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OPEN SOCIETY INSTITUTE  
MENTAL HEALTH INITIATIVE

# Rights of People with Intellectual Disabilities

## Access to Education and Employment

HUNGARY

Monitoring Report

MAGYARORSZÁG

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Access to Education and Employment

Hungary

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## Preface

The **EU Monitoring and Advocacy Program (EUMAP)** of the Open Society Institute monitors human rights and rule of law issues throughout Europe, jointly with local NGOs and civil society organisations. EUMAP reports emphasise the importance of civil society monitoring and encourage a direct dialogue between governmental and non-governmental actors on issues related to human rights and the rule of law. In addition to its reports on the Rights of People with Intellectual Disabilities, EUMAP has released monitoring reports focusing on Minority Protection, Judicial Independence and Capacity, Corruption and Anti-corruption Policy, and Equal Opportunities for Women and Men. Reports on the Regulation and Independence of the Broadcast Media are also forthcoming in 2005. EUMAP is currently preparing reports on Equal Access to Quality Education for Roma; publication is expected in 2006.

EUMAP reports are elaborated by independent experts from the countries being monitored. They are intended to highlight the significance of human rights issues and the key role of civil society in promoting governmental compliance with human rights standards throughout an expanding Europe. All EUMAP reports include detailed recommendations targeted at the national and international levels. Directed at Governments, international organizations and other stakeholders, the recommendations aim to ensure that the report findings directly impact on policy in the areas being monitored.

The present reports have been prepared in collaboration with the **Open Society Mental Health Initiative (MHI)**, part of OSI's Public Health Programs. MHI seeks to ensure that people with mental disabilities (mental health problems and/or intellectual disabilities) are able to live as equal citizens in the community and to participate in society with full respect for their human rights. MHI promotes the social inclusion of people with mental disabilities by supporting the development of community-based alternatives to institutionalisation and by actively engaging in policy-based advocacy.

Throughout Europe people with intellectual disabilities still face serious stigma, prejudice and significant barriers to realising their fundamental human rights. Discrimination against people with intellectual disabilities is deeply rooted and widespread, standing in the way of positive change. Providing real access to education and employment for people with intellectual disabilities is key to ensuring their social inclusion, and enabling them to live and work in the community as equal citizens. The EUMAP reports focus specifically on these two areas because of their importance to people with intellectual disabilities and because of the existence of international standards, and national law and policy, relating to these areas.

Monitoring of the rights of people with intellectual disabilities was based on a detailed methodology (available at [www.eumap.org](http://www.eumap.org)), intended to ensure a comparative approach

across the countries monitored. The reports cover the eight Central and Eastern European (CEE) countries that joined the EU in May 2004 (the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia), Bulgaria and Romania, expected to join in 2007, one candidate country (Croatia), and three older EU member States (Greece, the Netherlands, and the United Kingdom).

The preparation of reports on both member and non-member States highlights the fact that international human rights standards apply equally, and provides an opportunity to comment on general trends in the development and the policy application of these standards. The States selected represent a geographical spread and illustrate a spectrum of policy, practice and implementation.

Reports on each of the 14 countries monitored, plus an overview report resuming the main findings across all the countries, will be published separately. First drafts of each of the country reports were reviewed at national roundtable meetings. These were organised in order to invite comments on the draft from Government officials, civil society organisations, self-advocates, parents, and international organisations. The final report reproduced in this volume underwent significant revision based on the comments and critique received during this process. EUMAP assumes full responsibility for its final content.

## Foreword

This report is one of a series of 14 country reports prepared by the Open Society Institute's EU Monitoring and Advocacy Program and the Open Society Mental Health Initiative. The report presents an overview of the opportunities and challenges facing people with intellectual disabilities in accessing education and employment. It provides an important contribution to research on this group, one of the most vulnerable groups throughout Europe.

The initiative of producing this report fulfils important objectives. There is a clear need for comprehensive studies based on reliable research about the situation of people with intellectual disabilities in Europe. Without reliable information, the strategies and policies targeting this particular group of people are often inadequate in terms of meeting their real needs. The monitoring underlying the reports also aims to provide a comparative overview on the countries analysed. The present report goes far beyond previous reports that have brought this issue to the attention of European and national decision-makers.

Presenting a wider picture, this series of reports provides a thorough analysis of the situation of people with intellectual disabilities in their access to education and employment in eight new EU Member States (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia), two accession countries (Bulgaria and Romania) and one candidate country (Croatia). To give a broader view of practice across Europe, Greece, the Netherlands and the United Kingdom have also been studied. The conclusions of the series of reports indicate that people with intellectual disabilities in Europe continue to face significant barriers as far as real access to education and employment is concerned. Discrimination also remains a major issue, despite measures taken at the national level and within a larger European context.

The reports also stand for the importance of civil society monitoring and the overall involvement of different stakeholders in dialogue regarding the human rights of people with intellectual disabilities. A local expert in each country prepared the monitoring report, while local NGOs were involved throughout the monitoring process, providing the basis for broad consultation wherever possible. A central goal of this monitoring is to promote greater awareness and discussion of the issues at stake for people with intellectual disabilities at the local, national, and international levels.

Across the countries monitored, common problems continue to block access to education and employment for people with intellectual disabilities. In many countries, data on the situation of this group is extremely limited or insufficiently disaggregated, making it difficult for Governments to develop policy tailored to their needs. What data there is, shows that while integration of children with intellectual disabilities in mainstream schools is generally increasing, a more fundamental process towards

inclusion, as presented in the 1994 Salamanca Declaration on Special Needs Education, has made little headway. Many children throughout the region are still segregated in special schools or denied an education altogether, leaving little hope that they will be able to find jobs as adults. In most countries monitored, there is only the most basic support for the transition from education to employment.

Existing incentive schemes in many countries, particularly hiring quotas, have not been successful in increasing the number of people with intellectual disabilities who have entered the work force. More specifically targeted programmes must be developed to meet the needs of this group. Throughout Europe, NGOs have piloted effective projects offering supported employment to people with intellectual disabilities, providing assistance such as job coaches, specialised job training and individually tailored supervision. However, this approach has not yet been adopted as Government policy and therefore the opportunities it offers cannot be extended to a much larger group of people.

The reports highlight numerous obstacles that people with intellectual disabilities face in accessing education and employment in various countries across Europe. Improved legislation still needs to be adopted and implemented nationally as well as at the EU level. Existing models of good practice in inclusive education and supported employment should be replicated on a more extensive scale. These reports should help domestic and European decision-makers to develop effective policies ensuring the inclusion of people with intellectual disabilities into society.

From the perspective of Inclusion Europe, the European Association of People with Intellectual Disabilities and their Families, this report makes a very important contribution to the present discussion on access to education and employment for people with intellectual disabilities. We only can encourage local, national and European decision-makers, service providers and disability and social NGOs to consider and follow the recommendations developed in this report.

*Geert Freyhoff*

Director  
Inclusion Europe

# I. Executive Summary and Recommendations

## 1. EXECUTIVE SUMMARY

Throughout Europe, people with intellectual disabilities face major stigma and prejudice, and are confronted with significant barriers to realising their fundamental human rights. Discrimination against people with intellectual disabilities is deeply rooted and widespread, standing in the way of positive change. Providing real access to education and employment is critical to ensuring that they can live and work in the community as equal citizens. There is a strong link between education and employment: without access to adequate education, people with intellectual disabilities cannot secure meaningful employment. This denial of access leads to lifelong dependency, poverty and social exclusion, adding to the stigma of intellectual disability. This monitoring report focuses specifically on the areas of education and employment, because of their importance to people with intellectual disabilities and because of the existence of both international standards and national legislation that specifically address them.

In Hungary, access to inclusive education and any kind of employment for people with intellectual disabilities remains very limited. The education of children with intellectual disabilities remains highly segregated. Most of these children are educated in special schools, which, though they often provide a good quality education, do not prepare students for social inclusion or equip them with the skills they need to later access employment. Children with more severe intellectual disabilities often do not have the opportunity to attend school and instead receive only several hours of “training” per week. Very few people with intellectual disabilities have employment, and those that are working are mainly in sheltered workplaces.

### *Background*

Hungary has ratified most international instruments, including those with provisions on people with disabilities, but it has yet to ratify the Revised European Social Charter (RESC) or Protocol No. 12 to the European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR). The Hungarian Constitution does not include disability as a specifically prohibited ground for discrimination. However, the Act on Equal Treatment and Promotion of Equal Opportunities (Equal Treatment Act) introduces a comprehensive anti-discrimination framework, which also covers people with disabilities. The act transposes the provisions of the European Union’s Employment and Race Equality Directives into national legislation. It also establishes a new equality body, whose remit will cover all areas of discrimination, including discrimination on the grounds of disability. This body is to start working in January 2005. The main legislation on people with disabilities is the Act on the Rights and Ensuring the Equal Opportunities of People with Disabilities (Disabled Persons Act).

Hungary has a comprehensive disability policy, the National Programme on Disability Affairs (National Disability Programme), which also addresses access to education and employment. The programme incorporates current international standards targeting the social inclusion of people with disabilities, and its aims are comprehensive and highly relevant to people with intellectual disabilities. However, there has been no independent evaluation of the programme's impact to date, and the implementation of the programme's goals has been slow. Most foreseen projects have not yet been realised.

Although, at present, there is no single, widely accepted definition of intellectual disability in Hungary, the main reference is the World Health Organization's ICD-10. There are different procedures for the diagnosis and assessment of intellectual disability for educational purposes (for children); for employment purposes and for access to some social benefits (for adults); and for guardianship hearings (for adults). For educational purposes, children are assessed by the Professional Committees for Assessing Learning Abilities (hereafter, Professional Committees). They are diagnosed with one of four levels of intellectual disabilities (*mild, moderate, severe* or *profound*), in accordance with the ICD-10 definitions. For employment purposes and access to social benefits, adults are assessed by the National Medical Expert Institute (OOSZI), which establishes working capacity, and by labour offices and local health services, which jointly conduct assessments of employment capacity.

The 2001 National Population Census indicates that there are approximately 57,000 people with intellectual disabilities in Hungary, a significant decrease from the number reported in the 1990 Census. The decrease can be partly explained by the overall decline in population and by the use of more discriminating procedures for the diagnosis of intellectual disabilities. There is also the possibility that the total of 57,000 is an underestimation, as the 2001 Census relied on the self-reporting of intellectual disabilities. The extent of the misdiagnosis of Hungary's Roma as having intellectual disabilities is revealed by the fact that Roma made up 29.4 per cent (16,700 people) of the total number of people with intellectual disabilities, while representing just 1.9 per cent of the population. The 2001 Census also highlights the alarming fact that over one third of adults with intellectual disabilities (16,010 people) had not even completed the first year of primary school.

The deinstitutionalisation process in Hungary is proceeding only slowly, and a staggering 38 per cent of people with intellectual disabilities live in some form of residential institution. People with intellectual disabilities represent 48 per cent of all residents in these institutions. The main reasons for this high level of institutionalisation are the absence of day centres and the shortage of sheltered workplaces for the employment of people with more severe intellectual disabilities. There is also an urgent need for children with *severe* and/or multiple disabilities to be given equal access to education in a non-residential setting. In many cases, parents do not wish to place their child in an institution. This can be seen by the fact that some children with intellectual disabilities in residential care only attend the institution



during the day. However, at present, parents are often compelled to institutionalise their children, due to a lack of adequate community-based support services.

