



**Convention on the
Rights of the Child**

Distr.: General
31 October 2013

Original: English

Committee on the Rights of the Child

**Consideration of reports submitted by States
parties under article 12, paragraph 1, of the
Optional Protocol to the Convention on the Rights
of the Child on the sale of children, child
prostitution and child pornography**

Reports of States parties due in 2012

Hungary*

[8 August 2012]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document has not been formally edited.

Contents

| | <i>Paragraphs</i> | <i>Page</i> |
|--|-------------------|-------------|
| I. Introduction..... | 1–2 | 3 |
| II. Frameworks for the protection of children..... | 3–5 | 3 |
| III. Data | 6–7 | 4 |
| IV. General measures taken for the implementation of the Optional Protocol | 8–47 | 4 |
| V. Prevention | 48–60 | 10 |
| VI. Criminal law provisions | 61–157 | 12 |
| VII. Support to child victims | 158–167 | 26 |
| VIII. Enhancing international cooperation..... | 168 | 28 |

I. Introduction

1. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was promulgated in Hungary by Act No. CLXI of 2009.

2. The Convention and its Optional Protocols, the periodic reports and their evaluations in Hungarian and English language, and the Convention in the languages of the national and ethnic minorities in Hungary are available on the website of the Ministry of Human Resources. In the framework of the conference commemorating the 20th anniversary of the promulgation of the Convention, which was organised by (the legal predecessor of) the Ministry of Human Resources and the National Institute of Family Policy and Social Policy (an institution of the Ministry), the publication entitled “Manual on the Application of the Convention on the Rights of the Child” was presented. The Manual was drawn up by the National Institute of Family Policy and Social Policy in the framework of the “You do have a right” project which formed part of the European Union (EU) funded “Civil Organisations and the Implementation of the Anti-Discrimination Act” programme. It was prepared upon the commission of the United Nations Children’s Fund and was primarily designed for experts acting in the field of the enforcement of children’s rights. The Manual serves as a guideline on the practical application of the laws which promote children’s rights. It collects the analyses drawn up by the United Nations (UN) Committee on the Rights of the Child in the first 16 years on the various Convention Articles. Proper implementation of the Convention is further promoted by the more than 300 closing observations that were drafted by the Committee on the basis of the Contracting States’ reports. These materials are presented in a wider context, embracing the bodies of other conventions as well as UN organ observations, decisions and reports of key importance. The Appendix to the Manual contains the Optional Protocols as well.

II. Frameworks for the protection of children

3. Under Act No. XXXI of 1997 on the Protection of children and on guardianship administration, the child protection signalling system operating with the aim of securing the early perception and prevention of the child endangerment factors is a fundamental pillar of the system of Hungarian child protection. All those social, health or public education service providers and authorities who in carrying out their activities may, potentially, perceive the endangerment of a child are members of the child protection signalling system. These service providers and organs shall signal to and cooperate with the child protection system where they receive information about the endangerment of a child. At settlement level the child protection signalling system is operated by the Child Care Service.

4. In the past years securing professional support for the operation of the child protection signalling system was a priority policy objective. As a result of the measures taken there have been significant developments in several fields, including the police, mother and child nursing, victim support and public education. Bodies carrying out victim support tasks and dealing with mitigation of damages were involved in the signalling system under a 2006 amendment of the Act on the Protection of children.

5. With the entry into force – as a supplement to the Act on the Protection of Children, which prohibits corporal punishment and other cruel and inhuman or degrading punishment or treatment – of Act No. LXXII of 2009 on Restraining order for domestic violence between relatives significant improvement has occurred in the application of the domestic violence-related reporting obligation due to the incorporation of the signalling obligation and the restraining order into the law, and due to the stipulation in the Act of the time-limits

and the persons responsible for the tasks. The police shall, within the framework of an on-site measure, issue a temporary restraining order where it is satisfied that the issuance of such an order is warranted by the immediate need to protect life, bodily integrity or property. The police shall proceed in the same way where the suspicion of an offence or a regulatory offence arises in connection with the domestic violence between the relatives, but no criminal or regulatory coercive measure is justified. Child abuse may take place within or outside the family. Violence between relatives shall also amount to child abuse where the violence between the relatives directly or indirectly injures the child living in the family. Therefore the Child Care Service and the Guardianship Authority shall also be involved, as police measure in itself is not sufficient. To support the police in performing such tasks the Government appointed the district guardianship authorities as a body responsible for the coordination of family protection. In such proceedings the task of the coordination body is to manage the conflict and to provide information, possibly before the occurrence of the violence. The completion of the procedure is not a prerequisite for the issuance of the restraining order. The procedure is merely aimed at perceiving in time the danger of violence.

III. Data

6. As to the period of 2006-2011, the following investigations data are available ('child' in the chart means a person under 18)

| | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | Total |
|---|------|------|------|------|------|------|-------|
| Trafficking in persons for the purposes of sodomy or sexual intercourse | 2 | - | - | 7 | - | 1 | 10 |
| Child victims of offences committed for the sale of human organs | 1 | - | - | - | - | - | 1 |
| Child victims of forced labour | 1 | 14 | 4 | - | - | 1 | 17 |
| Child victims of trafficking in persons | 6 | 22 | 6 | 8 | - | 6 | 48 |

7. Victim Support Services had no child clients as victims of trafficking.

IV. General measures taken for the implementation of the Optional Protocol

8. In order to implement Council Directive 2004/80/EC of 29 April 2004 relating to Compensation to crime victims, Act No. CXXXV of 2005 on Crime victim support and state compensation was adopted in Hungary. The Act was adopted on 29 November 2005 and entered into force on 1 January 2006. The Act specifies the eligibility criteria and the procedure to be followed for gaining access to the services granted for victims of crime (protection of victim interests, legal aid and immediate monetary aid and compensation by the state).

9. Government Decree No. 322/2010. (XII. 27) on the Entities performing probation, legal aid, victim support and compensation services specifies the entities having competence in victim assistance and victim support. Under the Government Decree victim support-related tasks are performed by capital/county Justice Services (operating as regulatory bodies of the capital/county government offices) and by the Justice Service of the Ministry of Public Administration and Justice (henceforth KIMISZ). A department for Victim Support Services operates within each county Justice Service.

10. The relevant laws in Hungary:
- (a) Act No. IV of 1978 on the Criminal Code (especially Title II, Ch. XIV. on crimes against sexual morals, and Sections 195 and 175);
 - (b) Act No. CLXI of 2009 on the Ratification and promulgation of Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;
 - (c) Law-Decree No. 14 of 1986 on the Promulgation of the Hague Convention of 25 October 1980 on the civil aspects of international child abduction;
 - (d) Chief Public Prosecutor Instruction No. 9/2012. (II. 16.) on the Performance of public prosecutors' child and youth care related tasks;
 - (e) Act No. CIV of 2001 on Criminal measures applicable against a legal person;
 - (f) Act No. XXXVIII on International legal assistance in criminal matters, and Act No CXXX of 2003 on Cooperation in criminal matters between the Member States of the European Union;
 - (g) The Lanzarote Convention of the Council of Europe on the Protection of children against Sexual Exploitation and Sexual Abuse was signed by Hungary on 29 November 2010;
 - (h) The implementation of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on Preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA is still in progress.
11. Further training in organised form takes place once a year, in the educational centre of the Public Prosecution Service. The 3-4 days further trainings yearly provide a forum for professional consultation for 30 persons; in addition to current problems special topics are also discussed, thus, in 2011 for example the Council of Europe Recommendation on Child-friendly justice was discussed.
12. International training: EUROPOL (Selm) Combating the sexual exploitation of children on the internet (each year 1 public prosecutor and 1 police officer).
13. Victim Support Services carry out their child protection activities first of all by fulfilling their obligations flowing from their being members of the child protection signalling system.
14. Under Section 43 subsection (2) of the Act on Crime victim support and state compensation, Victim Support Services shall – as soon as they obtain information – immediately call the attention of the competent child care authority to the situation of a minor exposed to threats of crime. If circumstances indicate that a minor's life or physical integrity is being exposed to serious threats or risks, the competent Victim Support Service shall simultaneously initiate guardianship authority proceedings as well.
15. In November 2011 in-house regulations (guides on methodology) were issued by KIMISZ in order to help county Justice Services in the effective fulfilling of their signalling system-related obligations.
16. Since January 2012, signalling system-related data from the county Justice Services have been collected by KIMISZ in monthly and annual breakdowns. The data disclosure requirement is complied with in the form of charts containing the most important information (e.g. number of minors exposed to threats of crime; number of signals and initiations to child care services and guardianship authorities; concrete reason for signalling; number of feedback of these organizations). The data are monthly summarized. The summarized annual charts are sent back to the county Justice Services so that they may

analyse them and compare statistical figures. Since the introduction of the data disclosure requirement, county Justice Services have been carrying out their signalling system-related functions with greater awareness.

