implementation of in-service teacher training programmes and training programmes for educational experts;
- Development and implementation of training programmes for local decision-makers and non-teacher groups to increase social awareness and positive attitude towards inclusive education;
- Development of the know-how of inclusive education, elaboration of methodological databank and of service programme-packages;
- Developing new ways of preventing early school leaving and promoting the early identification of the risk of dropping out.

Equal opportunities is an integral part of the New Hungarian Development Plan, which draws up the framework for Structural Funds assistance and thus for EU resources for education reform: an equal opportunity analysis must be attached to each application. Beyond ensuring the help of experts, the Ministry offers considerable financial support to the best equal opportunity projects.

Training for equal opportunity experts started in September 2007, under the joint responsibility of the Ministry and the Education Public Benefit Company. These experts will primarily help draw up applications, especially in communities where over 40% of students comes under this category. The process has started in 7 regions, and the planned expert capacity will suffice to meet countrywide demand.

Within the New Hungary Development Plan (2007-2013), considerable Community resources will be directed to reform the content and infrastructure of education. The Ministry aims to ensure that none of these resources shall be used without promoting equal opportunities for all.

11.12. The overall objective of the 2002/000-315.01.02 *PHARE programme* was to foster the development of a more inclusive society based on non-discrimination and tolerance. This program aimed at triggering attitude changes through supporting local anti-discrimination initiatives, implementing extensive media coverage and designing and implementing educational programmes to target children. The programme consists of the two following independent projects:

- “Building an inclusive society” aimed at changing the majority attitudes towards the Roma minority at national level. Its Research Component is built from different research methods to provide a solid basis for the Communication & PR Component and to the assessment of all Components of the programme. The Communication & PR Component consisted of a variety of different communications media reports aimed the general public's view of the Roma. The Educational Component develops a program for primary schools in order to educate children aged 6-14 about the Roma and to prevent the development of intolerance towards the Roma minority.
- “Local Tolerance Actions” Grant Scheme enhances action on the local level. This Scheme is aimed at supporting local tolerance enhancing actions in the area of media, employment, education, etc. This bottom-up approach allowed NGOs, local communities and a great number of other actors to initiate anti-discrimination actions in their communities. The “Local Tolerance Action” Grant Scheme was managed by a separate Technical Assistance Organisation.



11.13. According to the *Governmental Action Program* for the period of 2008-2009, programmes and campaigns will be initiated presenting the life of Roma people in an authentic way and highlighting aspects of their life which challenges discrimination as well providing training and employment for Roma program-makers and journalists. These programs are outlined in the New Hungarian Development Plan.

11.14. Improvement of Roma peoples social inclusion and effective implementation of the principle of *non discrimination* within a regional framework. The Ministry of Social Affairs and Labour implement the above mentioned project, which is supported by the European Commission in the frame of Community Programme for Employment and Social Solidarity.

This project aims to change the public opinion and stereotypes, to enhance tolerance as well as to improve the social inclusion of Roma people and to fight effectively against ethnic discrimination within a region of Central and South-Eastern European cooperation. It focuses a communication campaign on the national and international level and has completed two seminars which have been workshop exploring anti-discrimination and housing.

The project consists of the following three parts:

1. Housing workshop – its goals are to share the experiences concerning the promotion of social integration of people living in a segregated environment. In the frame of this workshop the experts know more about housing programs implemented in Hungary and Croatia, the best practices and the results. As well visits to Roma settlements also are a part of the program. (The housing workshop was held between 3 and 6 December 2007. in Hungary and Croatia).
2. Anti-discrimination workshop – its goals to compare the anti-discrimination policies between countries, and to learn about the legal and institutional systems of Central and Eastern European countries. In addition to this, the workshop aims at sharing the initiatives taken and challenges faced by the countries as well as their best practices.
3. Communication campaign – its aims are as follows:
  - Raising awareness of political decision makers on social inclusion of the Roma community,
  - Changing public opinion and challenging the prevailing stereotypes as well as enhancing general level of tolerance towards Roma people.

The campaign uses different communication tools: PR activity, media campaign, press conferences, billboard exhibits, the appearance of Roma people in advertisements, etc.

### **Question 12.**

The human rights and minority rights material is included in the curriculum of all institutes of secondary and higher education charged with the training of police personnel.

Moreover regular training on human civil and minority rights and anti-racism are held for those policemen who regularly come across persons belonging to minority groups during their everyday work (for example: officers on duty, guards of lock-ups and guards who escort commanding duty officers).

The communication skills have been taught with an emphasis upon the importance of tolerance as a basic component of police work. Therefore the curriculum of police schools also includes Romani language as well.

### **Question 13.**

In Hungary the offences regarding all acts of racial violence or incitement can be found in Act IV of 1978 on the *Criminal Code* (henceforward: CC).