In Hungary, many people with intellectual disabilities are placed under guardianship by the courts at age 18. There are two forms of guardianship: *partial*, under which the individual's civil capacity is partially restricted, for specific areas or activities; and *plenary*, under which the individual's civil capacity is fully removed. At present, the procedures used in guardianship hearings do not sufficiently take into account individual abilities; monitoring of guardianship decisions is inadequate; and judges mainly impose *plenary*, rather than *partial* guardianship. People under *partial* guardianship retain the right to work and to sign an employment contract. However, there is some confusion as to whether people under *plenary* guardianship can be employed, even if their guardian signs the employment contract. This is mainly due to a lack of harmonisation between the Civil Code and the Labour Code, and the situation has resulted in employers refusing to employ people under *plenary* guardianship in sheltered workplaces or through supported employment programmes.

### *Education*

Hungary's Public Education Act is the main legislation governing public education, including special education. The 2003 amendments to the act introduce an explicit prohibition on discrimination on the ground of disability, defined as "lack or impediment of abilities". The Public Education Act includes special provisions on "children with special educational needs", including children with intellectual disabilities, but it does not take an unequivocal stand in favour of inclusive education. It states that parents or guardians can only request enrolment of their child at a specific school if the school has the necessary capacity, including staff and funding, for the type of education required. In practice, many school directors cite lack of capacity when refusing admission to students with intellectual disabilities. This means that most parents are prevented from enrolling their child with intellectual disabilities at a mainstream school. The Education Ombudsman receives a significant number of complaints, from parents of children with intellectual disabilities, concerning inadequate resources and services for the education of their children.

In Hungary, the early intervention network is inadequate, and, throughout the country, many children with intellectual disabilities of pre-school age cannot access early intervention services. Professional Committees are the primary providers of early intervention services, but because the committees are overburdened and do not always have sufficient capacity, a few NGOs try to fill in this gap in services. These NGOs receive State funding for provision of such services. Children receive early intervention services upon the recommendation of the Professional Committees. However, due to a lack of information, most parents are unaware of available early intervention services until after their children have finished kindergarten, when such services are much less effective.

The Professional Committees diagnose intellectual disability for educational purposes. They also make recommendations on school placements and the form of education and required support for children with intellectual disabilities. The Professional Committees, which are multidisciplinary and generally highly skilled, are significantly overburdened as, among other services, they are tasked with providing early intervention and rehabilitation services. There is a concern that assessments are sometimes too short to establish an accurate diagnosis. Children with intellectual disabilities or autism should be regularly re-assessed. Parents or guardians have the legal right to be present at the assessment and to be informed of the Committee's decision. Parents have the legal right to appeal the Committee's decision, but in practice they rarely do so. In some cases, parents do challenge the decision on school placement, particularly when the school is not in their hometown. In other cases, they simply ignore the decision and enrol the child in the mainstream school of their choice. However, in such cases, the school is often unprepared to meet the child's special educational needs, and the child is later transferred to a special school. The overrepresentation of Roma in special schools is largely due to assessment procedures that give the Committees the discretion to place Roma children in special schools, even where there is little indication that a child would not succeed in a mainstream school. Meanwhile, there is little effort to inform Roma parents of the consequences of placing their children in special schools.

The Hungarian education system segregates children with intellectual disabilities. The diagnosed level of intellectual disabilities determines the quality of education a child is to receive, and, in effect, there is a two-tier system of special education. The Public Education Act recognises two types of State obligations towards children: *tankötelezettség*, an obligation to educate a child; and *képzési kötelezettség*, an obligation to train a child. The "obligation to train" is applied in practice to children with *severe* and/or multiple intellectual disabilities. Children with *mild* and *moderate* intellectual disabilities who are deemed "educable" follow the national curriculum, or an adapted version of this curriculum. These children generally attend special schools with other children, though some attend mainstream schools. Meanwhile, children with *severe* and/or multiple intellectual disabilities receive training or stimulation at home, or in groups of four or five at special training institutions. The content of training is essentially unregulated. Children who are deemed "educable" receive 20 hours of lessons per week, compared to a maximum of five hours per week for children who are deemed "trainable". This distinction in entitlement is clearly discriminatory and excludes many children with intellectual disabilities from education – up to 2,500 children with intellectual disabilities deemed "trainable" presently do not have adequate access to education. Children with autism are also often excluded from access to education. There are two separate systems of special schools, one for children with *mild* intellectual disabilities and another for children with *moderate* intellectual disabilities. Both mainstream and special schools are funded on the "funds follow the student" principle, and they receive higher per capita funding for children with intellectual disabilities.

The main reference for Government policy on the education of children with intellectual disabilities is the National Disability Programme, which establishes a number of progressive goals for inclusive education. However, the mechanisms for evaluating the programme and ensuring its implementation are at present inadequate, and many goals in the area of education have not yet been implemented. One important result of the programme thus far has been the establishment of the National Public Foundation for Disabled Children, which supports activities for children with all types of disabilities through a number of programmes promoting social integration. The Foundation has backed a number of projects targeting children with intellectual disabilities, their families, and the schools that serve them – including mainstream and special schools. Of particular relevance are the Foundation's programmes for improving mainstream schools' preparedness for enrolling children with intellectual disabilities. The work of the Foundation has been widely praised by special educators.

During Hungary's accession to the EU, the European Commission's Regular Reports on Hungary made no mention of the education of children with intellectual disabilities. However, a number of Phare funded programmes supported the education of children with intellectual disabilities, in particular through early intervention and education in special vocational schools. Since its accession to the EU on 1 May 2004, Hungary is eligible for EU Structural Funds. The funds will be used to support projects in a number of areas of direct relevance for people with intellectual disabilities, such as: projects aimed at the mainstreaming of children with special educational needs; projects for lifelong learning; and projects for the development of school infrastructure, including special education.

The decentralised Hungarian education system allows mainstream and special schools to design their own curricula and programmes, in accordance with the National Core Curriculum and the "Curriculum Guidelines for School Education of Children with Disabilities". At present, less than half of the teachers in special kindergartens and primary schools for children with intellectual disabilities hold special education degrees. There are very few special educators employed in mainstream schools. The special education degree programmes offered by the Faculty of Special Education at Eötvös Lóránd University are widely respected, but they tend to produce specialists in one type of disability, rather than special educators who can assess and support children with a wide range of disabilities. All special educators are obliged to receive professional training every seventh year. In general, they say they are satisfied with the quality of the training they receive.

In Hungary, inclusive education is at a very early stage. In 2003, the percentage of children with disabilities attending mainstream kindergartens was a relatively high 68 per cent, but, at the primary level, this figure is much lower, at 17.5 per cent. There is only limited data on the numbers of children with intellectual disabilities attending mainstream schools. In 2002–2003, 2,598 students with intellectual disabilities were mainstreamed at the primary level. The total number of children with intellectual disabilities at all school levels has been estimated at 3,200. Programmes targeting

inclusive education have begun to receive more attention. In Hungary, however, debate on whether it is desirable to mainstream children with more severe intellectual disabilities is still ongoing, as evidenced by the lack of consensus amongst educational specialists on this issue. There is also a corresponding need for the formulation of educational policy that explicitly addresses the criteria and process of mainstreaming. Due to the declining birth rate, and the resulting fall in student numbers, in the early 1990s, schools began accepting some students with intellectual disabilities. This process was termed “austere integration”, as it had limited success due to the fact that schools were unprepared for the special educational needs of these students. Even today, most mainstream schools lack the necessary space and sufficient support staff, in particular, special educators. Meanwhile, most school staff, including regular teachers, special educators, and therapists, do not have enough training in special education. Once operational, the proposed special methodological centres should provide very valuable additional support for mainstream schools, and they should encourage further integration.

At present, though, the main way in which children with intellectual disabilities can receive an inclusive education is in innovative schools, or “alternative schools”, which are mostly NGO-operated and, like any other school, eligible for regular State funding. Innovative schools import educational methodologies from other countries. However, although such schools serve as very valuable good-practice models, which could in the future be replicated across the country, they face a number of constraints, notably: a lack of external support and supervision; low salaries; and limited opportunities for continuing education and professional development. In other cases, children with intellectual disabilities and autism are enrolled in mainstream schools through the advocacy of parents. In general, though, most parents and guardians remain unaware of their rights.

Every county must maintain at least one special primary school for children with *mild* intellectual disabilities and another for children with *moderate* intellectual disabilities. In the 2002–2003 school year, at the primary level, 32,231 students with intellectual disabilities were enrolled in special schools, while a total of 6,175 students with intellectual disabilities attended special vocational schools. At present, very few children with *severe* intellectual disabilities and/or multiple disabilities are enrolled in special schools, though their numbers are on the increase. Special schools take two forms: day schools or boarding schools. According to the census, in 2001, there were 2,421 children with intellectual disabilities in special boarding schools. Most special boarding schools are located outside town centres, so transportation can prove a major challenge. The standard and quality of education in special schools in Hungary is acceptable, and sometimes even excellent. However, such segregated settings inherently foster the social exclusion of students. Roma students are very disproportionately represented at such schools, mainly due to inadequate assessment procedures. This tendency has been noted with concern, both by domestic and international observers, and a number of programmes and initiatives have been implemented with the aim of addressing this situation.

In Hungary, few children with intellectual disabilities are schooled at home. Home schooling takes two forms: either special educators visit children in their homes, or students make regular visits to the supervisory special school, usually that nearest to the student's home. The Public Education Act provides for a system of travelling special educators, but it does not identify a source of funding for the system. Therefore, home schooling and special educational services are generally not available to children with special educational needs living in more rural areas of the country. An estimated 2,000 to 2,500 children with *severe* and/or multiple intellectual disabilities are excluded from any form of education or training. Children with disabilities living in residential institutions can be enrolled in the same three forms of education available to other children: mainstream schools, special schools or home schooling. Generally, children living in residential institutions study in schools outside the institution, together with other children who have not been institutionalised. There are 2,549 children with intellectual disabilities in orphanages in Hungary.

### *Transition from education to employment*

In Hungary, approximately 60 per cent of students with intellectual disabilities continue their studies at the secondary level, although the number of students with intellectual disabilities at the secondary level is reported to be slowly increasing. Segregation of students with intellectual disabilities in special vocational schools remains pronounced, and primarily students with mild intellectual disabilities have the opportunity to attend mainstream vocational schools. In the 2002–2003 school year, only 555 students with intellectual disabilities attended mainstream vocational secondary schools.

Students with *mild* intellectual disabilities can attend special vocational schools and receive a nationally recognised certificate. Students with *moderate* intellectual disabilities can attend capacity-developing special vocational schools and receive training in independent living skills and simple routine vocational activities, but the certificate they receive is not yet nationally recognised. In Hungary, approximately 8,000 students, mainly students with intellectual disabilities, attend special vocational schools. The main criticism of these schools is that they do not adequately prepare students for work on the open labour market. In particular, most students are not able to access work experience externally from the schools. The “Workplace Practice” Programme, developed by the non-governmental Salva Vita Foundation and supported by the National Public Foundation for Disabled Children, offers one model of good practice in this area. Under this programme, students at capacity-developing special vocational schools are placed in mainstream workplaces in different locations, over a two-year period. Participants who complete the programme have much improved chances of securing employment on the open labour market.

More than 60 per cent of the people with intellectual disabilities who were sampled in the 2001 Census had not finished primary school. The transition from school to employment can be particularly difficult for these children, and there are also difficulties for those who leave residential institutions. Support services are presently

inadequate to cope with their needs, and overburdened special educators are unable to assure the required follow-up services. The special needs of children and young people with autism, and their families, are particularly neglected. To address this situation, some schools have established clubs for young people with intellectual disabilities, to assist them with the transition period. However, for this group, there is a need for coordinated Government policy on the provision of follow-up services. At present, the opportunities for adults with intellectual disabilities to access adult and lifelong education are also very limited.

### *Employment*

The Hungarian Constitution guarantees the right to work, the right to freely choose a job or profession and the right to equal compensation for equal work without discrimination, but it does not specifically address the employment of people with disabilities. However, the Equal Treatment Act guarantees equal treatment in employment for people with disabilities, and the Disabled Persons Act establishes that, if people with disabilities cannot secure employment on the open market, sheltered workplaces must employ them. The Joint Decree on People with Altered Working Capacity regulates the rehabilitation process, occupational rehabilitation services, and State financial compensation for lost income due to altered working capacity. It also regulates eligibility for State subsidies for employers who employ people with disabilities.