17. Victim Support Services provide victims of crime with prompt financial aid and state compensation allocated from a separate budgetary fund. In the annual Budget Act an unlimited (non-maximized) Appropriation Chapter is allocated for 'Victim Support'. The Appropriation Chapter allocates a fund with a specific amount of money every year and this fund is filled up by the Ministry of Interior Affairs if it runs out.

18. During the Hungarian presidency of the Council of the European Union, Hungary prioritised the issue of victim protection and victim assistance. On 10 June 2011 the Justice and Home Affairs Council of the EU adopted the instrument called Budapest Roadmap for victim protection. The Roadmap paves the way for European-wide victim protection by prioritising measures aimed at protecting victims of crime. In addition to laying down the general principles the Roadmap also proposes concrete measures, such as the replacement of the Framework Decision by a new directive with enlarged content. The Roadmap addresses the issue of identifying vulnerable victim groups (children, people with disabilities, victims of trafficking and of sexual violence), defines their offence-specific needs, and determines the main characteristics of the various victim groups.

Protection of the child's rights and interests

19. Having regard to Section 17 (1) of Act No. XXXI of 1997 on the Protection of children and on guardianship administration (henceforth: Gyvtv), child and youth protection – including cooperation with members of the child protection signalling system – is regarded by the county regional and district police departments as a priority task.

20. In its capacity as a member of the signalling system, the Police Service (henceforth: the police) – which was originally set up to perform general police tasks – endeavours to fully comply with its signalling obligations. Where from the data of the criminal complaint it can be established that the perpetrator of an offence is a child, the notary of the municipality of the child's domicile shall, in order to secure protection for the child, be notified of the fact that Section 22 a/of Act No. IV of 1978 on the Criminal Code excluding the punishability of children is applicable to the perpetrator (Section 68 (2) c/of Gyvtv). In particularly justified cases, in addition to taking the necessary measures the police shall also request that the possibility of the child's placement in temporary foster care or in a children's home be examined on the ground that his bringing up in his family is not feasible due to his antisocial behaviour. Where justified, the police shall initiate such temporary placement before the notary of the municipality of the child's domicile.

21. Where the fact that the perpetrator or the co-perpetrator is a child is established in the course of the investigations, the official acting in the case shall, on the basis of para. 39 of Instruction No. 32/2007. (OT 26) of the National Commander of the Police Force on the Implementation of police tasks related to the handling of domestic violence and minors' protection (henceforth: ORFK Instruction), contact the child care service or the notary of the municipality of the child's domicile.

22. As to child perpetrators, it can be established that offences committed by children are often backed by such persons as indirect perpetrators, who train the child for the commission of offences as they are aware of the fact that children cannot be criminally punished. Therefore, in detecting an offence committed by a child the influence exerted by another person on the child offender before the commission of the offence shall be examined with great care. Such an examination shall extend to the child's family and social environment and, in particular, to influences exerted by parents or foster parents. The examination of these circumstances is the more important since they often disclose offences in respect of which the child itself is the aggrieved party.

23. Where from the criminal complaint it is evident that the perpetrator of the offence is a child, the police shall reject the complaint under Section 174 (2) c/of Act No. XIX of 1998 on Criminal procedure (henceforth: Be.). Where the fact that the perpetrator is a child under 14 becomes evident only in the course of the investigations, criminal proceedings shall be discontinued under Section 19033 (1) d/of Be.

The hearing of a child as witness

24. Within a police department the hearing of a child as witness generally falls in the competence of the investigations unit. The hearing shall be conducted by an experienced person with child educator qualification, where it is possible. Where it is not possible, the proceeding organ shall try to involve in the hearing a person having the required empathy.

25. Under Section 86 of Be., a person under 14 shall only be heard as witness where the evidence expected from his hearing cannot be obtained otherwise. Section 22 of Joint Decree No.23/2003. (VI. 24.) BM-IM of the Minister of Interior Affairs and the Minister of Justice on the Detailed rules of the investigations of the investigation authorities operating under the direction of the Minister of Interior Affairs and on the recording of acts of investigations in forms other than minutes provides that before hearing a child as witness, evidence enabling the authority to avoid the hearing of the child shall be collected. According to the police practice, where the presence of the child's statutory representative cannot be ensured, the child perpetrator shall not be heard as long as initial measures are taken.

26. According to the rules, a child perpetrator shall be heard as witness in the presence of his statutory representative, preferably in a hearing room designed for children, by appointing a psychologist expert or by involving a child educator from the police staff, and the hearing shall be conducted with such precision that no further hearing should be necessary. According to the established practice, where a hearing to be effected immediately would take place in the evening hours it shall be deferred to the next morning.

27. The proceeding authority shall try to engage in a conversation with the child perpetrator's parents about the importance of raising a child according to certain principles and of controlling the child's behaviour. Parents are notified of the outcome and the consequences of the case.

28. Section 2 (1) of Decree No. 32/2011 (XI. 18.) KIM of the Minister of Public Administration and Justice on Child-friendly interview rooms to be set up at the investigation authorities of the Police Service (henceforth: KIM decree) provides for the setting up until 1 January 2014 of at least 1 child-friendly interview room within the jurisdiction of the Budapest Police Department and each county police department. So far 4 such interviewing rooms have been set up.

29. Where despite the hearing of a child his repeated hearing becomes necessary in the course of the proceedings, a hearing before an investigation judge shall be motioned by the police so that the child's repeated hearing in the trial phase is rendered unnecessary. Where in the criminal proceedings the child's interests are in conflict with the interests of the statutory representatives, the police shall contact the guardianship authority for appointing a guardian ad hoc.

30. Where circumstances indicate that the child or youth perpetrator committed the offence together with a major family member, criminal proceedings shall be instituted against the family member upon a reasonable suspicion of child endangerment. In such cases a psychologist shall be appointed for the protection of the child's interests since – in view of the emotional ties that exist between the child perpetrator and his family member and of the age characteristics of the child – it is desirable not to hear the child directly.

Besides, the hearing by the court of the psychologist expert as witness on the child's version may even methodologically lead to more correct conclusions.

31. Where the existence of a ground under Section 22 of the Criminal Code excluding the punishability of the perpetrator becomes known only after the completion of an evidentiary act, the notary of the municipality of the perpetrator's domicile shall be notified thereof by transmitting to him the decision on the discontinuation of the proceedings. Where child endangerment is established, the proceeding authority shall immediately notify the head of the child care service of the child's domicile, by filling out a form contained in Section 39 of the ORFK Instruction.

32. Child endangerment cases are, as a rule, reported by the Child Care Services and the schools to the competent police organs which shall take action where appropriate. Upon reports about domestic violence or aggressive acts committed against a person the police shall carry out a prompt on-site visit and shall take the necessary measures or shall try to calm down the parties and to restore peace between the parties. A report on the measures taken shall be drafted and in case a child is endangered the competent child care authority shall be notified via a form filled in for this specific purpose.

33. In the course of the proceedings the police shall take the necessary steps to protect the child's interests and shall provide information to the parties about their rights and obligations and about the legal aid and support organisations operating within its jurisdiction. Where appropriate, the police shall make consultations with experts of other authorities involved in the case.

34. To prevent children from becoming perpetrators or victims, the Prevention Units of the Police Service have worked out – in coordination with the Public Safety and the Traffic Units – several prevention projects (e.g. D.A.D.A. [Smoking, Alcohol, Drugs, Aids], ELLEN-SZER [COUNTER-DRUG] Program, School Police Officer Program, youth protection patrolling, peer helper training, provision of information for parents and teachers in meetings, training of child care experts). Police prevention programs are carried out by taking into consideration the local characteristics.

Trainings

35. In 2011 the Hungarian Women Foundation (MONA) launched a training entitled "Inter-professional cooperation for the suppression of prostitution and trafficking in persons and for assisting victims". Based on the learning material of the training which was developed within the framework of the "Building inter-professional cooperation in Hungary for combating trafficking in persons and prostitution (2008-2010)" project, their aim is to elaborate and implement a complex, inter-professional training. Participants of the project offer professional expertise for law enforcement personnel and persons acting in the field of social care, health care or child care in order to enable them to recognise and effectively act against trafficking in persons for their sexual exploitation and prostitution, and to offer help for victims (especially for victims of child prostitution). Such trainings were held in Budapest, Miskolc, Pécs and Nyíregyháza.

36. In order to ensure the lawfulness and professionalism of the measures taken, county regional police department Heads are obliged to provide the law enforcement personnel with proper education (preferably by involving NGOs) about the domestic violence-related tasks of the police, the specific features of domestic violence, the relevant provisions of Gyvtv, and the experience gained by national and international NGOs. Where it is possible, law enforcement personnel shall also participate in conflict management trainings.