The following sections of the CC relate to the act of racial violence and incitement to racial hatred, but in our country these are called : Violence Against a Member of a National, Ethnic, Racial or Religious Group and Incitement Against a Community.

According to Section 174/B of the CC:

„*Violence Against a Member of a National, Ethnic, Racial or Religious Group*

Section 174/B (1) Any person who assaults another person for being part, whether in fact or under presumption, of a national, ethnic, racial or religious group, or compels him by applying coercion or duress to do, not to do, or to endure something, is guilty of a felony punishable by imprisonment for up to five years.

(2) The punishment shall be imprisonment between two to eight years if the act of crime is committed:

- a) by force of arms;
- b) with a deadly weapon;
- c) causing a considerable injury of interest;
- d) with the torment of the injured party;
- e) in groups;
- f) in criminal conspiracy.”

According to Section 269 of the CC:

„*Incitement Against a Community*

Section 269 Any person who incites to hatred by means of great publicity against:

- a) the Hungarian nation;
  - b) any national, ethnic, racial group or certain groups of the population;
- is guilty of a misdemeanor punishable by imprisonment for up to three years.”

The act referred to in Section 269 is punishable wherever it has been committed. The Hungarian criminal law uses the definition of “by means of great publicity”. “Great publicity” means, among others, when a crime is committed through publication in the press, another mass media or by reproduction, or by way of publication on an electronic communications network. So this definition also covers the commission of such crimes via the Internet. On the other hand, the confiscation of publication of illegal content over electronic media isn't regulated (for example incitement to racial hatred). According to Section 77 of the CC:

„Section 77 (1) An object shall be *confiscated*:

- a) which is actually used or intended to be used as an instrument for the commission of a criminal act;
  - b) the possession of which constitutes an endangerment to public safety or is illegal;
  - c) which is created by way of a criminal act;
  - d) for which the criminal act was committed, or that was used for the transportation of this object in connection with the criminal act after the fact.
- (2) Media products, in which a criminal act is realized, shall be confiscated.”

Pursuant to this Section definition of “media products” means publication only in the written press. So if a criminal act is committed by way of publication on an electronic

communications network, it is not possible to eliminate the racist publication. After all, Hungary considers that criminal instruments to fight against this type of crime must be developed. Therefore the Hungarian legislation is continuously seeking for the possibility to eliminate/confiscate the publication with illegal content in electronic media, however we all must be aware of the fact, that due to the nature and operation of the Internet the finding of an efficient solution is not an easy task.

### **Question 16.**

See also question 5, point 5.2, question 6, point 6.2

### **Question 17.**

17.1. Section 174/B and 269 of the CC disposes of the act of racial violence and the incitement to *racial hatred*. In the CC there are other facts which relate to the incitement to racial hatred, but only indirectly. These crimes are defamation, libel and desecration.

The Hungarian Constitution, as interpreted by the Constitutional Court leaves a very narrow margin of appreciation to the legal draftsmen in defining what action may constitute a criminal offence when the freedom of speech has to be limited and balanced against the protection of others' rights. The Hungarian Constitutional Court built up a set of criteria that constitutes one of the strongest protections for freedom of speech.

17.2. The Constitutional Court has laid down in several decisions that the *freedom of expression* has a special place among constitutional fundamental rights, in effect it is the "mother right" of several freedoms, the so-called fundamental rights of communication. The right to free expression protects opinion irrespective of the value or veracity of its content.

In testing the different statutory definitions aiming at sanctioning communications and acts against communities, the Constitutional Court examined the following aspects. Firstly, whether it is unavoidably necessary to restrict the freedom of expression and the freedom of press in the case of the conduct specified in the statutory definition, and secondly, if the restriction complies with the requirement of proportionality, in other words, whether the set of tools of criminal law in general and the statutory definition concerned in particular are necessary and adequate for the aim to be achieved.

Thus, in its Decision 30/1992. (V. 26.), the Constitutional Court specified the cases of expressing extreme ideas where a criminal sanction may be applied in line with Article 61 para. (1) of the Constitution:

The dignity of communities may constitute a constitutional limit to the freedom of expression. Nonetheless, the application of consequences under criminal law is only justified when the act reaches a level where it is capable of whipping up such intense emotions among the majority of a society which, upon giving rise to hatred, may result in disturbing social order and peace. It is important that the danger to public peace should be more than a mere presumption, and it is absolutely necessary to have at least a hypothetical feedback (i.e. that the communication may disturb public peace). It is the intensity of the disturbance of public peace that "above and beyond a certain threshold justifies the restriction of the right to free expression". (This test shows direct connection to the so-called "clear and present danger" test.) In the case of strong incitement to hatred, protection under criminal law is justified by the danger of

violating the right to human dignity and other freedoms having a prominent place among constitutional values, as well as by the objective to protect the exercise of fundamental rights by members of national, ethnic, racial and religious groups, or by any group of the population, against prejudiced, abusive and contemptuous expressions.