In Hungary, in the area of employment, two types of capacity are assessed for people with disabilities: working capacity and employment capacity. The National Medical Expert Institute (OOSZI) conducts assessments to evaluate the working capacity of adults with intellectual disabilities. The OOSZI's assessment results are expressed as a percentage of altered working capacity. An altered working capacity of at least 40 per cent generally entitles a person to social benefits; it also entitles a person to employment in sheltered workplaces and to employment through a fixed-period subsidy, which employers can obtain from local labour offices. Labour offices and local health services jointly conduct assessments of employment capacity. These assessments are intended to determine the extent of a person's remaining abilities and match their abilities to types of work. Both assessments, of working capacity and employment capacity, are conducted solely by medical doctors, and they focus on health and medical conditions. To better reflect the real potential of people with intellectual disabilities, both assessments need to be comprehensively reformed, so that they ensure a more multidisciplinary and comprehensive approach. NGO service providers in Hungary have already developed some employment assessment procedures that could be used as models for this reform.

People with intellectual disabilities are heavily dependent on social welfare benefits. Most adults with intellectual disabilities do not have the required work experience to access unemployment benefits or the invalidity pension. People with *mild* or *moderate* intellectual disabilities mainly receive various social benefits that depend on a number of factors, such as age and number of years employed. Some people in this group with the required work

experience receive invalidity pensions. Adults with *severe* and *profound* intellectual disabilities are eligible for disability support, which they retain even if they secure employment. People who are under the age of 25, have 100 per cent altered working capacity, and do not already receive a pension, are eligible for the invalidity benefit. Given the limited and unstable employment possibilities presently available to people with intellectual disabilities, and the limited access to employment services, social welfare benefits are a steady and stable source of support. These benefits tend to act as a disincentive to employment. Presently, most unemployed people with intellectual disabilities do not register at the local offices of the National Employment Service and, therefore, they cannot access available employment services or rehabilitation services. This is mainly due to a lack of awareness of their rights and of available services. Furthermore, the staff at the labour offices is not trained to deal with the special needs of people with intellectual disabilities, and, in any case, they cannot meet the current demand for individualised services. As a result, labour offices mainly rely on cooperation with non-governmental rehabilitation and employment service providers.

During Hungary's accession to the EU, the European Commission's Regular Report on Hungary made a number of references to the need to improve the employment situation of people with disabilities in general, but it did not specifically refer to people with intellectual disabilities. However, funds from the EU's Phare programme were used to support a number of projects promoting the employment of this group. Hungary is now selecting projects to be funded through EU Structural Funds. These projects should, in future, make a significant contribution towards improving and tailoring the employment services available to people with intellectual disabilities, and towards increasing their employment rates.

The main Government policy on the employment of people with disabilities is described in the National Disability Programme. The programme contains a number of goals that are highly relevant to promoting the employment of people with intellectual disabilities. Most importantly, it aims to restructure the sheltered employment system, including its legislative framework and system of financing. Another objective is to improve employment services for people with disabilities. This has led to the establishment of Rehabilitational Information Centres (RICs), which are located at county labour offices and are tasked with providing comprehensive support services for people with disabilities seeking employment. However, as with other areas, the implementation of the National Disability Programme's objectives on employment has not been adequately monitored, and many foreseen projects are still at an early stage of implementation.

The Government promotes the employment of people with disabilities – on the open labour market and in sheltered workplaces – through the quota system, State subsidies and tax incentives. At present, however, the tax incentives available are not very attractive, so they do not have a significant impact. Under the quota system, five percent of the staff in all companies employing more than 20 people must be employees with an altered working capacity. The quota system has not been effective,

as the penalties for non-compliance, though substantially increased in recent years, still remain too low to act as a real disincentive. Moreover, there is only limited monitoring of companies' compliance with the system. The penalties for non-compliance go towards the Rehabilitation Fund, from which funding is then made available to NGOs providing employment services and sheltered workplaces. Companies fulfilling the quota requirement are also eligible to receive a State subsidy called State Support for Increased Rehabilitational Employment, which covers salary and other costs associated with employing people with disabilities over an 18-month period, with the amount of support subsequently reduced. Sheltered workplaces are also eligible for state subsidies, but NGOs are as yet not eligible.

Despite these incentives, in Hungary, the vast majority of people with disabilities do not have access to any kind of employment. Most people with intellectual disabilities are financially dependent on social benefits or support from their family. Only ten per cent of the population of people with intellectual disabilities, or less than 4,000 people, are in employment, down from 30 per cent in 1990. Very few can access employment on the open market. The few who are working mainly have supported employment. As of 2004, there were only five NGOs providing supported employment services in five cities within Hungary, and legislation on supported employment was not yet in place. The Salva Vita Foundation introduced the supported employment methodology in Hungary in 1998. To date, it has supported more than 150 people with intellectual disabilities on the open labour market. Everyone involved in the programme, including employers, are satisfied with the foundation's employment services. However, there is now a need to replicate this model more widely, and the Government must fund supported employment services across the country.

Although supported employment offers the best opportunities for the social inclusion of people with intellectual disabilities, at present, most people with intellectual disabilities who are able to access employment do so in sheltered workplaces. These workplaces generally do not adequately prepare people with intellectual disabilities for employment on the open labour market. Sheltered workplaces can be social employment centres or target organisations, both of which offer very low salaries for employees with disabilities. Social employment centres are mainly municipally maintained small-scale workshops that provide work opportunities of a limited variety, such as producing textiles and industrial paper. Target organisations are large, for-profit organisations or firms; by law, people with altered working capacity must make up at least 60 per cent of the staff, but in practice the share is closer to 80 per cent. In 2003, the total State subsidies received by target organisations was significant, at approximately €151.2 million. Over recent years, many social employment centres have been transformed into target organisations, as the level of available State subsidies is significantly higher. However, because target organisations only employ more skilled workers, the transformation of the employment centres has resulted in far fewer sheltered employment opportunities for people with *moderate* and *severe* intellectual disabilities. People with intellectual disabilities employed in target organisations are generally satisfied with their work and feel lucky to have been able to find employment.



Target organisations have been criticised by stakeholders for not providing adequate rehabilitation services for employees with altered working capacity. However, at present they are not obliged by law to do so. Draft legislation on the system of State subsidies for enterprises is under preparation. The primary aim of this legislation is to increase the proportion of people with altered working capacity employed on the open labour market. The new legislation is also expected to clarify the roles and expectations of organisations receiving subsidies – including responsibilities related to rehabilitation – and to introduce a mechanism for monitoring the use of subsidies.

## 2. RECOMMENDATIONS

### General recommendations

#### *International standards*

1. Hungary should ratify the Revised European Social Charter of 1996 and should bind itself to Article 15 of the charter, which covers the right of persons with disabilities to independence, social integration and participation in the life of the community.
2. Hungary should ratify Protocol No. 12 to the European Convention on Human Rights and Fundamental Freedoms (ECHR).

#### *Legislation*

3. The Government should take immediate steps to harmonise the provisions of the Labour Code 2003<sup>1</sup> and the Civil Code,<sup>2</sup> to ensure that people under *plenary* guardianship are, by law, permitted to enter into employment.

#### *Specialised bodies*

4. The Government should establish an independent equality body, with appropriate authority and resources to provide genuine remedies for abuse.

#### *Policy*

5. The Government should take all necessary steps to monitor the implementation of the National Programme on Disability Affairs and ensure

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<sup>1</sup> Act XX of 1992 on the Labour Code, Gazette 1992/45, 5 April 1992. Last amended by Act CXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities, Gazette 2003/157, 28 December 2003.

<sup>2</sup> Civil Code, last amended by Act XV of 2001 on the Amendment of Certain Acts Regarding Legal Capacity and Guardianship (including the Civil Code), Gazette 2001/51, 4 May 2001.

that all involved ministries are held fully accountable for fulfilment of the established objectives and goals of the programme.

6. As a priority, Parliament should ensure that the Ministry of Education and the Ministry of Employment meet the annual evaluation and reporting requirements established in the Parliamentary Order on the National Programme on Disability Affairs<sup>3</sup> in the areas of education, vocational training and employment.

### *Guardianship*

7. The Government should, as a priority, issue clear guidelines on guardianship procedures, to improve assessments and ensure that individual abilities are adequately taken into account. Wherever possible, people with intellectual disabilities should be placed under *partial* guardianship, rather than *plenary* guardianship, so that they can exercise their civil rights to the fullest possible extent.

### *Deinstitutionalisation*

8. The Government should, as a priority, make financial assistance available to municipalities, to ensure that, as mandated by law,<sup>4</sup> all municipalities with more than 20,000 inhabitants establish day centres.
9. The Government should develop a clear policy on deinstitutionalisation, with the aim of significantly reducing the number of people with intellectual disabilities in residential institutions. In particular, the Government should establish opportunities for independent living alternatives to residential care and increase State support for community-based services.

## **Recommendations on education**

### *Legislation*

10. The Government should, as a priority, amend the Public Education Act and relevant secondary legislation, in order to abolish the two-tier classification of students with special needs as either “educable” or “trainable”. The Government should then ensure that those children who are at present classified as “trainable” – in most cases children with *severe* intellectual disabilities and/or multiple disabilities – are no longer deprived of equal educational opportunities, including the opportunity to attend a mainstream school.
11. The Government should ensure the appropriate financial, technical, methodological and human resources to make home schooling a genuine

<sup>3</sup> Parliamentary Order 100/1999 (XII. 10.) on the National Programme on Disability Affairs.

<sup>4</sup> Act III of 1993 on Social Administration and Social Services, art. 77 and 87(c).

option for those children with intellectual disabilities who would benefit from this educational option.

### *Policy*

12. The Government should make the mainstreaming of children with intellectual disabilities a central and overarching goal of Government education policy and take steps to ensure that these children receive adequate support tailored to their individual needs.
13. The Government should ensure that parents or guardians of children with intellectual disabilities have the explicit right to choose to enrol their child in a mainstream kindergarten or primary school near to their place of residence. The Government should also ensure that this right is respected in practice.
14. The Government should gather together information and experience gained from existing alternative models of good practice and quality services in early intervention and inclusive education. Then it should ensure that successful models are widely replicated throughout the country.
15. The Ministry of Education should evaluate the reasons for the high percentage of children with intellectual disabilities who do not complete primary education, with the aim of developing policy to address this situation.

### *Assessment procedures*

16. The Ministry of Education should develop clear diagnostic standards and methodologies, as well as avenues for effective appeal, to ensure that all children have access to high quality diagnostic services, and that a child's ethnicity does not influence the assessment results. The Ministry should also develop training for professionals working in the diagnostic bodies and establish a nation-wide monitoring system for the diagnosis and evaluation process.
17. The Ministry of Education should, as a priority, take steps to remedy the significant overrepresentation of Roma children in special schools and ensure their integration into mainstream schools.
18. The Ministry of Education should take steps to reduce the workload of the Professional Committees, and ensure that they have the necessary expertise, resources and time, to carry out quality assessments of children with intellectual disabilities. These assessments should prioritise the children's abilities, rather than their disabilities.
19. The Ministry of Education should develop a clear methodology for the assessment of children with autism.

*Early intervention services*

20. The Government should take steps to establish a nation-wide early intervention network and ensure that parents are better informed about the availability and importance of early intervention services.