Child rights in migration proceedings

37. With a view to the child's best interests the visa rules of the migration-related laws contain provisions which, on the one hand, allow for preferential proceedings and, on the other hand, are aimed at preventing the sale of children, child prostitution and child pornography.

38. Examples for the first case include the visa request of persons taking care of an unaccompanied child and intending to take home the child, or the provision of a visa with priority, within maximum 7 days (which is much more favourable than the 15 days time-limit specified under the general rule) where the proven aim of the travel is the provision of medical treatment for the child.

39. Examples for the second case include the rule that parents having entered Hungary with a child under 18 may only leave Hungary together with the child. Unaccompanied children may stay, enter and leave the country only in possession of travel documents. Where there is a visa requirement, for a child under 14 a separate visa shall be requested if the child's personal particulars are registered in one of the parent's passport.

40. In many countries for the entry of a minor valid travel documents, sufficient financial resources, the parents' written consent and the designation of the person (e.g. in a letter of invitation annexed to the visa request) under whose care the child is placed are required.

41. As to the practical measures taken for the protection of children and for the establishment of parental liability, in examining compliance with the entry and stay requirements the primary task of the visa issuing authority, thus, in particular, of the consular officer of the diplomatic mission, is to verify the child's family status, to establish the genuineness and authenticity of his family relationships. Documents verifying a child's status may include certified true copies of birth and marriage certificates, final court decisions on custody of the child or on the exercise of parental rights or, where the parents are divorced, an authentic document on the other parent's consent to the child's being taken abroad.

42. Diplomatic missions often meet not only children but also parents in vulnerable situations, when on account of a political regime, differences in social, cultural or religious norms, customary law or tradition children are torn out of their known social environment and are deprived of their parents or one of the parents. In the absence of international regulation on contact rights or parental rights, in divorce cases involving mixed couples it is quite frequent that due to differences in the cultural or religious background of the spouses one spouse and his or her relatives are deprived of contact with the child, sometimes for quite a long time.

43. The authorities involved in alien control proceedings shall endeavour to act with utmost care in procedures affecting the rights of children and related to the support and protection of minors. In processing child visa requests with priority they are required to observe the strict rules mentioned above and to proceed with increased caution in order to protect the child and to prevent unlawful conducts (e.g. the taking of the child abroad with force or deceit; trafficking in children; kidnapping of children).

44. The Visa Information System introduced in October 2011 as a system connecting the visa-related databases of the Schengen Area Member States may lead to positive changes, in particular as a result of biometry, fingerprinting, and the joined databases. VIS is aimed at speeding up data transfers, ensuring and facilitating more efficient combating of fraud, and helping identification. Though under the current rules a child under 12 cannot be subjected to fingerprinting, the fingerprints of the parents or of another person entitled to care for the child will hopefully help to eliminate or prevent child abuses.

45. In Hungarian alien control proceedings unaccompanied minors shall not be expelled unless family reunion in the country of origin or in another host country or state or other institutional care is guaranteed. Unaccompanied minors shall not be subjected to a measure restricting personal liberty.

46. Protection shall be granted to unaccompanied minors and to third country nationals born in Hungary but left unattended by the persons who, under Hungarian law, should take care of them. Protection shall also be granted to third country nationals employed under particularly exploitative terms and to third country minors employed without a valid residence permit or other permit entitling for residence. Unaccompanied minors authorised to stay in Hungary shall be granted temporary national protection and humanitarian residence permit.

47. The above guarantees safeguard that unaccompanied minor-related proceedings are conducted with a view to the minors' best interests, separately from the adult proceedings which involve coercive measures.

V. Prevention

48. In the 2006-2011 reporting period the following crime prevention programs were accomplished or launched within the framework of the Social Regeneration Operational Programme (henceforth: TÁMOP).

49. In 2007 14 crime prevention programs on school conflict management and school or school neighbourhood violence prevention were implemented by the tender-winning organisations who received a total of almost 50.000.0000 HUF in support from the National Crime Prevention Committee. The programs were carried out in a framework of broad professional cooperation, in the form of consortiums. They were strictly monitored and closed with impact studies.

50. In 2007 the event series "Aggression in school – and the law" organised by the Knowledge of Law Foundation (Jogismeret Alapítvány) was supported by the Ministry of Social and Labour Affairs.

51. The Police Service and its supervisory organ granted substantial financial and human resources to the school crime prevention programs of D.A.D.A. and COUNTER-DRUG. In 2007 the police developed the MiniPolis internet-based contest for 22,3 million HUF. In 2007 42 new teachers were trained for the D.A.D.A. and the COUNTER-DRUG programs. In 2008, from an ad hoc support of 1,5 million HUF granted by the supervisory organ, the Police Service compiled a teacher's handbook to the COUNTER-DRUG program. The training program made use of the most up-to-date pedagogical and practice-oriented methods. The learning material of the D.A.D.A program was updated from a support of 17 million HUF granted by the supervisory organ, from which a website was also launched. In the 2007/08 school year nearly 30.000 pupils, in the 2008/09 school year more than 31.000 pupils took part in the D.A.D.A. program. The respective figures in case of the COUNTER-DRUG program were 1.732 and 2.500 pupils, respectively.

52. The impact assessment of the D.A.D.A program was carried out in 2008 by the National Institute of Criminology. Its experts established that for an assessment in real terms of the effectiveness and necessity of the programs and for determining the direction of the program's future development the entire assessment scheme had to be amended.

53. The "School Police Officer" program was launched in 2008 by the National Police Headquarters. The goal of the program was to ensure accident-free child traffic and to prevent children from becoming victims. The number of schools that participated in the program was 2.386.

54. In its crime-prevention program the Esztergom-seated Saint Jacob Foundation/Light Centre (Szent Jakab Alapítvány/Fényközpont), which won the tender of the National Crime-Prevention Committee, prepared a short film entitled "JUST DON'T DO IT!" in cooperation with young peer helpers. The script and the music of the film were prepared, and the roles were played by young persons. The "JUST DON'T DO IT!" program was evaluated by the jury of the European Crime-Prevention Network Conference on Best Practices as excellent. Upon the commission of the National Crime-Prevention Committee, a methodological guideline for the classroom discussions of the film was drafted. The program is currently running with more than 150 experts who hold trainings for juvenile groups of various composition. Based on the experience gained so far it can be established that this program effectively helps crime-prevention and may result in the launching in small communities of similar own projects, utilising the methods of drama-pedagogy. In publishing its tenders the National Crime-Prevention Committee devoted special attention to the support of peer helper groups. Tender winners having carried out successful crime-prevention programs (among others, the Probation Supervisory Service of the Budapest Regional Justice Service, the For the Youth of Baranya non-profit company, the Kecskemét Youth Information and Counselling Bureau, (HELPI), the Tiszadob Child Home, the Partners Hungary Foundation, the Ercsi Eötvös József School, the Green Zone Cultural Association of Szigetvár, the Esztergom Saint Jacob Foundation and Light Centre, the Tree Cave Foundation in Sásd) organised integrated programs with trained peer helpers for endangered and endangering young persons. In 2006-2007 these programs, whose objective was not simply peer helping, received a support of 52,5 million HUF from the National Crime-Prevention Committee.

55. Under the amended Act on the Protection of Children, in settlements with more than 40.000 inhabitants and in towns with county status "street-child" programs are being operated with social workers doing fieldwork in the streets and in areas of concrete housing blocks.

56. The National Crime-Prevention Committee also supported initiations aimed at creating spaces for young persons and youth communities. From among the programs carried out in 2007/2008 special attention was devoted to initiations offering alternative activities to wandering children, and 27,75 million HUF was granted to programs managed by 3 organisations.

57. In 2008 the National Crime-Prevention Committee awarded a total support of 21,5 million HUF to the "shopping mall programs" launched in Tatabánya, Győr and Kecskemét, which aimed at a multi-purpose utilisation of the physical and social spaces available in shopping malls by offering low-budget services in spaces frequented by young persons.

58. In 2007 the Ministry of Social and Labour Affairs granted a framework amount of 230 million HUF for creating domestic community spaces for the young and for organising youth festivals. In 2007 the amounts allotted to the Regional Youth Councils were reduced, but they still awarded 67 million HUF for camping activities, 53 million HUF for complex youth development programs and 17,5 million HUF for the creation of community spaces.

59. The textbook compiled within the framework of TÁMOP 5.6.2., a priority program, addresses in detail child prevention and youth criminality-related issues. In the survey carried out within the framework of this priority project expert opinions on the child care institutional system and the signalling system were collected and the crime prevention attitudes of experts were tested. The other target group of the survey which focused on the demographic, sociological and criminological characteristics of children and juveniles exposed to becoming victims or perpetrators was the group of endangered children (children under supervisory probation, in correctional institutions or child homes, and wandering children).