However, in a later decision the Constitutional Court specified that the freedom of expression may not be restricted in such a way that the threshold of punishability considered constitutional is lowered by the respective legal regulation. Communications not qualifying as incitement are protected by Article 61 para. (1) of the Constitution as “it is only incitement that incorporates a level of danger »above a certain limit« that allows a restriction of the freedom of expression” [Decision 12/1991. (V. 21.)].

### **Question 19.**

All data concerning ethnic background constitutes sensitive data pursuant to the Hungarian data protection law and therefore it is forbidden for police to collect or measure such data.

### **Question 24.**

The *immigration law* had been revised and recodified with a view to guarantee the right of free movement and residence afforded in the Treaty establishing the European Community and to partake in the progressive establishment of an area of freedom, security and justice and also to promote social and economic development and advancement of countries within and outside the borders of the European Union. The Parliament has adopted two fundamental acts as follows: Act I of 2007 on the Admission and Residence of Persons with the Right of Free Movement and Residence (entered into force in 1st of July 2007) and Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (entered into force in 1st of July 2007). According to the authorization closure of these acts the government decreed the detailed regulation that focused on providing protection for migrants against any discriminatory policies or practices.

### **Question 25.**

The Republic of Hungary is a State party both to the *Convention relating to the Status of Refugees* and to the *Protocol relating to the Status of Refugees*. The Hungarian national law implements the rules of the Convention and the Protocol. The Hungarian asylum legislation was recodified in 2007 to comply with the relevant EU legislation, and to introduce the concept of subsidiary protection to Hungarian domestic law. The new law, which entered into force on 1<sup>st</sup> January 2008 foresees special rules pertaining to vulnerable groups such as unaccompanied minors, elderly or disabled persons, pregnant women and victims of any grave form of psychological, physical or sexual violence. Recognised refugees and beneficiaries of subsidiary protection have the rights and obligations of Hungarian citizens unless a rule of law or government decree expressly provides otherwise and they are entitled to complementary care and aid. The new law and its implementing decree contain important changes regarding the provisions and benefits provided to asylum seekers and beneficiaries of international protection. In accordance with its international obligations Hungary received 3419 asylum seekers and granted refugee status to 169 asylum seekers in 2007 while it granted humanitarian protection based on the principle of non-refoulement to another 83 persons.

## **Question 28.**

There is no specific form of crime related to *trafficking in women and children*, in particular girls. The CC prohibits trafficking in human beings in general. Nevertheless, the Hungarian legislation considers that the international traffic of children is increasing, so criminal law particularly guarantees the protection of the children from the sale of children even for the purpose of child prostitution and child pornography.

According to the CC the punishment shall be more seriously when the crime called Trafficking in Human Beings is committed to the detriment of a person under eighteen years of age, for the purpose of sexual intercourse and for the purpose of making illegal pornographic material. If these acts are committed to the detriment of a person under twelve years of age the punishment shall be the most serious one that exists in our criminal law (imprisonment between five to fifteen years or life imprisonment)

Relevant provisions of CC are the followings:

“Section 175/B (1) Any person who sells, purchases, conveys or receives another person or exchanges a person for another person, also the person who recruits, transports, houses, hides or appropriates people for such purposes for another party, is guilty of a felony punishable by imprisonment for up to three years.

(2) The punishment shall be imprisonment between one to five years if the criminal act is committed a) to the detriment of a person under eighteen years of age;  
b) to the detriment of a person kept in captivity;  
c) to subject the victim to forced labor;  
d) for the purpose of sexual intercourse;  
e) for the unlawful use of the human body;  
f) in criminal conspiracy; or  
g) in a pattern of business operation.

(3) The punishment shall be imprisonment between two to eight years, if the act of crime is committed:

a) to the detriment of a person who is in the care, custody, supervision or treatment of the perpetrator; or  
b) for the purposes specified in Paragraphs c)-e) of Subsection (2):  
1) by force or by threat of force;  
2) by deception;  
3) by tormenting the injured person.

(4) The punishment shall be imprisonment between five to ten years if the criminal act is committed:

a) to the detriment of a person referred to in Paragraphs a)-b) of Subsection (2) and in Paragraph a) of Subsection (3), for any of the purposes defined under Paragraphs c)-e) of Subsection (2), and/or in the manner defined under Points 1-3 of Paragraph b) of Subsection (3); or  
b) for the purpose of making illegal pornographic material.

(5) The punishment shall be imprisonment between five to fifteen years or life imprisonment if the criminal act is committed to the detriment of a person under twelve years of age:

a) for any of the purposes defined under Paragraphs c)-e) of Subsection (2);  
b) in the manner defined under Points 1-3 of Paragraph b) of Subsection (3); or  
c) for the purpose of making illegal pornographic material.

(6) Any person who engages in planning for trafficking in human beings is guilty of misdemeanor punishable by imprisonment for up to two years.”