*Inclusive education*

21. The Ministry of Education should encourage the development of expertise in mainstream schools, to enhance the education and support of children with intellectual disabilities. In particular, the Ministry should:
- Comply with the Public Education Act<sup>5</sup> by ensuring that county-level special education resource (methodological) centres are established as rapidly as possible – and are provided with adequate resources and staff to provide expertise and additional support for the education of children with intellectual disabilities in mainstream schools.
  - Take steps to ensure that all teachers follow a substantial course on special education as part of their teacher training programme. The Ministry should also ensure that teachers receive regular refresher courses, free of charge.
22. The Ministry of Education should promote the development of special pedagogy and support services for children with multiple disabilities whose predominant disability is intellectual disabilities combined with behavioural challenges, as well as for children with autism. The Ministry should ensure that this group of children receive appropriate educational opportunities and support tailored to their specific needs.

*Home schooling*

23. In line with the Public Education Act,<sup>6</sup> the Ministry of Education should develop a system of travelling special educators, to ensure that children with severe intellectual disabilities living in rural areas have access to special educational services at home.

**Recommendations on the transition from education to employment***Vocational training*

24. The Government should take steps to ensure that the vocational training offered by special vocational schools and capacity-developing special schools is more geared towards the development of skills valued on the open labour market. In particular, students should be given work practice in inclusive

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<sup>5</sup> Public Education Act 2003, art. 24(1).

<sup>6</sup> Public Education Act 2003, art. 24(1).

settings, using the Salva Vita Foundation's "Workplace Practice Programme" as one model of good practice.

25. The Government should take steps to ensure that those students who complete studies at capacity-developing special schools receive certificates that are recognised by employers on the open labour market.

#### *Follow-up services*

26. The Government should develop policy for the provision of follow-up services specifically designed to meet the needs of children with intellectual disabilities and autism, and their families, during the transition period from education to employment. The services should have a focus on support for employment on the open market.

#### *Adult education*

27. The Government should ensure that adults with intellectual disabilities are able to access adult education and continuing vocational training that adequately takes into account their special needs.

#### *Transitional programmes*

28. The Government should establish more transitional programmes, to assist people with intellectual disabilities in the transition from school to employment on the open labour market. Innovative NGO programmes, such as "transitional workplaces", should be used as a source of reference for development of these programmes.

### **Recommendations on employment**

#### *Legislation*

29. The Government should establish the legislative and regulatory framework necessary to support the State funding of supported employment and the provision of supported employment through a nation-wide network of service providers.

#### *Data collection*

30. The Ministry of Employment and Labour should establish a system for the regular collection and publishing of statistics on the employment situation of adults with intellectual disabilities, in order to better target employment and rehabilitation services for this group.

*Policy*

31. The Government should evaluate ways to ensure that supported employment services and the system of sheltered employment achieve better complementarity, as part of a comprehensive overall system to meet the various needs and abilities of people with intellectual disabilities.
32. The Government should evaluate ways to encourage the employment of people with intellectual disabilities in the public sector, at the local, county and State levels. This would both serve as a positive example and help to raise public awareness.

*Capacity assessment*

33. The Ministry of Youth, Family, Social Affairs, and Equal Opportunities (formerly the Ministry of Health, Social and Family Affairs) and the Ministry of Employment and Labour should ensure that assessments of altered working capacity are conducted by a multidisciplinary team of experts – not only by medical doctors. The assessments should be redesigned to focus on the measurement of each person's capabilities, in part through observation in different work settings, using established NGO practices as a model. A meaningful appeals process should be put in place.
34. The Government should ensure that the periodic reassessment of altered working capacity is enshrined in legislation and carried out in practice.

*Employment services*

35. The Ministry of Employment and Labour should encourage the registration of unemployed adults with intellectual disabilities at the local offices of the National Employment Service, so that they can access unemployment benefits and the employment and rehabilitation services offered by these offices.
36. The Ministry of Employment and Labour should ensure that staff in the local offices of the National Employment Service undergoes training on how to work with people with intellectual disabilities, so that these people will receive better employment services.
37. The Government should establish Rehabilitational Information Centres (RICs) in every county, to maintain and provide information on employment and names of the local experts for all stakeholders, including employers. The RICs should make available information relevant to the employment of people with disabilities, including people with intellectual disabilities.

*Access to social benefits*

38. The Government should make all laws and publications that summarise social and unemployment benefits available in easy-to-read formats, to ensure that people with intellectual disabilities and their families are able to access the benefits to which they are entitled.

## II. Country Overview and Background

*Hungary has ratified most international instruments, including those with provisions on people with disabilities, but it has yet to ratify the Revised European Social Charter (RESC) or Protocol No. 12 to the European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR). The Hungarian Constitution does not include disability as a specifically prohibited ground for discrimination. However, the Act on Equal Treatment and Promotion of Equal Opportunities (Equal Treatment Act) introduces a comprehensive anti-discrimination framework, which also covers people with disabilities. The act transposes the provisions of the European Union's Employment and Race Equality Directives into national legislation. It also establishes a new equality body whose remit will cover all areas of discrimination, including discrimination on the grounds of disability. This body is to start working in January 2005. The main legislation on people with disabilities is the Act on the Rights and Ensuring the Equal Opportunities of People with Disabilities (Disabled Persons Act). Hungary has a comprehensive disability policy, the National Programme on Disability Affairs (National Disability Programme), which also addresses access to education and employment. The programme incorporates current international standards targeting the social inclusion of people with disabilities, and its aims are comprehensive and highly relevant to people with intellectual disabilities. However, there has been no independent evaluation of the programme's impact to date, and the implementation of the programme's goals has been slow. Most foreseen projects have not yet been realised.*

### 1. LEGAL FRAMEWORK

#### 1.1 International standards

Hungary has ratified most international instruments, including those with provisions on people with disabilities. Hungary ratified the International Covenant on Civil and Political Rights<sup>7</sup> (CCPR) and the International Covenant on Economic, Social and Cultural Rights<sup>8</sup> (CESCR) in 1976; and the International Convention on the Rights of the Child<sup>9</sup> (CRC) in 1991.

Hungary ratified the European Convention on the Protection of Human Rights and Fundamental Freedoms<sup>10</sup> (ECHR) in 1992. Hungary signed Protocol No. 12 to the

<sup>7</sup> International Covenant on Civil and Political Rights (CCPR), 23 March 1976, 999 U.N.T.S. 171, available on the UNHCR website at [http://www.unhcr.ch/html/menu3/b/a\\_ccpr.htm](http://www.unhcr.ch/html/menu3/b/a_ccpr.htm) (accessed 5 May 2004).

<sup>8</sup> International Covenant on Economic, Social and Cultural Rights (CESCR), 3 January 1976, 993 U.N.T.S. 3, available on the UNHCR website at [http://www.unhcr.ch/html/menu3/b/a\\_cescr.htm](http://www.unhcr.ch/html/menu3/b/a_cescr.htm) (accessed 5 May 2004).

<sup>9</sup> International Convention on the Rights of the Child (CRC), 2 September 1990, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), available at <http://www.unicef.org/crc/crc.htm> (accessed 26 November 2004).

<sup>10</sup> European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), 3 September 1953, E.T.S. 005, available on the COE website at <http://conventions.coe.int/Treaty/en/Treaties/Html/005.htm> (accessed 22 October 2004).

ECHR in 2000 but has yet to ratify it.<sup>11</sup> In 1999, Hungary ratified the European Social Charter<sup>12</sup> (ESC) of 1961, but Hungary is not bound by Article 15 on the right of physically and mentally disabled persons to vocational training, rehabilitation and social resettlement. Hungary signed the Revised European Social Charter<sup>13</sup> (RESC) of 1996 in 2004, but has yet to ratify it.

Hungary has ratified all of the eight fundamental conventions of the International Labour Organization (ILO)<sup>14</sup> and has also ratified the ILO Convention Concerning Vocational Guidance and Vocational Training in the Development of Human Resources 1975 (No. 142) and the ILO Convention Concerning Vocational Rehabilitation and Employment 1983 (No. 159).

## 1.2 National legislation and policy

### 1.2.1 National legislation

The Constitution establishes that: “the Republic of Hungary shall respect the human rights and civil rights of all persons in the country without discrimination on the basis of race, colour, gender, language, religion, political or other opinion, national or social origins, financial situation, birth or on any other grounds whatsoever”.<sup>15</sup> However, it does not explicitly prohibit discrimination on the grounds of disability. The only

<sup>11</sup> Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, E.T.S. 177, 1 April 2005, available at <http://conventions.coe.int/Treaty/en/Treaties/Html/177.htm> (accessed 22 June 2004).

<sup>12</sup> European Social Charter (ESC), 18 October 1961, C.E.T.S. 35, available at <http://conventions.coe.int/Treaty/en/Treaties/Html/35.htm> (accessed 22 October 2004).

<sup>13</sup> Revised European Social Charter (RESC), 1 July 1999, C.E.T.S. 163, available at <http://conventions.coe.int/Treaty/en/Treaties/Html/163.htm> (accessed 22 October 2004).

<sup>14</sup> The International Labour Organization has identified the Organization’s eight fundamental Conventions: Convention concerning Forced or Compulsory Labour, 1930 (No. 29); Convention concerning Freedom of Association and Protection of the Right to Organise, 1948 (No. 87); Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, 1949 (No. 98); Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, 1951 (No. 100); Convention concerning the Abolition of Forced Labour, 1957 (No. 105); Convention concerning Discrimination in Respect of Employment and Occupation, 1958 (No. 111); Convention concerning Minimum Age for Admission to Employment, 1973 (No. 138); Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182).

<sup>15</sup> Act CIX of 2003 on the Amendment of Act XX of 1949 The Constitution of the Republic of Hungary, Gazette 2003/144, 13 December 2003, art. 70A(1), (hereafter, Constitution). The Constitution of the Republic of Hungary was first adopted in 1949. The revised Constitution entered into force on 23 October 1989 and was subsequently amended in 1997 and 2003. Chapter XII of the Constitution (art. 54 to 70K) establishes Fundamental Rights and Duties.



provision of the Constitution on the rights of people with disabilities is Article 70E, which establishes the right to social security and to support in the case of disability.<sup>16</sup>

The main legislation on the integration and rehabilitation of people with intellectual disabilities is:

- Act CXXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities (hereafter, Equal Treatment Act).<sup>17</sup>
- Act XXVI of 1998 on the Rights and Ensuring the Equal Opportunities of People with Disabilities; last amended by Act XXVI of 2004 on Amendments of Certain Social and Health Care Acts (hereafter, Disabled Persons Act).<sup>18</sup>
- Act CLIV of 1997 on Health Care, Gazette 1997/119, 23 December 1997; last amended by Act XXVI of 2004 on Amendments of Certain Social and Health Care Acts (hereafter, Act on Health Care).<sup>19</sup>

The Equal Treatment Act amends a number of laws and decrees.<sup>20</sup> Before the entry into force of this act, Hungary did not have comprehensive anti-discrimination legislation.<sup>21</sup> The act was introduced with the aim of bringing Hungarian legislation in line with a number of important EU directives,<sup>22</sup> in particular, the EU Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (hereafter, the Race Equality

<sup>16</sup> Constitution, art. 70E(1).

<sup>17</sup> Act CXXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities, Gazette 2003/157, 28 December 2003 (hereafter, Equal Treatment Act 2003), available in English on the OSCE website at [www.osce.org/documents/cio/2004/09/3554\\_en.pdf](http://www.osce.org/documents/cio/2004/09/3554_en.pdf) (accessed 15 December 2004).

<sup>18</sup> Act XXVI of 1998 on the Rights and Ensuring the Equal Opportunities of People with Disabilities, Gazette 1998/28, 1 April 1998. Last amended by Act XXVI of 2004 on the Amendments of Certain Social and Health Care Acts, Gazette 2004/56, 26 April 2004, (hereafter Disabled Persons Act 1998).