60. The aim of the three working groups established within this priority project was to optimise the operation of the child protection signalling system and to elaborate programs for the re-socialisation of wandering children and child offenders.

VI. Criminal law provisions

61. A perpetrator under 14 at the time of the commission of the offence shall not be punishable. A perpetrator shall be deemed to be a juvenile until he reaches the age of 18, thus the special rules governing juveniles are applicable till that age.

62. An aggrieved party shall be a minor (a “child”, within the meaning of international instruments) until reaching the age of 18.

63. In criminal cases concerning offences allegedly committed by juvenile perpetrators (aged 14-18) juvenile proceedings shall be conducted. In criminal cases concerning offences committed against a child or a juvenile (e.g. endangerment of a minor, failure to pay child support, crimes against sexual morals committed against children or juveniles, thus, e.g. child pornography) general (adult) criminal proceedings shall be conducted.

Trafficking in persons

64. Under the Hungarian Criminal Code (hereinafter: CC.), any person who sells, purchases, conveys or receives another person, or exchanges a person for another person, or recruits, transports, houses, hides or appropriates people for such purposes to another party shall be guilty of the felony offence of trafficking in persons and shall be punishable by imprisonment of up to three years (Section 175/B.).

65. The punishment shall be imprisonment from one to five years if the criminal act is committed against a person under 18; to the detriment of a person in captivity or subjected to forced labour; for the purpose of sodomy or sexual intercourse; for the unlawful use of the human body; in criminal conspiracy; or in a pattern of business operation.

66. The punishment shall be imprisonment from two to eight years if the offence is committed against a person placed under the care, custody, supervision or treatment of the perpetrator; or for the purpose of subjecting the victim to forced labour; for the purpose of sodomy or sexual intercourse; for the unlawful use of the human body; by force or by threat of force; by deception; by tormenting the injured person.

67. The punishment shall be imprisonment from five to ten years if the offence is committed against a person under 18; against a person in captivity; against a person under the care, custody, supervision or treatment of the perpetrator; for the purpose of subjecting the victim to forced labour; for the purpose of sodomy or sexual intercourse; for the unlawful use of the human body; by force or by threat of force; by deception; by tormenting the injured person; or for the purpose of making illegal pornographic material.

68. The punishment shall be imprisonment from five to fifteen years or life imprisonment if the offence is committed against a person under 12; for the purpose of subjecting the victim to forced labour; for the purpose of sodomy or sexual intercourse; for the unlawful use of the human body; by force or threat of force; by deception; by tormenting the injured person; or for the purpose of making illegal pornographic material.

Sexual abuse of children

69. Under the CC., any person who has sexual intercourse with a person under 14 and any person over the age of 18 who engages in sodomy with a person under the age of 14 shall be guilty of a felony punishable by imprisonment from one to five years. Any person over the age of 18 who tries to persuade a person under 14 to have sexual intercourse or to

engage in sodomy with him is guilty of a felony punishable by imprisonment of up to three years. The punishment shall be imprisonment from two to eight years or, respectively, from one to five years, if the victim of these crimes is a relative of the perpetrator, or is under the care, custody or supervision of the perpetrator, or receives medical treatment from the perpetrator.

70. Any person who persuades a person under 14 to have sexual intercourse or to engage in sodomy with another person is guilty of a felony punishable by imprisonment from one to five years. Any person over the age of 14 who attempts to persuade a person under the age of 14 to have sexual intercourse or to engage in sodomy with another person is guilty of a felony punishable by imprisonment of up to three years. The punishment shall be imprisonment from two to eight years or, respectively, from one to five years if the victim of these crimes is a relative of the perpetrator, or is under the care, custody or supervision of the perpetrator, or receives medical treatment from the perpetrator.

71. Any person who has sexual intercourse or engages in sodomy with a person under the age of 18 for a reward is guilty of a felony punishable by imprisonment of up to three years.

Crimes with illegal pornographic material

72. Under the CC., any person possessing pornographic images of a person or persons under the age of 18 is guilty of a felony punishable by imprisonment of up to three years. Any person who offers, conveys and/or distributes or makes available pornographic images of a person or persons under the age of 18 is guilty of a felony punishable by imprisonment of up to five years.

73. Any person who produces pornographic images of a person or persons under the age of 18 and/or distributes or makes such pornographic images available to the general public is guilty of a felony punishable by imprisonment from two to eight years.

74. Any person making a person or persons under the age of 18 participate in a pornographic show shall be punishable by imprisonment from two to eight years.

75. Any person who provides financial means to the commission of such crimes shall be punished by imprisonment from two to eight years.

76. Any person who instigates another person or persons under the age of 18 to participate in a pornographic image or in a pornographic show is guilty of a misdemeanour punishable by imprisonment of up to two years.

Promotion of prostitution

77. Under the CC., any person who makes a building or another place available for another person for the purpose of being engaged in prostitution is guilty of a felony punishable by imprisonment of up to three years. The punishment shall be imprisonment from two to eight years if a person under 18 engages in prostitution in a brothel.

Territorial and personal scope

78. Under the CC., Hungarian law shall be applicable to offences committed in the territory of Hungary and to acts committed by Hungarian nationals abroad, provided that the act constitutes an offence under Hungarian law. Hungarian law shall also be applicable to offences committed on board of Hungarian ships or Hungarian aircrafts outside the territory of Hungary.

79. Hungarian law shall further be applicable to acts committed by non-Hungarian nationals in a foreign country, provided that the act constitutes a felony offence under Hungarian law and is also punishable under the law of the country where it was committed;

if it is a crime against the state (except for espionage against allied armed forces), regardless of whether or not it is punishable under the law of the country where it was committed; and if it is a crime against humanity or any other offence prosecutable under an international treaty.

80. Under the CC a property:

- (a) actually used or intended to be used as an instrument for the commission of an offence;
- (b) the possession of which endangers public safety or is illegal;
- (c) that came into existence by way of a criminal act;
- (d) for which the criminal act was committed or that was used for the transportation of this object after the commission of the offence;

shall be confiscated.

81. Confiscation shall be ordered even where the perpetrator cannot be subjected to prosecution on account of his minor status or mental disorder, or his having been reprimanded.

82. Under the CC. a property:

- (a) resulting from criminal activities, obtained by the offender in the course of, or in connection with a criminal act;
- (b) obtained by an offender during his participation in a criminal organisation; any property that was used to replace the financial gain or advantage obtained by the offender in the course of, or in connection with a criminal act;
- (c) that was supplied or intended to be used for the purpose of committing a crime or to finance the conditions required for the commission of a crime, or to facilitate a crime;
- (d) any property embodying the subject of a financial advantage;

shall be subject to forfeiture.

83. Any financial gain or advantage resulting from criminal activity, obtained by the offender in the course of, or in connection with a criminal act shall be seized under forfeiture where it enriched another person. If such gain or advantage was obtained by a business association, the property shall also be subject to forfeiture. Thus, not only the property of natural persons but also the property of artificial entities may be subject to forfeiture.

84. Confiscation and asset forfeiture is regulated under the Code of Criminal Procedure. According to the rules, where criminal proceedings are discontinued or suspended on account of the defendant's unknown whereabouts or mental disease, or where proceedings are not instituted against anyone the court shall, upon the prosecutor's motion, decide on confiscation, asset forfeiture or the transfer of the seized property into the ownership of the state.

Sale of children

85. Sale of children may, in certain cases, amount to trafficking in persons as governed under Section 175/B of the Criminal Code. Where the aggrieved party is under 18 or the sale was effected for the purpose of forced labour or sodomy or the illicit use of human body, the offence shall be an aggravated case. Where the offence is committed against a person under 12, it shall be a more serious aggravated case.

86. Section 175/B (1) of the CC:

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

(2) The punishment shall be imprisonment from one to five years if the criminal act is committed:

- a) against a person under 18;
- b) against a person in captivity;
- c) for subjecting the victim to forced labour;
- d) for the purpose of sodomy or 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 from two to eight years, if the criminal act is committed:

(a) against a person under the care, custody, supervision or treatment of the perpetrator; or

(b) for the purposes specified in items c)-e) of subsection (2):

- 1) by force or threat of force;
- 2) by deception;
- 3) by tormenting the injured person.

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

(a) against a person referred to in items a)-b) of subsection (2) and in item a) of subsection (3); or for any of the purposes defined under items c)-e) of subsection (2), and/or in the manner defined under Points 1-3 of item b) of subsection (3); or

(b) for the purpose of making illegal pornographic material.

(5) The punishment shall be imprisonment from five to fifteen years or life imprisonment if the criminal act is committed against a person under the age of 12:

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

(6) Any person who engages in preparations for trafficking in persons is guilty of a misdemeanour punishable by imprisonment for up to two years.