<sup>19</sup> Act CLIV of 1997 on Health Care, Gazette 1997/119, 23 December 1997. Last amended by Act XXVI of 2004 on the Amendments of Certain Social and Health Care Acts, Gazette 2004/56, 26 April 2004, (hereafter, Act on Health Care 1997).

<sup>20</sup> Equal Treatment Act 2003, Section V (Amended Legal Acts).

<sup>21</sup> See, for example: Andras Kadar and Lilla Farkas, *Report on measures to combat discrimination in the 13 Candidate Countries (VT/2002/47)*. Country Report – Hungary, Migration Policy Group and MEDE European Consultancy, May 2003 (hereafter, MPG/MEDE, *Country Report – Hungary*), pp. 2–6, available on the MPG website at <http://www.migpolgroup.com/uploadstore/HUNGARYFinalEN.pdf> (accessed 15 December 2004).

<sup>22</sup> Equal Treatment Act 2003, art. 65.

Directive)<sup>23</sup> and EU Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (hereafter, Employment Directive).<sup>24</sup>

The Equal Treatment Act should address most of the provisions of the EU Employment and Race Equality Directives.<sup>25</sup> The act covers both direct and indirect negative discrimination.<sup>26</sup> It defines negative discrimination as “provisions that result in a person or a group being treated less favourably than another person or group in a comparable situation” and lists 20 prohibited grounds for negative discrimination, including disability.<sup>27</sup> It establishes a new standard of equal treatment by replacing the phrase “forbidding discrimination” with the new term “requiring equal treatment” in all legal documents. The requirement of equal treatment must be met in the areas of employment; social security and health care; housing; education and training; and the provision of goods and services.<sup>28</sup> The act also establishes a new “Equal Opportunities Programme”, which aims to eliminate discrimination in all sectors and promote equal opportunities for members of some disadvantaged groups, including people with disabilities.<sup>29</sup>

<sup>23</sup> European Union Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (hereafter, EU Race Equality Directive), available on the European Commission website at [http://europa.eu.int/eur-lex/pri/en/oj/dat/2000/l\\_180/l\\_18020000719en00220026.pdf](http://europa.eu.int/eur-lex/pri/en/oj/dat/2000/l_180/l_18020000719en00220026.pdf) (accessed 2 December 2004).

<sup>24</sup> European Union Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (hereafter, EU Employment Directive), available on the European Commission website at [http://europa.eu.int/comm/employment\\_social/news/2001/jul/directive78ec\\_en.pdf](http://europa.eu.int/comm/employment_social/news/2001/jul/directive78ec_en.pdf) (accessed 3 September 2004).

<sup>25</sup> See: DG Employment and Social Affairs, *Annual Report on Equality and Non-discrimination 2004*, DG Employment and Social Affairs, European Commission (hereafter, DG Employment and Social Affairs, *Annual Report on Equality and Non-discrimination 2004*), p. 15, available on the commission website at [http://europa.eu.int/comm/employment\\_social/news/2004/jul/annualrep2004\\_en.pdf](http://europa.eu.int/comm/employment_social/news/2004/jul/annualrep2004_en.pdf) (accessed 6 December 2004).

<sup>26</sup> Equal Treatment Act 2003, art. 7(1).

<sup>27</sup> Equal Treatment Act 2003, art. 8.

<sup>28</sup> Equal Treatment Act 2003, art. 21-30.

<sup>29</sup> The “Equal Opportunities Programme” aims to raise public awareness; inform the public of available options for legal redress of infringements; improve the employability of disadvantaged groups; increase participation of disadvantaged groups in decision-making processes; and involve employers. Equal Treatment Act 2003, art. 34.

The Disabled Persons Act was first introduced in 1998, but it has subsequently been amended.<sup>30</sup> The act is the most comprehensive legislation guaranteeing equal opportunities for people with disabilities in all areas of life. The act provides a definition of the term “a person with disabilities”.<sup>31</sup> The Disabled Persons Act does not explicitly prohibit discrimination against people with disabilities, but instead states that people with disabilities are “equal members of society”.<sup>32</sup> It also contains provisions on the regulation of a comprehensive system of rehabilitation and the promotion of independent living and active social participation of people with disabilities.<sup>33</sup> Finally, the act also defines the term “support services”, or direct personal services, designed to help people with disabilities live autonomous lives.<sup>34</sup>

The Act on Health Care provides a definition of the terms “habilitation”<sup>35</sup> and “rehabilitation”. Rehabilitation is described as “organised assistance provided by society to persons with disabilities [...] to promote their reintegration into the community by making use of their restored or remaining abilities”.<sup>36</sup> According to this act, rehabilitation includes health care, psychological, educational, occupational and welfare measures.<sup>37</sup>

### *Specialised bodies*

At present, complaints on infringements of constitutional rights may be addressed to the Parliamentary Ombudsman for Civil Rights (hereafter, Ombudsman) or to the Parliamentary Ombudsman for the Rights of National and Ethnic Minorities.<sup>38</sup> In 2003, the Ombudsman received a large number of complaints concerning the rights of people with disabilities. The majority of these complaints concerned problems with

<sup>30</sup> One of the drafters of the Disabled Persons Act 1998 reported that the act was worded to be as general as possible, and that all disability groups are theoretically covered. Interview with Mihály Kogon, director, National Institution for People with Physical Disabilities, Budapest, 18 March 2004.

<sup>31</sup> Disabled Persons Act 1998, art. 4(a).

<sup>32</sup> Disabled Persons Act 1998, art. 2(4). See also: MPG/MEDE, *Country Report – Hungary*, p. 4.

<sup>33</sup> Disabled Persons Act 1998, Section 26.

<sup>34</sup> Disabled Persons Act 1998, Section 4.

<sup>35</sup> “Habilitation” is defined as “a rehabilitation-type activity focused on a child or possibly an adult whose development has been arrested by a congenital or developmental disorder, illness or accident, and who is therefore hindered in participating in community life”. Act on Health Care 1997, art. 100(3).

<sup>36</sup> Act on Health Care 1997, art. 100(1,2).

<sup>37</sup> Act on Health Care 1997, art. 100(1,2).

<sup>38</sup> According to Article 32B of the Constitution: “The Parliamentary Commissioner (Ombudsman) for Civil Rights is responsible for investigating or initiating the investigation of cases involving the infringement of constitutional rights which come to his attention and initiating general or specific measures for their remedy. The Parliamentary Commissioner (Ombudsman) for the Rights of National and Ethnic Minorities is responsible for investigating or initiating the investigation of cases involving the infringement of the rights of national or ethnic minorities which come to his attention and initiating general or specific measures for their remedy.” Constitution, art. 32B.

transportation.<sup>39</sup> Complaints concerning rights in the area of education are dealt with separately, by the Office of the Commissioner responsible for Educational Rights.

The Equal Treatment Act sets forth the responsibilities of a new, national-level juridical institution, which has the task of ensuring compliance with the principle of equal treatment established by the act.<sup>40</sup> This new body, the Equal Treatment Commission, will cover all forms of discrimination, including discrimination against people with disabilities, and is intended to start working by January 2005.<sup>41</sup> However, at the time of this writing, the new body had not yet been established.

### 1.2.2 National Disability Policy

Following the adoption of the Disabled Persons Act in 1998, the “National Programme on Disability Affairs 1999” (hereafter, National Disability Programme) was elaborated and passed.<sup>42</sup> The National Disability Programme contains concrete strategic plans, tasks, obligations and a financial implementation mechanism.<sup>43</sup> The programme covers all areas of community life, including access to education and employment, communication, transportation, rehabilitation services, and the social welfare system. The programme does not define goals or strategies specifically targeting people with intellectual disabilities – it only sets goals for people with disabilities in general.<sup>44</sup>

The National Disability Programme was designed to meet international standards and aims to harmonise domestic legislation with EU and UN standards on people with disabilities.<sup>45</sup> The stated aim of the programme is the social integration of people with disabilities. Its basic principles are prevention, normalisation, integration, self-

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<sup>39</sup> Parliamentary Commissioner for Civil Rights, *Annual Report of the Parliamentary Commissioner for Civil Rights and his General Deputy in 2003*, available on the website of the Parliamentary Commissioner for Civil Rights at <http://www.obh.hu/allam/eng/cover.htm> (accessed 15 October 2004), Section 4.2 (The Rights of Persons Living with Disabilities).

<sup>40</sup> Equal Treatment Act, art. 13 to 17.

<sup>41</sup> DG Employment and Social Affairs, *Annual Report on Equality and Non-discrimination 2004*, p. 19.

<sup>42</sup> National Programme of Disability Affairs 1999, Parliamentary Order 100/1999 (XII.10.) on the National Programme on Disability Affairs, (hereafter, *National Disability Programme*), available (in Hungarian) at <http://www.freeweb.hu/borsodivakok/fogyprog.htm> (accessed 15 December 2004).

<sup>43</sup> The National Disability Programme is based on the Disabled Persons Act 1998, art. 26.

<sup>44</sup> A drafter of the Disabled Persons Act 1998 reported that the act was worded to be as general as possible, and that all disability groups are theoretically covered. (Interview with researcher, Budapest ILO Centre, Budapest, 11 December 2003 and with the director of the National Institution for People with Physical Disabilities, Budapest, 18 March 2004.)

<sup>45</sup> The programme does not state precisely which international standards, but refers in general to EU and UN standards targeting the inclusion of people with disabilities in general. *National Disability Programme*, Point 1.

determination,<sup>46</sup> non-discrimination, affirmative action and rehabilitation. The programme stipulates that support services should be designed to: improve the ability of people with disabilities to live independently; respect their right to self-determination; promote their social integration; and enable access to legal procedures and support systems.<sup>47</sup>

Strategic goals of the National Disability Programme include: raising public awareness by broadening inclusive educational and employment opportunities; encouraging the development of positive interpersonal relationships; and improving access to public transportation and communication channels, including the media.<sup>48</sup> Concrete actions envisaged include: improving living conditions and day services; outlining clear responsibilities and obligations of the actors involved in the implementation of the programme; ensuring educational and vocational integration; and improved counselling and communication systems.<sup>49</sup>

The National Disability Programme is evaluated annually by the responsible ministries, and a report is given to Parliament. There is, however, no independent evaluation of the programme. All responsible ministries – including the Ministry of Employment and Labour and the Ministry of Education – prepare and submit an annual summary of achievements with respect to the programme.<sup>50</sup> The last report was prepared in April 2004, and recommendations for modifying the programme were drawn from this report. More than a year into the next programme period, the action plan for 2004–2007 is still under preparation. Furthermore, no modifications have been made to the program since its inception in 1999. This situation suggests that the Government has not made the programme a high priority. Indeed, the majority of promising projects outlined under the programme have never been realised, evaluated or reconsidered.

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<sup>46</sup> Prevention refers to society's responsibility to do its utmost to prevent accidents and diseases that cause disabilities. (Point 2.1.) Normalisation is understood as ensuring that people with disabilities are able to enjoy the full range of lifestyles that conform to commonly accepted societal conditions. (Point 2.2.) Integration presupposes that people with disabilities enter into relationships with others and with various social and economic institutions. It is the responsibility of society to create conditions which enable people with disabilities to maintain relationships with as wide a social circle as possible, such as, for example, ensuring availability of transportation and access to communication technologies. (Point 2.3.) Self-determination is the idea that people with disabilities should be free to make their own decisions, to the extent of their abilities and with respect to their individual system of values. This includes decisions relating to personal property, time and movement. (Point 2.5.) *National Disability Programme*, Points 2.1 to 2.5.

<sup>47</sup> *National Disability Programme*, I, Point 3.4.

<sup>48</sup> *National Disability Programme*, II, Points 1-4.

<sup>49</sup> *National Disability Programme*, IV, Points 1-10.

<sup>50</sup> Interview with Péter Horváth, representative of the Employment Rehabilitation Secretariat, Ministry of Employment and Labour, Budapest, 14 May 2004.