87. Preparation for trafficking in persons shall also be punishable. An attempt shall be evaluated, in line with Section 17 of the Criminal Code, within the statutory limits of the punishment specified for the accomplished offence. Bad-faith instigation in order to obtain consent to a child's adoption shall be regarded an act of instigation under the Criminal Code the punishment of which, as complicity, shall be similar to the punishment imposable

on perpetrators. Such an act may also amount to trafficking in persons (“obtains for another person”) or to changing family status (Section 193 of the CC).

88. Offering or acquiring a child for child prostitution may amount to aggravated trafficking, pandering, sexual abuse (Section 202 of the CC.) or, where a more serious offence has not been committed, to endangerment of a minor.

89. Acts of trafficking committed against a person under the age of 18 for the purpose of labour exploitation, sodomy or sexual intercourse shall constitute an aggravated case. Acts of trafficking committed against a person under the age of 12 shall constitute an even more serious aggravated case.

90. Pandering (that is, soliciting a person for another person for the purpose of sexual intercourse or sodomy for financial gain) is sanctioned under Section 207 of the CC. Pandering committed against a person under the age of 18 shall constitute an aggravated case. An aggravated case of promotion of prostitution (Section 205 of the CC.) is committed where a person under the age of 18 engages in prostitution in a brothel. The offence of abuse of a minor under Section 195 of the CC. is committed where a person of majority age attempts to persuade a minor to commit a crime or to engage in an immoral conduct. Offering the possibility of committing an offence shall, in case it is unsuccessful, be evaluated as attempt, which is also punishable under Section 17 of the CC.

91. As to child pornography, the distribution, dissemination, offering, sale or possession of such materials for the above purposes shall constitute a crime with illegal pornographic material (Section 204 of the CC.). Section 204 of the CC.:

- (1) Any person possessing pornographic images of a person or persons under the age of 18 is guilty of a felony punishable by imprisonment of up to three years.
- (2) Any person who offers, conveys and/or distributes or makes available pornographic images of a person or persons under the age of 18 is guilty of a felony punishable by imprisonment of up to five years.
- (3) Any person who produces pornographic images of a person or persons under the age of 19, and/or distributes or makes such pornographic images available to the general public is guilty of a felony punishable by imprisonment from two to eight years.
- (4) A person making another person or persons under the age of 18 participate in a pornographic show shall be punishable in accordance with subsection (3).
- (5) A person providing financial means and thus assisting in the commission of the offences defined in subsections (3)-(4) shall be punished by imprisonment from two to eight years.
- (6) Any person who instigates another person or persons under the age of 18 to participate in a pornographic image or in a pornographic show, is guilty of a misdemeanour punishable by imprisonment of up to two years, community service work, or a fine.
- (7) For the purposes of this Section:
 - (a) ‘image’ means a recording made by video, film or photographic equipment or by any other technical means,
 - (b) ‘pornographic image’ means any image that displays sexuality in a gravely indecent manner with the aim of arousing sexual excitement,
 - (c) ‘pornographic show’ means an act of displaying sexuality in a gravely indecent manner with the aim of arousing sexual excitement.

92. Under the regulation in force at present, minors shall receive criminal law protection against abuses committed against them with pornographic material. Persons above the age of 16, having attained majority due to marriage are not excluded from the scope of protection either. This solution is consistent with the criminal regulatory scheme pertaining to offences against sexual morals, where the age of 14 and 18 are the relevant age factors.

93. Conducts amounting to child pornography are the following:

- (a) Production of child pornographic material;
- (b) Distribution, dissemination or transmission of child pornographic material;
- (c) Offering or making accessible child pornographic material;
- (d) Organising child pornography or possessing pornographic material.

94. The legal provision governing promotion of prostitution (Section 205 of the CC.) ensures additional protection for minors. Where pandering and promotion of prostitution is committed against a minor the conduct shall constitute an aggravated offence and shall be punishable by imprisonment from two to eight years.

Attempt, aiding and abetting, and complicity in the above offences

95. Under Section 16 of the CC. any person who commences the perpetration of a premeditated crime but does not finish it, shall be punishable for an attempt.

96. Under Section 17 subsection (1) of the CC. the sentence imposable for a consummated offense shall also be imposable for an attempt.

97. Perpetrators are defined under Chapter II, Title III of the CC. Parties to a crime are perpetrators and co-actors, aiders and abettors and accomplices. An instigator is a person who intentionally persuades another person to commit a crime. An aider and abettor is a person who knowingly and voluntarily helps another person commit a crime. The sentence applicable to perpetrators shall also be applicable to accomplices. Harboring a criminal is governed under Section 244 of the CC. According to the regulation, any person who without having agreed with the perpetrator of a crime before the perpetration, gives assistance to the perpetrator to his escape from the authority, or attempts to obstruct the criminal proceedings, or participates in securing the profit resulting from an offence is guilty of a misdemeanour punishable by imprisonment of up to one year. In case of a felony the punishment shall be imprisonment of up to five years if aiding and abetting is committed in respect of kidnapping.

The liability of legal persons

98. Criminal law measures against legal persons are governed under Act No. CIV of 2001. Legal persons do not have independent legal subject status for the purposes of substantive criminal law, therefore they shall not be deemed to be perpetrators under the CC. Criminal proceedings are conducted against a natural person, the subject of the criminal proceedings is a natural person, so criminal proceedings in the traditional sense are not instituted against legal persons: legal persons shall not be defendants in a suit, investigations shall not be conducted against them, they shall not be arraigned and no prosecutorial sanction shall be imposed on them.

99. However, where the court imposes a sentence, a reprimand or where it probates the offender for the commission of an intentional offence regulated under the CC., by

- (a) the executive officer or a member authorised for the company's representation, or an officer of the company, a company employee representative, a Supervisory Board member or a member authorised by the above persons in carrying out the legal person's business activity, or

(b) a member or an employee in carrying out the legal person's business activity, where compliance with the direction- or control-related obligations of the executive officer or the company employee representative or the Supervisory Board could have prevented the commission of the offence, the following measures may be taken against the legal person, provided that the commission of the offence was aimed at or resulted in gaining advantage for the legal person:

- Dissolution of the legal person
- Limiting the activities of the legal person
- Imposition of a fine on the legal person

The Hague Convention

100. The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction was promulgated in Hungary by Law-Decree No. 14 of 1986.

Information on arraignments and court decisions related to the material scope of the Convention.

Miskolc District Court

101. On 3 August 2011 charges were preferred by the public prosecutor's office for the felony offence of abuse of pornographic material committed by making such material accessible to the general public, governed under Section 204 subsection (3) of the CC., and for the felony offence of abuse of pornographic material committed by possessing such material, governed under Section 204 subsection (1) of the CC. The aggrieved parties were children.

102. On 11 January 2012 the accused was convicted and a cumulative sentence of 4 years imprisonment to be served in a medium security prison was imposed on him. The perpetrator was, for 4 years, prohibited from participating in public affairs.

Komárom District Court

103. In the case instituted under No. 6.B.187/2005, the court delivered judgment for the felony offence of abuse of pornographic material; the defendant was sentenced to 250.000 HUF fine and 4 CDs were forfeited.

Veszprém District Court

104. The court dealt with two cases of aggravated promotion of prostitution governed under Section 205 subsection (3) of the CC. One case was closed without a trial, the other case is still pending.

Balassagyarmat District Court

105. The court delivered judgment in a case of felony abuse of pornographic material committed consecutively, violating Section 204 subsection (3) of the CC., and for other offences; on 10 September 2009 a cumulative sentence of 10 years imprisonment to be served in a maximum security prison was imposed on the defendant who was, in addition, prohibited from participating in public affairs for 6 years.

Tribunal of Balassagyarmat (county regional court)

106. On 23 March 2009 the court convicted the defendant for 93 counts of felony abuse of pornographic material, violating Section 204 subsection (1) of CC, and for other offences; a cumulative sentence of 12 years imprisonment to be served in a maximum

security prison was imposed on the defendant who was, in addition, prohibited from participating in public affairs for 10 years.

Szolnok District Court

107. The defendant was sentenced to 1 year imprisonment for felony abuse of pornographic material violating Section 204 subsections (1) and (3) of the CC.; the execution of the sentence was suspended for a probation period of 2 years.

108. The defendant was sentenced to a fine amount of 250 days – equalling a total of 75.000 HUF – for felony offence of abuse of pornographic material violating Section 204 subsection (1) of the CC., and for 26 counts of misdemeanour of intellectual property rights violation.

The Kisvárda District Court and the Nyírbátor District Court

109. Convicted 3 defendants in 2 cases for felony abuse of pornographic material. The defendants were convicted and a sentence of imprisonment was imposed on them the execution of which was suspended for a probation period.

Buda Central District Court

110. Two child pornography-related cases were finally closed by the imposition of a fine.

111. In proceedings instituted for misdemeanour and felony abuse of pornographic material, in two cases the defendants were acquitted while in five cases the defendants were convicted. In the reporting period 46 promotion of prostitution cases were tried and closed.

Budapest XVIIIth and XIXth District Court

112. Four child pornography cases were closed.

Budapest XXth, XXIst and XXIIIrd District Court

113. One judgment was delivered for felony abuse of pornographic material.

Debrecen District Court

114. In 2009-2012 a final decision in 8 abuse of pornographic material cases under Section 204 of the CC. was delivered.

Budaörs District Court

115. In one case the defendant was convicted for the commission of 13 counts of felony abuse of pornographic material, violating Section 204 subsection (3) Phrase IV of the CC. A sentence of 1 year imprisonment was imposed on the defendant, the execution of which was suspended for a probation period of 2 years.

Extradition and mutual assistance in criminal matters

116. Cooperation with other states in criminal matters is governed under Act No. XXXVIII of 1996 (henceforth: Nbjt), whereas cooperation with the Member States of the European Union and surrender procedure under a European Arrest Warrant is governed under Act No. CXXX of 2003 on Judicial cooperation with the Member States of the European Union in criminal matters (*lex specialis*). Legal aid requests shall be executed on the basis of international agreements or upon reciprocity. Extradition from Hungary shall be carried out on the basis of Chapter II Title I of Nbjt, whereas the modalities of a surrender effected under a European Arrest Warrant are laid down in Chapter II Title I of Act No.

CXXX of 2003. The Criminal Code and Act No. XIX of 1998 on the Criminal procedure (henceforth: Be) shall be applicable as background legislation to the above referred Acts.

Confiscation and seizure

117. Under Section 77 subsection (1) of the CC. a property:

- (a) Actually used or intended to be used as an instrument for the commission of an offence;
- (b) The possession of which endangers public safety or is illegal;
- (c) That came into existence by way of a criminal act;
- (d) For which the criminal act was committed, or that was used for the transportation of this object after the commission of the offence;

shall be confiscated.

118. Confiscation shall be ordered even where the perpetrator cannot be subjected to prosecution on account of his minor status or mental disorder, or his having been reprimanded.

119. Under the CC. a property:

- (a) Resulting from criminal activity, obtained by the offender in the course of or in connection with a criminal act;
- (b) Obtained by an offender during his participation in a criminal organisation;
- (c) Any property that was used to replace the financial gain or advantage obtained by the offender in the course of or in connection with a criminal act;
- (d) That was supplied or intended to be used for the purpose of committing a crime or to finance the conditions required for the commission of a crime, or to facilitate a crime;
- (e) Any property embodying the subject of a financial advantage;

shall be subject to forfeiture.

120. Under section 77/B, subsection (2), any financial gain or advantage resulting from criminal activity, obtained by the offender in the course of or in connection with a criminal act shall be seized under forfeiture where it enriched another person. If such gain or advantage was obtained by an economic operator, it shall also be subject to forfeiture.

121. For securing confiscation or asset forfeiture, seizure under Section 151 of the CC. may be ordered. Where proceedings are being conducted for an offence in respect of which asset forfeiture may be ordered, or where civil claims are being asserted and there are grounds to believe that the satisfaction of those claims might be frustrated, the court may also order attachment under Section 159 of the CC.

Protection of aggrieved party rights

122. In addition to Be., victim protection-related provisions are also contained in branch laws, namely in Act No. LXXX of 2003 on Legal aid, and in Act No. CXXXV of 2005 on Support to victims of crimes and on mitigation of damages by the state.

123. The general rules applicable to the protection of witnesses are laid down in Sections 95-98/A of Be. (confidential treatment of the personal data of the witness, specially protected witnesses, personal protection of the participants of criminal proceedings, regulations applicable to persons participating in the witness protection program). The modalities of the latter two legal institutions are specified in Government Decree No. 34/1999. (II. 26.) on the conditions of ordering and the rules pertaining to the execution of the personal protection of

participants in criminal proceedings and of members of authorities conducting the proceedings, and in Act No. LXXXV of 2001 on the Protection Program of aiders of justice.

124. Be. contains the following protection of minors rules:

(a) Criminal proceedings for offences against life, bodily integrity and health (Chapter II Title I of Btk.) or against marriage, youth or sexual morals or for violent offences against persons committed against minors shall be given priority where the child's best interests so require, in particular where the offence endangered the bodily, mental or moral development of the aggrieved party to a significant degree, or where the aggrieved party is being brought up by, or is under the supervision or care of the defendant, or where the defendant lives in the aggrieved party's environment.

(b) Persons under the age of 14 shall not enter the courtroom and persons under the age of 18 may be excluded from the courtroom by the president of the panel.

(c) The court may, in reasoned decision, ex officio or upon the motion of the public prosecutor or the accused or the aggrieved party or the witness, exclude, entirely or in part, the general public from the hearing (hearing in camera):

(i) For a moral reason.

(ii) For the protection of a minor participating in the proceedings.

(iii) For the protection of persons participating in the proceedings (Chapter V), or for the protection of a witness.

(iv) For the protection of classified information.

(d) The president of the panel may order the hearing via a closed-circuit communication system of a witness against whom an offence against life, bodily integrity and health (Chapter XII, Title I of Btk.) or against marriage, youth or sexual morals (Chapter XV of Btk.) or a violent offence against the person was committed.

(e) In proceedings related to a minor a public prosecutor appointed by the superior public prosecutor (public prosecutor for juveniles) shall proceed.

(f) In proceedings related to a minor the participation of a defense counsel shall be mandatory; where the defendant has no counsel of his own choice the court shall appoint a counsel ex officio.

(g) After the investigations are closed the statutory representative shall have access to the case files. During the investigations the statutory representative may only inspect files related to the procedural acts that he was allowed to attend. As to the statutory representative's right of attendance or right to make observations or motions or right to remedy, the rights of the defense counsel shall be applicable.

(h) The guardianship authority shall – prior to the submission of the bill of indictment upon the public prosecutor's request, thereafter upon the court's request – appoint a guardian ad hoc, where

(i) The statutory representative committed the offence together with the juvenile or where a conflict of interests exists between the statutory representative and the juvenile.

(ii) The statutory representative is prevented from exercising his rights.

(iii) The juvenile has no statutory representative or the identity of the statutory representative cannot be established.

125. Under the Be. special rules shall be applicable to persons under 14:
- (a) A person under 14 shall not be heard as a witness unless the evidence expected from his testimony cannot be obtained otherwise;
 - (b) A person under 14 shall not be confronted where he would be frightened thereby;
 - (c) Before the submission of the bill of indictment a witness under 14 may be heard by the investigation judge where it can reasonably be presumed that his hearing in trial court would negatively affect his development;
 - (d) The hearing of a witness under 14 may be attended by his statutory representative or care worker;
 - (e) The president of the panel may order that the hearing of a witness under 14 be held via a closed-circuit communication system; in such a hearing questions to the witness shall only be addressed by the president of the panel;
 - (f) Where the witness is under 14 and was already heard by a court in the course of the investigations, he shall not be summoned to a hearing and shall be heard as a witness only in exceptionally justified cases;
126. Criminal proceedings against a juvenile defendant shall only be instituted upon prosecutorial prosecution; even in privately prosecutable cases public prosecutors shall proceed.
127. One of the lay judges of the first instance court shall be a pedagogist.
128. In court proceedings against juveniles a judge appointed by the National Office of the Judiciary shall proceed.
129. Waiver of trial shall not be applicable in juvenile cases.

Legal aid service for child victims

130. Forms of support granted under Section 17 of Act No. LXXX (personal exemption from payment, free legal representation) may be granted to a crime victim where legal advice or the filing of a submission (statement of claims, request, criminal complaint, motion for indictment) is required for initiating legal proceedings for damage caused, or for the prevention of a violation of an interest or a right.
131. Forms of victim support granted by the state include the enforcement of victims' interests and the provision of prompt financial aid and legal expertise (Section 4 of Act No. CXXXV of 2005). Needy victims of a violent crime against the person are also entitled to compensation (Section 6). Act No. CXXXV of 2005 is applicable to victims of offences committed in Hungary and to natural persons having suffered bodily or mental injuries, emotional shock or financial damage in direct consequence of an offence, where the aggrieved party is a Hungarian national or a national of a European Union Member State, a third country national lawfully staying in the European Union or a stateless person lawfully staying in Hungary, a victim of trafficking in persons, or a person entitled to support under an international agreement concluded with Hungary or upon reciprocity.
132. The victim support-related tasks of the Police Service are governed under Act No. CXXXV of 2005 on Crime victim support and state compensation, Decree No. 17/2007. (III. 17.) IRM of the Minister of Justice and Law-Enforcement on the Victim support tasks of the Police Service and the Border Guard Service, and Instruction No. 50/2008. (OT 29) of the National Commander of the Police Service (ORFK) on Victim support-related police tasks, issued for the proper implementation of the IRM Decree. The ORFK Instruction

provided for the compilation of a guide offering methodological guidance, and contained recommendations for the prevention of becoming a victim in high-risk groups.