## 2. GENERAL SITUATION OF PEOPLE WITH INTELLECTUAL DISABILITIES

*Although, at present, there is no single, widely accepted definition of intellectual disability in Hungary, the main reference is the ICD-10. There are different procedures for the diagnosis and assessment of intellectual disability for educational purposes (for children); for employment purposes and for access to some social benefits (for adults); and for guardianship hearings (for adults). For educational purposes, children are assessed by the Professional Committees for Assessing Learning Abilities (hereafter, Professional Committees). They are diagnosed with one of four levels of intellectual disabilities (mild, moderate, severe or profound), in accordance with the ICD-10 definitions. For employment purposes and access to social benefits, adults are assessed by the National Medical Expert Institute (OOSZI), which establishes working capacity, and by labour offices and local health services, which jointly conduct assessments of employment capacity.*

*The 2001 National Population Census indicates that there are approximately 57,000 people with intellectual disabilities in Hungary, a significant decrease from the number reported in the 1990 Census. The decrease can be partly explained by the overall decline in population and by the use of more discriminating procedures for the diagnosis of intellectual disabilities; there is also the possibility that the total of 57,000 is an underestimation, as the 2001 Census relied on the self-reporting of intellectual disabilities. The extent of the misdiagnosis of Hungary's Roma with intellectual disabilities is revealed by the fact that Roma made up 29.4 per cent (16,700 people) of the total number of people with intellectual disabilities, while representing just 1.9 per cent of the population. The 2001 Census also highlights the alarming fact that over one third of adults with intellectual disabilities (16,010 people) had not even completed the first year of primary school. The deinstitutionalisation process in Hungary is proceeding only slowly, and a staggering 38 per cent of people with intellectual disabilities live in some form of residential institution. People with disabilities represent 48 per cent of all residents in these institutions. The main reasons for this high level of institutionalisation are the absence of day centres and the shortage of sheltered workplaces for the employment of people with more severe intellectual disabilities. There is also an urgent need for children with severe and/or multiple disabilities to be given equal access to education in a non-residential setting. In many cases, parents do not wish to place their child in an institution. This can be seen by the fact that some children with intellectual disabilities in residential care only attend the institution during the day. However, at present, parents are often compelled to institutionalise their children, due to a lack of adequate community-based support services.*

*In Hungary, many people with intellectual disabilities are placed under guardianship by the courts at age 18. There are two forms of guardianship: partial, under which the individual's civil capacity is partially restricted, for specific areas or activities; and plenary, under which the individual's civil capacity is fully removed. At present, the procedures used in guardianship hearings do not sufficiently take into account individual abilities; monitoring of guardianship decisions is inadequate; and judges mainly impose plenary, rather than partial guardianship. People under partial guardianship retain the right to work and to sign an employment contract. However, there is some confusion as to whether people under plenary guardianship can be employed, even if their guardian signs the employment contract. This is mainly due to a lack of harmonisation between the Civil Code and the Labour Code, and the situation has resulted in employers refusing to employ people under plenary guardianship in sheltered workplaces or through supported employment programmes.*

## 2.1 Definition

The Disabled Persons Act defines a person with disabilities as having “a fully or greatly restricted command of organoleptic [involving use of the sense organs], locomotor or mental abilities, or is greatly restricted in his/her communication, and this constitutes an enduring obstacle with regard to his/her active participation in social life”.<sup>51</sup>

A single, widely accepted definition of intellectual disability does not exist in Hungary. Each profession uses different definitions. Physicians generally use the definitions of the World Health Organization’s *International Statistical Classification of Diseases and Related Health Problems*, Tenth Revision (hereafter, ICD-10),<sup>52</sup> which uses the term “mental retardation” to describe intellectual disability. Psychiatrists tend to use four levels of intellectual disabilities (*mild, moderate, severe and profound*) based on IQ measurements. Special educators use the terms “learning disability” and “intellectual disability” for children and young people with *mild* and *moderate* levels of intellectual disability, respectively, and “trainable” for children and young people with *severe* or *profound* intellectual disabilities.

The definitions used in legislation also vary depending on the ministry concerned. The Ministry of Education uses the term “students with special educational needs” (*sajátos nevelési igényű tanulók*), which is a broader category encompassing “children with intellectual disabilities”, while the Ministry of Employment and Labour uses the terms “people with intellectual disabilities” (*értelmi fogyatékos emberek*) or “people with altered working capacity” (*megváltozott munkaképességű emberek*).

## 2.2 Diagnosis and assessment of intellectual disability

In Hungary, there are different assessment procedures for educational purposes (for children), for employment purposes and access to social benefits (for adults), and for guardianship hearings (for adults).

For children, diagnoses of *moderate, severe* or *profound* intellectual disability are usually made at birth or shortly thereafter. Diagnoses of *mild* intellectual disability are typically made when children enter kindergarten, or before they begin primary school.

The Professional Committees are responsible for the diagnosis of intellectual disability of children up to age 18 for educational purposes. The committees give four levels of assessments, based on the ICD-10: *mild, moderate, severe* (and/or multiple disabilities) and *profound* intellectual disabilities.<sup>53</sup> Professional Committees also determine the type of educational obligation the State has towards a child with intellectual

<sup>51</sup> Disabled Persons Act 1998, art. 4. (Translation from MPG/MEDE, *Country Report – Hungary*, p. 5.)

<sup>52</sup> World Health Organization, *International Statistical Classification of Diseases and Related Health Problems*, Tenth Edition, WHO, Geneva, 1992 (hereafter ICD-10).

<sup>53</sup> Interview with Györgyné Nádor, director, 4th Professional Committee in Budapest, Budapest, 15 December 2003.

disabilities. The Public Education Act establishes two types of State educational obligations: an obligation to educate (*tankövezettség*) and an obligation to train (*képzési kövezettség*).<sup>54</sup> The obligation to train is applied only to children with severe and/or multiple intellectual disabilities. This distinction is very important in determining the quality of education a child receives.

For employment purposes and access to some social benefits, the National Medical Expert Institute (OOSZI) assesses working capacity, which refers to an individual's general ability to work and is expressed in terms of a percentage of altered working capacity.

### 2.3 Guardianship

Many people with intellectual disabilities in Hungary are under plenary guardianship. The majority of these are people with at least moderate intellectual disabilities.

In Hungary there are two types of guardianship: *partial* and *plenary*. Under *partial* guardianship a person's civil capacity (*cselekvőképesség*) is only partially restricted, for specific areas or activities. A person under *partial* guardianship retains the right to sign an employment contract.<sup>55</sup> Under *plenary* guardianship, a person's legal civil capacity is completely removed. This includes the right to sign an employment contract. In the case of a person under *plenary* guardianship who wishes to work, the person's guardian must sign the employment contract on behalf of the ward.

Judicial decisions on guardianship are made following an assessment of the individual's civil capacity (*cselekvőképesség*). This refers to the person's ability to make decisions and live independently, including the ability to handle their own finances. The assessment of an individual's civil capacity is conducted by psychiatrists, in the framework of guardianship hearings. Additional expertise can also be requested in guardianship hearings, to supplement the results of this assessment, but in practice this does not happen. This is partly because no alternative assessment procedures have been developed to determine civil capacity.<sup>56</sup> In the rare cases when the assessment is repeated, the same psychiatrist, using the same methods, conducts the reassessment. As a consequence, the results of the reassessment are unlikely to differ from the initial assessment.

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<sup>54</sup> Public Education Act, art. 86, 87, and 30.

<sup>55</sup> Civil Code, last amended by Act XV of 2001 on the Amendment of Certain Acts Regarding Legal Capacity and Guardianship (including the Civil Code), Gazette 2001/51, 4 May 2001 (hereafter, Civil Code)

<sup>56</sup> OSI roundtable meeting, Budapest, 24 May 2004 (hereafter, OSI roundtable comment). *Explanatory Note: OSI held a roundtable meeting in Budapest in May 2004 to invite critique of the present report in draft form. Experts present included representatives of the government, parents, and NGOs.*



In Hungary, judges have shown a preference for applying *plenary* guardianship,<sup>57</sup> and they often impose it without fully inquiring into a person's abilities. Of the 60,636 people with intellectual disabilities currently under guardianship, approximately 60 per cent are under *plenary* guardianship.<sup>58</sup> Many people with intellectual disabilities who are capable of working are placed under *plenary* guardianship and are thereby deprived of their right to employment.<sup>59</sup> The only redress for a person under *plenary* guardianship who wishes to regain the right to work is to initiate a new guardianship hearing, at which they may request only a partial restriction of their civil capacity or a reinstatement of their full civil capacity. However, even this limited reduction is rarely granted, due to poor self-advocacy and little or no external support. The attitudes and assumptions of judges about people with intellectual disabilities also play a role in maintaining the status quo.

The procedures currently used in guardianship hearings do not sufficiently take into account individual abilities. In addition, monitoring of judicial decisions regarding guardianship is inadequate. A number of solutions for reducing the high percentage of people with intellectual disabilities under *plenary* guardianship have been discussed by various stakeholders. One recommendation is that judges receive better training, in order to make decisions that are based on a realistic assessment of an individual's real abilities.

Some stakeholders have argued that many people with intellectual disabilities under *plenary* guardianship are clearly able to work, and an appropriate system of employability needs to be elaborated. In particular, the assessments of an individual's working capacity and employment capacity should be understood and treated as distinct from the assessment of the person's decision-making capacity.<sup>60</sup> By contrast, others believe that people with intellectual disabilities under *plenary* guardianship should not be able to work, since existing protection against possible exploitation while in employment is inadequate.<sup>61</sup>

However, another important problem is that the legal framework governing the employment of people under *plenary* guardianship is ambiguous. The Civil Code<sup>62</sup> and

<sup>57</sup> Interview with Ferencné Réti, director general, "Kraxner Alajos" Special Employment Residential Home in Csobánka, Budapest, 4 December 2003.

<sup>58</sup> Data from the National Jurisdiction Council Bureau, issued for the Hungarian Association for People with Intellectual Disability (ÉFOÉSZ), which officially requested this data on 28 August 2003.

<sup>59</sup> Interview with director general of the Csobánka Rehabilitation Residential Institution, Budapest, 4 December 2003.

<sup>60</sup> The assessment procedures for evaluating "working capacity" and "employment capacity" are described in more detail in Section IV.1.2.

<sup>61</sup> National Committee of Disability Affairs, *Cselekvőképesség – munkaképesség – szociális ellátások ad hoc bizottsága* (Ability to action – ability to work – social welfare system ad hoc committee), National Committee of Disability Affairs, Budapest, 14 October 2003.

<sup>62</sup> Civil Code, art. 5.1.

the Labour Code<sup>63</sup> are not harmonised, and it is, in fact, unclear whether people under *plenary* guardianship are legally entitled to work.

In 2002, as a direct result of this legislative ambiguity, sheltered workplaces<sup>64</sup> dismissed employees with intellectual disabilities who were under *plenary* guardianship, because the workplaces were unwilling to employ these people in the absence of a clear legal framework.

Supported employment<sup>65</sup> service providers have reported that many of their service users with intellectual disabilities under *plenary* guardianship have the capacity for employment on the open labour market, but with the current legal confusion, they are unable to provide services for this group.<sup>66</sup> The service providers have had difficulty finding employers willing to hire people with intellectual disabilities who are under *plenary* guardianship, as employers fear unexpected consequences or repercussions. Importantly, employers still refuse to hire people under *plenary* guardianship, even in cases where the guardian would agree to sign the employment contract on the ward's behalf.

If people with intellectual disabilities are to have real access to employment, harmonisation of the Civil Code and the Labour Code is essential. However, since a minimum of ten instruments regulate guardianship, and at least six ministries are involved, the greatest challenge appears to be the promotion of interdepartmental dialogue and harmonisation of sectoral discussions.<sup>67</sup>

## 2.4 Statistical information

The main source of information on people with disabilities is the National Population Census,<sup>68</sup> which includes questions on respondents' type of disability. Other than data from censuses, most available information on people with disabilities (and particularly people with intellectual disabilities) is collected by schools and residential institutions.

As shown below, in Table 1, according to the 1990 Census, 3.5 per cent of the total population (or 368,000 people) had various types of disabilities.<sup>69</sup> The 2001 Census

<sup>63</sup> Act XXII of 1992 on the Labour Code, Gazette 1992/45, 5 April 1992. Last amended by Act CXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities, Gazette 2003/157, 28 December 2003, art. 15(1) and (4); 15A; 16, (hereafter, Labour Code 2003).

<sup>64</sup> See section IV.3.3.

<sup>65</sup> See section IV.3.2.

<sup>66</sup> Interview with Andrea Dávid, 16 March 2004.

<sup>67</sup> OSI roundtable comment.

<sup>68</sup> Detailed results of the 1990 and 2001 National Censuses are available in English on the Central Statistical Office's website at <http://www.nepszamlalas.hu/eng/index.html> (accessed 15 December 2004). According to the 1990 Census, the total population of Hungary is 10,374,820; according to the 2001 Census, the total population of Hungary is 10,122,807.

<sup>69</sup> *1990 Census*, Table 2.1.1 Disabled persons by type of disability, age group and sex. The vast majority of people with disabilities live in rural areas.

showed a significant increase in the number of people with disabilities, up by 36 per cent (to 577,000 people). By contrast, the reported number of people with intellectual disabilities decreased over this period, from 72,000 in 1990 to 57,000 in 2001.<sup>70</sup> Of these, 10,550 were under age 15.<sup>71</sup>

**Table 1. Age profile of people with intellectual disabilities (1990 and 2001)**

		2001		1990	
		People with disabilities	People with intellectual disabilities	People with disabilities	People with intellectual disabilities
Age	0-14	28,803	10,550	33,485	16,890
	15-59	289,529	37,584	195,910	43,495
	60+	258,674	8,829	138,875	11,545
	<b>Total</b>	<b>577,006</b>	<b>56,963</b>	<b>368,270</b>	<b>71,930</b>

Source: Central Statistical Office.<sup>72</sup>

According to Hungary's Central Statistical Office, the dramatic decrease in the number of people with intellectual disabilities from 1990 to 2001 can be mainly accounted for by the higher mortality rate of people with disabilities over age 40, coupled with the generally ageing population in Hungary and the overall decline in the population.<sup>73</sup> In addition, due to more discriminating diagnosis procedures and improved early intervention services, less people are being diagnosed with intellectual disabilities, and for those who are diagnosed, more and better services are available. Finally, the census methodology is also likely to be partly responsible for this decrease.<sup>74</sup> The 2001 Census relied upon self-reporting. However, due to the stigma still associated with intellectual

<sup>70</sup> *Census*, Table 2.1.1 Disabled persons by type of disability, age group and sex. The 2001 census also indicates that there are more men with intellectual disabilities than women. Of the total number of men with disabilities, 11 per cent have intellectual disabilities, while for women the corresponding figure is 8.7 per cent.

<sup>71</sup> Of which: 986 are age 0-4; 3,543 are age 5-9; and 6,021 are age 10-14 years old.

<sup>72</sup> National Population Census (1990, 2001), 2.1.1 Disabled persons by type of disability, age group and sex, available on the CSO website at [http://www.nepszamlalas.hu/eng/volumes/12/tables/load2\\_1\\_1\\_2.html](http://www.nepszamlalas.hu/eng/volumes/12/tables/load2_1_1_2.html) (accessed 15 December 2004)

<sup>73</sup> *2001 Census*, Introduction.

<sup>74</sup> Collecting data specifically and exclusively on people with intellectual disabilities is, as the census showed, an enormous challenge. In 2001, the census questionnaire contained questions regarding disability, whereby people could indicate if they have disabilities of one of the listed categories. Since respondents self-reported disabilities, it was very difficult to calculate the total number of people with intellectual disabilities.

disability, self-reporting is not the most appropriate means of collecting data about people with intellectual disabilities, and it is bound to result in underreporting.<sup>75</sup>

The 2001 census does not include discrete statistical data on people with autism.<sup>76</sup> Only since 2003 has autism been classified and treated as an independent type of disability in Hungary, and, currently, adequate services for people with autism do not exist. In particular, people with autism do not have access to specialised support services.<sup>77</sup> This affects an estimated 50,000 people – including people with autism and their parents – a number which is slowly increasing.<sup>78</sup>

The census reveals very bleak statistics on the level of education of people with intellectual disabilities. As shown below in Table 2, in 2001 over one third of people with intellectual disabilities age 15 and over (16,010 people) indicated that they had not even completed the first year of primary school. In 1990, this share was over 40 per cent.<sup>79</sup> Upon reaching adulthood, the employment prospects for this group are dismal.

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<sup>75</sup> As highlighted in the introduction to the 2001 census, the stigma attached to disability must be taken into account when collecting data on people with disabilities. Due to the fact that people with disabilities are often stigmatised by society, it is likely that the frequency of disability is underreported. The data presented above should therefore be understood as an approximation. *2001 Census*, Introduction.

<sup>76</sup> Although some people with autism may be included in the statistics on people with intellectual disabilities.

<sup>77</sup> Support services tailored to the needs of people with autism are lacking in such areas as early intervention services; education; therapy; training for independent living; work opportunities; specialised health care (including in hospital and dental departments); sporting activities; crisis centres; or group homes. Written comments on this report in its draft form by a parent (confidentiality requested) of a young adult with autism, member of the Advocacy Group of People with Autism, Budapest, 26 May 2004. The young adult is a supported employment service user who, as a child, attended a mainstream school.

<sup>78</sup> In Budapest (population 2 million), the estimated number of people with autism is approximately 3,000–3,600 people. To this, the number of parents needs to be added, meaning that a total of 10,000 people are affected by the lack of services. At the national level, it is estimated that a total of 50,000 people (0.16–0.18 per cent of the total population) are affected. This number includes people with autism and their parents. Written comments on this report in its draft form by a parent (confidentiality requested) of a young adult with autism, member of the Advocacy Group of People with Autism, Budapest, 26 May 2004. The young adult is a supported employment service user who, as a child, attended a mainstream school.

<sup>79</sup> *2001 Census*, Table 2.1.6 Disabled persons by type of disability, educational attainment and sex 1990, 2001.

**Table 2. Highest education level of people with intellectual disabilities – aged 15 years old and over (1990 and 2001)**

Level of education	Number of people	
	1990	2001
Not even the first grade of primary school completed	22,920	16,010
Primary school (between grades one and eight)	30,140	27,451
At least secondary school	1,980	2,952
<b>Total</b>	<b>55,040</b>	<b>46,413</b>

Source: Central Statistical Office<sup>80</sup>

With respect to ethnic minorities and the prevalence of disability, according to the 2001 Census, Roma accounted for 1.9 per cent of the total population and a comparable percentage (2.1 per cent) of all people with disabilities.<sup>81</sup> However, Roma comprised a staggering 29.4 per cent (16,700 people) of the total number of people with intellectual disabilities.<sup>82</sup> This statistic reveals the alarming frequency with which Roma children are routinely misdiagnosed with intellectual disabilities, and it highlights the fallibility of the diagnosis process itself. Roma children are also significantly over-represented in special schools.<sup>83</sup>

## 2.5 Levels of institutionalisation

A very high percentage of people with intellectual disabilities remain in institutional care. There are too few day centres to offer an alternative to residential care, and there is a lack of employment facilities for people with more severe intellectual disabilities. There is also an urgent need for children with *severe* and/or multiple disabilities to be given equal access to education in a non-residential setting.

In 1990, approximately 11.5 per cent of people with disabilities lived in some type of residential institution. Although, by 2001, this percentage had fallen to eight per cent, the total number of people with disabilities in residential care (45,704 people) has

<sup>80</sup> *2001 Census*, 2.1.5 Disabled persons aged 15 years and over by highest education and type of disability, 2001, available on the CSO website at [http://www.nepszamlatas.hu/eng/volumes/12/tables/load2\\_1\\_5\\_2.html](http://www.nepszamlatas.hu/eng/volumes/12/tables/load2_1_5_2.html) (accessed 15 December 2004).

<sup>81</sup> *2001 Census*, 2.1.10 Disabled persons by nationality and type of disability, 1990, 2001.

<sup>82</sup> *2001 Census*, Introduction. The Introduction states that people with intellectual disabilities make up 9.9 per cent of the total number of people with disabilities. From this figure, almost one third, or 29.4 per cent are Roma.

<sup>83</sup> See also section III.3.2.2.

actually risen.<sup>84</sup> The above figures indicate that Hungary has made no real progress on deinstitutionalisation.

As shown below in Table 3, of the people in institutions, 21,718 people (or 48 per cent) are people with intellectual disabilities. This means that, based on the 2001 Census findings, a staggering 38 per cent of people with intellectual disabilities are living in some form of residential institution.

**Table 3. Number of people with intellectual disabilities in residential institutions (2001)**

Type of institution	Number of residents
Orphanages	2,549
Special boarding schools	2,421
Social institutions offering long-term lodging	15,898
Other	850
Total	21,718

Source: Central Statistical Office<sup>85</sup>

In Hungary there are numerous types of residential institutions for people with intellectual disabilities. These include child protection homes with special services (orphanages); child welfare homes with elementary services; boarding schools; social care homes for permanent residence; rehabilitation centres; and group homes, such as centres for elderly people, people with disabilities and people with mental health problems. There are also social care homes for temporary residence, with services and centres for elderly people with disabilities and people with mental health problems.

People with intellectual disabilities represent the largest group of people living in residential institutions. Of the total number of residents with disabilities, people with intellectual disabilities represent the following percentages:<sup>86</sup> 74.2 per cent in orphanages; 43.9 per cent in special boarding schools; 14.7 per cent in homes for the elderly; and 89.8 per cent in other institutions maintained especially for people with disabilities.

<sup>84</sup> *2001 Census*, 2.3.11 Disabled persons living in institutions by type of the most severe disability, the destination institution and the type of financing of the institution.

<sup>85</sup> *2001 Census*, Table 2.3.11 Disabled persons living in institutions by type of the most severe disability, the destination institution and the type of financing of the institution, available on the CSO website at [http://www.nepszamlalas.hu/eng/volumes/12/tables/load2\\_3\\_11.html](http://www.nepszamlalas.hu/eng/volumes/12/tables/load2_3_11.html) (accessed 15 December 2004).

<sup>86</sup> *2001 Census*, Table 2.3.11 Disabled persons living in institutions by type of the most severe disability, the destination institution and the type of financing of the institution.

The number of people with *severe* and/or multiple intellectual disabilities is estimated at between 7,000 and 11,000.<sup>87</sup> Of these, 50 to 60 per cent live with their families under very poor material circumstances.<sup>88</sup> The rest of these people live in residential institutions, which at present are the only real care option for this group. There is no comprehensive quality service provision for people with *severe* and/or multiple intellectual disabilities, in part because there are not enough special educators in rural areas for the children and young people, or enough specialists in general who are qualified to work with this group. The education and social welfare system is not equipped to provide appropriate services to this group of people.<sup>89</sup>

Most families do not want to put their children in residential institutions, but they often feel obliged to do so in the absence of appropriate information and support services.<sup>90</sup> Parents who do choose to institutionalise their child tend to do so when the child is age three or four, after they become aware of the dearth of services. In fact, some children spend only their days at residential homes and return home in the evenings to their families, a practice which suggests that parents would prefer day centres over residential institutions. A network of day centres is urgently needed in Hungary.<sup>91</sup>

Parents who do not wish to institutionalise their children must bear the responsibility alone, which means one parent must remain at home to care for the child. The result is loss of employment and reduced income for the family, as well as isolation and limited access to information about available services. The majority of families with children with *severe* and/or multiple disabilities also face social isolation and discrimination. Of the families questioned in a survey carried out by the Hand in Hand Foundation, only 38 per cent reported that they had *not* been subjected to discrimination.<sup>92</sup>

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<sup>87</sup> Hand in Hand Foundation, *Családban élő súlyos-halmazott fogyatékosok Magyarországon, (People with Multiple Severe Intellectual Disabilities Living with Their Families in Hungary – A Report)*, Hand in Hand Foundation, Budapest, 2003, (hereafter, Hand in Hand Foundation, *People with Multiple Severe Intellectual Disabilities*). The Hand in Hand Foundation is an NGO that organises various training courses, operates group homes and conducts research. It deals only with issues of concern to people with intellectual disabilities.