133. In 2006 the crime prevention experts of the Criminal Directorate of the National Police Headquarters drafted a Methodological Guideline for the suppression of prostitution and of trafficking-related violations by incorporating the materials prepared by the Anti-Trafficking Department of the National Investigations Bureau and by the International Organization for Migration (IOM). The Guideline gives an overview of the process of trafficking, the recruiting methods, the means applied by traffickers (threat, violence, fraud, misrepresentation, etc.), opportunities for undercover operations, the most often recommended undercover activities, and the final goal to be achieved. For crime prevention experts it gives a presentation of the special methods used in victimisation prevention, forms of provision and dissemination of information, and the facts to which the attention of persons considering to stay or work in a foreign country – thus potentially exposed to victimisation – should be drawn. The personnel of the regional crime prevention bodies regularly disseminate such information in schools, nursing homes, church institutions.

134. Under the Act on Crime victim support and state compensation, Victim Support Services shall provide information to clients about their rights and obligations in the criminal procedure. This applies to minors and majors alike. Clients do not need to contact in person a particular Victim Support Service since it shall provide victims with written information about their rights, obligations and options where they receive information of a person's having become a victim. The information provided by the Service is of general nature and can be accessed by anyone without time limit, irrespective of the person's legal status.

135. The Act on Crime victim support and state compensation contains a special provision on the information (in addition to the information mentioned above) that victims of trafficking are to be provided with. Under Section 9/A the Victim Support Service shall inform a third-country national victim of trafficking about the fact that he has one month to think over whether to cooperate or not with the investigation authorities, and that for the reflection period he shall be entitled to a temporary stay certificate. If he opts for cooperation with the authorities, he shall be entitled to a residence permit.

136. In addition to providing general information, the Victim Support Service shall also help in facilitating the enforcement of victims' fundamental rights. In clarifying their legal status crime victims shall be provided with legal counselling and information on how to access health insurance services, healthcare and social services. Requests for accessing such services shall be accepted without time limit. Under the Act on Crime victim support and state compensation, natural persons having suffered harm, including physical or mental injury, emotional suffering or economic loss as a direct result of an offense shall be granted victim status. The Act is applicable not only to Hungarian nationals but also to EU Member State nationals, non-EU country nationals lawfully residing in the territory of the European Union, stateless persons lawfully residing in the territory of Hungary, victims of trafficking, and other persons eligible to support and state compensation under an international agreement or upon reciprocity. A certificate on a victim's legal status shall be issued by the investigation authority, the public prosecutor or the court authorised to act in the given phase of the criminal proceedings.

137. Promoting the interests of victims includes provision of assistance in having access to services of other bodies, authorities or professionals, as the purpose of the Act on Crime victim support and state compensation is to grant personalized services to crime victims. Therefore victims shall not be referred to further authorities or professionals, unless the Victim Support Service lacks competence to proceed or is unable to solve a problem.

138. According to 2011 data, the number of child victims having requested support from the county Justice Services was 302 (136 children were under the age of 14, 166 children were between the age of 14-18). In 2011 the total number of clients was 10.002. It has to be

noted that children having requested support via their legal representatives are contained in the statistics on adult-clients.

139. The Act on the General rules of administrative procedure and services shall also be applicable to the Victim Support Service procedure. Under Section 15 subsection (7) of the Act invoked, a natural person client shall have procedural standing where he has capacity to act within the meaning of civil law. In cases specified under the law persons whose capacity to act is limited shall also have procedural standing. Where subsequently a doubt arises as to the existence of the procedural standing, the proceeding authority shall examine the case and where it finds the absence of such standing it shall involve the client's statutory representative in the proceedings or shall appoint a curator ad litem. Government Decree No.147/1997. (IX. 10) on Guardianship authorities and child welfare and guardianship procedures provides that a curator ad litem shall, as a rule, be a lawyer. Where a curator ad litem for a child needs to be appointed in several – continuous or repetitive – cases, the authorities are encouraged to appoint the same person to represent the child's interest. Curators ad litem shall hear the child and shall take into account their wishes by having regard to their age and mental maturity.

140. Where the Victim Support Service finds that a crime victim needs special legal counselling and representation, it shall refer the case to a legal aid service operating within a capital/county Justice Service. Under the Act on Legal aid such assistance is granted to needy persons. Child victims (persons under 18) of crime are, as a rule, entitled to legal aid, irrespective of their financial situation. Legal aid covers counselling in extrajudicial matters and representation in court proceedings.

141. Under the Act on Crime victim support and state compensation, prompt financial aid may be awarded to cover a victim's extraordinary housing, clothing, travel, catering, medical or funeral expenses. The maximum amount of such a support is limited to a sum equalling 43 % of the gross national monthly average wage in the preceding year, as published by the Central Statistical Office of Hungary (in 2012: 87.118 HUF). Requests for prompt financial aid shall be filed within five days from the commission of the crime. Eligibility does not depend on the victim's financial situation; financial aids are awarded by Victim Support Services on the basis of equity, by taking into consideration the victim's specific crisis situation.

142. Furthermore, a scheme for providing psychological care has recently been institutionalised within the framework of TÁMOP 5.6.2/10-1. At present, psychological care aimed at promoting victim reintegration is available in 3 counties (Nógrád, Heves, Borsod-Abaúj-Zemplén). Child and minor victims are granted specific psychological treatment. The aim is to make this service available nationwide.

143. Decree No. 32/2011 on the Child-friendly interview rooms to be set up in county police departments has been issued by the Minister of Public Administration and Justice. The interview rooms shall be set up till 1 January 2014. They shall be shaped and furnished so as to meet children's specific needs. Children shall always be interviewed in these rooms. The interview rooms will provide physical and emotional security for children during the interviews which shall be conducted with patience and by paying due regard to the age of the child.

144. Bill No. T6577 on Child-friendly judicial procedures is expected to be adopted soon by the Parliament. In order to secure high level protection for children during criminal and civil court proceedings the Criminal Code and the Civil Code as well as the Code on Civil Procedure will be amended by the new Act. In order to realise child-friendly justice, the statutes of limitations and the statutory provisions governing certain sexual crimes will be modified. Special policies related to communication with children in civil proceedings will also be adopted.

145. KIMISZ regularly organizes national trainings and case discussions for professionals engaged in victim protection. So far no special training focusing solely on the treatment of children has been held. The professional exam to be passed by all new personnel of the Victim Support Service do, however, include questions related to the child-welfare system.

146. The personnel working at the Victim Support Service are public officials, therefore violence or assault against them or interference with their work shall constitute a crime and shall be punishable under the law (namely under the Criminal Code). The strict criminal rules and the criminal investigations that are conducted by the authorities in such cases ensure secure work conditions for victim support personnel.

147. The most important form of support aimed at recovering child victims' mental health is the provision of psychological assistance. The psychologists of the Victim Support Service help victims via individual crisis-intervention which is a prompt support and which focuses on enhancing victims' ability to digest the uneasy memories of the crime. In case of child victims this process is made up of different and special steps. The aim is to mitigate victims' tenseness, to create an atmosphere of emotional security, to identify the problem objectively, and to find a solution together. Where it is appropriate, psychologists shall also organize and guide therapeutic groups. In these groups victims learn relaxation methods and engage in therapeutic conversation led by the psychologist.

148. According to KIMISZ statistics, from 1 April 2011 to 31 March 2012 twenty-one minors received psychological care in the three counties in which such care is available. Most minors were victims of road traffic crimes (8 children) but 3 children were victims of theft, 2 were victims of indecency, and 4 were seduced. 1 child was raped, 2 children were victims of domestic violence, and 1 child suffered serious assault.

149. The Victim Support Service provides psychological assistance for recovering children's identity. As already mentioned above, at present such service is available in 3 counties in Hungary. The aim is to make such psychological service available in the whole country.

150. The Victim Support Service has no data on such child victims of sale, child prostitution or pornography who are not nationals or whose nationality is not known. The Act on Crime victim support and state compensation provides that it shall be applicable to all victims of trafficking. Thus, victims of sale or trafficking shall always be entitled to victim support, irrespective of their age, sex or nationality.

151. A crime victim may seek compensation from the perpetrator by filing a civil claim in the criminal proceedings. In case of minor offenses victims may be compensated in the framework of victim-offender mediation or may seek compensation from the state. Compensation by the state shall be determined in administrative proceedings conducted separately from pending criminal or civil proceedings. The Act on Crime victim support and state compensation, however, provides that where a victim has received compensation from another source after having been compensated by the state, he shall refund the amount of the state compensation within 3 years from the date when the decision on the merits of the request for support became final.

152. Section 6 subsection (1) of the Act on Crime victim support and state compensation provides that a needy natural person:

- (i) who has been a victim of a violent intentional crime and, as a direct consequence thereof, suffered severe physical or mental injury;
- (ii) who is a direct relative, adoptive or foster parent, adopted or foster child, spouse or common-law spouse of the victim injured or died in consequence of a crime referred to under point (i), and was living at the time of the commission of the crime with the victim as a domestic partner;

(iii) whom the victim injured or died in consequence of a crime referred to under point (i) above is or was obliged to maintain under the law or under an enforceable court order or official decision or a valid contract;

(iv) who has arranged for the funeral of the victim;

shall be eligible for compensation.

153. Due to point (i), compensation by the state shall only be provided to victims of specific categories of offences, enumerated in the Act. Eligibility to state compensation shall be examined individually by the competent authority. Neediness is defined under Section 6 subsection 2 of the Act. This legal provision states that a crime victim shall be considered to be a needy person where his net monthly income or the per capita household income does not exceed certain basic amounts. A child victim of crime shall, irrespective of his financial situation, be deemed to be needy when he is in need of temporary accommodation in a children's home.

154. Compensation shall be of two kinds:

- Lump-sum cash payment for compensating pecuniary damages, or
- Regular monthly allotment for compensating the loss of regular income

155. It has to be noted that state compensation usually does not cover the entire damage, only a fraction of it. Its amount is adjusted to the actual damage suffered.

156. As a rule, claims may be filed to any county Justice Service within three months from the commission of the offence. Claims shall be adjudicated by the Justice Service of the Budapest Regional Government Office.

157. Under the Act on Crime victim support and state compensation EU nationals, non-EU nationals lawfully residing in the territory of the European Union, stateless persons lawfully residing in the territory of Hungary, victims of trafficking, and other persons eligible to state compensation under an international agreement or upon reciprocity may also seek such compensation where they fulfil the above criteria.

VII. Support to child victims

158. Act No. CXXXV of 2005 on Crime victim support and state compensation entered into force on 1 January 2006. If a child becomes a victim of a crime he shall be entitled to crime victim support and compensation. The state ensures for victims of crime assistance in enforcing their claims, prompt financial support, and legal aid. The type of service granted is determined by the nature of the offence, the effect of the offence on the victim, and the personal circumstances of the victim. Services are accessible to victims of any offences for which criminal proceedings were instituted and where the victim is entitled to such services under Section 1 subsection (1) of the Act, irrespective as to whether a ground for excluding or discontinuing the perpetrator's punishability exists.

159. Compensation by the state may be granted under the Act in case an intentional offence severely damaging bodily integrity or health, or a violent offence against the person has been committed.

160. A child victim contacting the Victim Support Service shall only be interviewed where such interviewing is indispensable, and the interview shall be conducted in a manner appropriate for the child's age. Under the general rules it is the child's statutory representative who shall act on behalf of the child and his opinion shall always be taken into consideration by the victim support official in charge of the case. Discretionary decision on the support shall be taken by the Victim Support Service by taking into consideration the child's best interests.

161. Under Section 1 h) of Act No. XXXI of 1997 on the Protection of children and on guardianship administration the Victim Support Service shall form part of the child protection signalling system. Under Section 43 (2) of the Act on Crime victim support and state compensation, “where in the course of carrying out its activities the Victim Support Service receives information about the endangerment of a child it shall immediately notify the child care service of the child’s actual place of residence of this information.”

162. Even where no offence is committed against them, child victims are particularly endangered as their personal circumstances (age, close connection with the perpetrator, low interest assertion capability) are specific, therefore they are rarely able to cope with the problems resulting from an offence. Therefore special attention needs to be devoted to them. Under Section 6 subsections (1)-(2) of the Act on Protection of children and on guardianship administration, “children shall have the right to be brought up in their own family in circumstances safeguarding their bodily, mental, emotional and moral development, healthy upbringing and well-being. Children shall have the right to receive help in being brought up in their own family, in the development of their personality, in the prevention of a situation endangering their development, in integrating into society, and in starting an independent life.” The child’s endangerment shall be examined by the Victim Support Service in an individualised manner. The Victim Support Service is obliged to initiate guardianship proceedings in case the minor’s life or bodily integrity is endangered or the minor is assaulted or severely neglected or otherwise seriously endangered.

163. In the first half of 2011, during the Hungarian Presidency of the European Union, the Budapest Roadmap was elaborated and adopted by the Council of Home Affairs and Justice Ministers at the 10 June 2011 meeting. The Budapest Roadmap sets the directions for the creation of a high-level witness protection system. In mapping and addressing the problems and the shortcomings of the victim protection system at domestic and EU level and in elaborating the proposed solutions, special attention was devoted in the Roadmap to the research results of the EU institutions and of the domestic and international NGOs and to the questions and proposals raised by the Ministry of Public Administration and Justice (KIMISZ).

164. In addition to declaring the general principles, the Budapest Roadmap also proposed concrete measures, namely the replacement of Council Framework Decision 2001/220/JHA of 15 March 2001 on the Standing of victims in criminal proceedings by another legal instrument with wider content, and to this end it initiated the working out of a draft directive on the minimum rules pertaining to support, protection and the rights of victims of crimes. The draft is intended to significantly increase the rights ensured for victims of crime under criminal procedural rules and to extend the scope of support granted to victims, so as to include the provision of emotional and psychological support as well. The Roadmap and the draft directive devoted special attention to specific victim groups (children, persons living with disabilities, victims of sexual aggression and victims of trafficking in persons) and to the determination of the needs of these victim groups in the light of the particular offence which was committed against them, and in the light of their particular personal characteristics.

165. The Anti-Trafficking National Coordination Mechanism (the Mechanism) is being operated by the European Cooperation Department of the Ministry of Interior Affairs. The specific task of the Mechanism is to provide help for victims of trafficking. The Mechanism endeavours to develop a victim-focused approach, ensures coordinated action against trafficking in persons, monitors and evaluates domestic and international trends. The anti-trafficking activity of governmental and non-governmental agents is coordinated under this Mechanism.

166. From 1 July 2007 the provision of support for victims of trafficking is a priority task of the Victim Support Service. The legal provision stipulating this task was enacted by Section 119 subsection (1) of Act No. II of 2007 and entered into force on 1 July 2007.

Another relevant legal provision is Section 42 subsection (3) of the Act on Crime victim support and state compensation, under which after providing the information required under Section 9/A, the victim support authority shall – with immediate notification to the investigation authority or the public prosecutor or the court actually proceeding in the criminal case – initiate before the alien control authority the issuance of a certificate entitling a third country national for temporary residence.

167. Under Section 9/A, where the Victim Support Service establishes that a third country national contacting the Service is a victim of trafficking the Service shall inform him – in addition to the information required under Section 9 subsection (1) – of the fact that:

(a) He has a period of 1 month to decide whether to cooperate or not with the authorities in detecting the criminal offence;

(b) For the period of reflection he is entitled to a certificate entitling for temporary residence and for the period of cooperation with the authorities he is entitled to a residence permit.

VIII. Enhancing international cooperation

168. In addition to the Conventions listed under paragraphs 10 and 100, Hungary has also joined the following Conventions:

(i) Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, done at New York, on 21 March 1950 (promulgated by Law-Decree No. 34 of 1955)

(ii) Convention on the Rights of the Child, done at New York, on 20 November 1989 (promulgated by Act No. LXIV of 1991)

(iii) Convention No. 182 on the Worst Forms of Child Labour adopted at ILO Session No. 87 of 1999 (promulgated by Act No. XXVII of 2001)

(iv) Council of Europe Convention on Cybercrime done at Budapest, on 23 November 2001 (promulgated by Act No. LXXIX of 2004)

(v) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime, done at Palermo, on 14 December 2000 (promulgated by Act No. CII of 2006)

(vi) Council Framework Decision 2004/68/JHA of 22 December 2003 on Combating the Sexual Exploitation of Children and Child Pornography, the implementation of which was ensured via Act No. XXVII of 2007 on the amendment of Act No. IV of 1978 on the Criminal Code and Other Criminal Law-Related Acts

(vii) Act No. LXXX of 2005 promulgating the Hague Convention of 29 May 1993 on the Protection of Children and Cooperation in respect of Intercountry Adoption

(viii) Act No. CXL of 2005 promulgating the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children.