<sup>88</sup> Hand in Hand Foundation, *People with Multiple Severe Intellectual Disabilities*.

<sup>89</sup> OSI roundtable comment.

<sup>90</sup> Interview with Barbara Czeizel, director of the Early Intervention Centre (EIC) in Budapest, Budapest, 23 June 2004.

<sup>91</sup> Interview with Barbara Czeizel, 23 June 2004.

<sup>92</sup> Hand in Hand Foundation, *People with Multiple Severe Intellectual Disabilities*, p. 28.

### III. Access to Education

#### 1. LEGAL FRAMEWORK

*Hungary's Public Education Act is the main legislation governing public education, including special education. The 2003 amendments to the act introduce an explicit prohibition on discrimination on the ground of disability, defined as "lack or impediment of abilities". The Public Education Act includes special provisions on "children with special educational needs", including children with intellectual disabilities, but it does not take an unequivocal stand in favour of inclusive education. It states that parents or guardians can only request enrolment of their child at a specific school if the school has the necessary capacity, including staff and funding, for the type of education required. In practice, many school directors cite lack of capacity when refusing admission to students with intellectual disabilities. This means that most parents are prevented from enrolling their child with intellectual disabilities at a mainstream school. The Education Ombudsman receives a significant number of complaints, from parents of children with intellectual disabilities, concerning inadequate resources and services for the education of their children.*

*In Hungary, the early intervention network is inadequate, and, throughout the country, many children with intellectual disabilities of pre-school age cannot access early intervention services. Professional Committees are the primary providers of early intervention services, but because the committees are overburdened and do not always have sufficient capacity, a few NGOs try to fill in this gap in services. These NGOs receive State funding for provision of such services. Children receive early intervention services upon the recommendation of the Professional Committees. However, due to a lack of information, most parents are unaware of available early intervention services until after their children have finished kindergarten, when such services are much less effective.*

*The Professional Committees diagnose intellectual disability for educational purposes. They also make recommendations on school placements and the form of education and required support for children with intellectual disabilities. The Professional Committees, which are multidisciplinary and generally highly skilled, are significantly overburdened as, among other services, they are tasked with providing early intervention and rehabilitation services. There is a concern that assessments are sometimes too short to establish an accurate diagnosis. Children with intellectual disabilities or autism should be regularly re-assessed. Parents or guardians have the legal right to be present at the assessment and to be informed of the committee's decision. Parents have the legal right to appeal the committee's decision, but in practice they rarely do so. In some cases, parents do challenge the decision on school placement, particularly when the school is not in their hometown. In other cases they simply ignore the decision and enrol the child in the mainstream school of their choice. However, in such cases, the school is often unprepared to meet the child's special educational needs, and the child is later transferred to a special school. The overrepresentation of Roma in special schools is largely due to assessment procedures that give the committees the discretion to place Roma children in special schools, even where there is little indication that a child would not succeed in a mainstream school. Meanwhile, there is little effort to inform Roma parents of the consequences of placing their children in special schools.*

*The Hungarian education system segregates children with intellectual disabilities. The diagnosed level of intellectual disabilities determines the quality of education a child is to receive, and, in effect, there is a two-tier system of special education. The Public Education Act recognises two types of State obligations towards children: *tankötelezettség*, an obligation to educate a child; and *képzési kötelezettség*, an obligation to train a child. The latter, the "obligation to train", is applied in practice to children with*



*severe and/or multiple intellectual disabilities. Children with mild and moderate intellectual disabilities who are deemed “educable” follow the national curriculum, or an adapted version of this curriculum. These children generally attend special schools with other children, though some attend mainstream schools. Meanwhile, children with severe and/or multiple intellectual disabilities receive training or stimulation at home, or in groups of four or five at special training institutions. The content of training is essentially unregulated. Children who are deemed “educable” receive 20 hours of lessons per week, compared to a maximum of five hours per week for children who are deemed “trainable”. This distinction in entitlement is clearly discriminatory and excludes many children with intellectual disabilities from education – up to 2,500 children with intellectual disabilities deemed “trainable” presently do not have adequate access to education. Children with autism are also often excluded from access to education. There are two separate systems of special schools, one for children with mild intellectual disabilities and another for children with moderate intellectual disabilities. Both mainstream and special schools are funded on the “funds follow the student” principle, and they receive higher per capita funding for children with intellectual disabilities.*

## 1.1 The right to education

The Constitution guarantees the right to education for every Hungarian citizen<sup>93</sup> and defines the obligation of parents and guardians to ensure the education of their children.<sup>94</sup> It also guarantees the rights of parents to choose the form of education their children receive.<sup>95</sup>

The rights of children are explicitly protected under an act passed after Hungary’s ratification of the International Convention on the Rights of the Child (CRC) in 1991.<sup>96</sup>

The Public Education Act is the main legislation governing public education in Hungary. The act first entered into force in 1993 and was amended in 2003.<sup>97</sup> However, the 2003 amendments will not enter into force until 1 September 2005. The Public Education Act 2003 introduces an explicit prohibition on discrimination on the

<sup>93</sup> According to Article 70F: “The Republic of Hungary guarantees the right of education to its citizens. The Republic of Hungary shall implement this right through the dissemination and general access to culture, free compulsory primary schooling, through secondary and higher education available to all persons on the basis of their ability, and furthermore through financial support for students”. Constitution, art. 70F(1)-(2).

<sup>94</sup> Constitution, art. 70J.

<sup>95</sup> Constitution, art. 67(2).

<sup>96</sup> Act LXIV of 1991 on Accession to the Convention on the Rights of the Child, Gazette 1991/129, 22 November 1991.

<sup>97</sup> Act LXI of 2003 on the Amendment of Act LXXIX of 1993 on Public Education, Gazette 2003/85, 16 July 2003. Last Amended by Act CXVI of 2003 on the 2004 Budget of the Republic of Hungary, and on the Three Year Plan on the Budget Framework, Gazette 2003/152, 22 December 2003 (hereafter, Public Education Act 2003).

ground of disability, which it defines as “lack or impediment of abilities”.<sup>98</sup> The act also provides for the development of special county-level methodological centres, which would provide the necessary support – including travelling special educators – for children with intellectual disabilities studying either at mainstream schools or at home.<sup>99</sup> However, these methodological centres have not yet been established.

The Public Education Act is comprehensive and precisely details all educational processes. This includes institutional frameworks and mechanisms, and the variety of available schooling – mainstream schools, special schools and other types of schooling. The act covers all students, from children of pre-school age attending kindergartens, to young people on the secondary level. It also covers early intervention services. The act applies to everyone living permanently in Hungary, including citizens, residents and people with asylum or refugee status.<sup>100</sup>

The act contains special provisions on “children with special educational needs”,<sup>101</sup> a group that includes children with intellectual disabilities. According to the act, children with special needs have the right, based on their abilities and the capacities of schools, to participate in both mainstream and special educational programmes.<sup>102</sup> Special education includes early intervention services, and schooling in kindergartens and primary and secondary schools.<sup>103</sup> It may be organised in both mainstream and special schools.

Although the Public Education Act supports the inclusion of people with disabilities in principle, it does not take a clear stand in favour of inclusive education.<sup>104</sup> The act stresses the importance of individual needs and abilities, and it guarantees freedom for parents and students to access the most appropriate educational option. This same freedom applies to students with intellectual disabilities.<sup>105</sup> However, the act states that parents or guardians can only request enrolment of their child at a specific school if the

<sup>98</sup> According to Article 4: “In public education, discrimination is forbidden on any ground, especially on the basis of colour, sex, religion, national or ethnical belonging, political or any other belief, national, ethnical or social origin, property status, age, lack or impediment of abilities, birth or any other status of a child or his/her family members, or the basis of the maintainer of the educational institution”. Public Education Act 1993, art. 4(7). The unified structure of the Public Education Act, incorporating Act LXVIII of 1999 on Public Education, is available in Hungarian at [www.oktbiztos.hu](http://www.oktbiztos.hu).

<sup>99</sup> Public Education Act 2003, art. 24(1). Travelling special educators were also mentioned in the Public Education Act 1993.

<sup>100</sup> Public Education Act 1993, art. 110 (1).

<sup>101</sup> Children with special educational needs are defined as children with physical and intellectual disabilities, sensory impairments, speech impairments, and other disabilities. Ministerial Decree 23/1997 (VI.4.), Curriculum Guidelines for School Education of Children with Disabilities, art. 1.

<sup>102</sup> Public Education Act 1993, art. 30(2)-(3).

<sup>103</sup> Public Education Act 1993, art. 30(1).

<sup>104</sup> Interview with Gyöngyi Mária Nagy, head concillor, Ministry of Education, Budapest, 16 March 2004.

<sup>105</sup> Public Education Act 1993, art. 11(1i).

school has the necessary staff and funding for the type of education required.<sup>106</sup> The preconditions for inclusion are rigid – i.e. equipment, experts and the commitment to inclusion in a school’s foundational charter. For this reason, schools have not been inspired to promote the inclusion of students with disabilities. The act also fails to set clear standards or conditions for students’ inclusion.<sup>107</sup>

In accordance with the Public Education Act, at present, compulsory education lasts until age 16, but it is expected to be extended up to age 18.<sup>108</sup> For people with intellectual disabilities, compulsory education can be prolonged by two years, at the request of a special educator’s team.<sup>109</sup> Students are expected to finish primary education by the age of 16 and secondary education by the age of 22, but, in special primary and special secondary schools, students are entitled to study an additional three years.<sup>110</sup>

### *Specialised bodies*

The National Public Education Evaluation and Exam Centre<sup>111</sup> investigates compliance with education legislation, including the Public Education Act, in matters such as ensuring enforcement of non-discrimination provisions; the number of classes offered; student safety and accident prevention; student workload; and the presence of the prescribed minimum material equipment and staff. If non-compliance is determined, the centre may initiate legal action against a school or, through the Ministry of Education, require a school to pay a small fine – though the amount of the fine cannot exceed HUF 100,000 (or approximately €385).<sup>112</sup> The centre may also notify the relevant authorities about the violation, and it can also initiate legal action.

The Office of the Commissioner for Educational Rights<sup>113</sup> (hereafter, Education Ombudsman) promotes rights in the area of education, including for children,

<sup>106</sup> Public Education Act 1993, art. 30(3).

<sup>107</sup> Written comments on the report in its draft form, from László Bruckner, expert, National Institute for Vocational Education (NIVE), Budapest, 25 June 2004.

<sup>108</sup> Written comments the report in its draft form by László Bruckner, 25 June 2004.

<sup>109</sup> A special educator’s team in this case refers to all the professionals who are involved in the education of children with intellectual disabilities at a single school. Staff working on the development of children with special educational needs can include experts, such as speech therapists, special educators and their assistants (Public Education Act 1993, art. 6(3,4)).

<sup>110</sup> Public Education Act 1993, art. 6(3).

<sup>111</sup> Public Education Act 2003, art. 66(4).

<sup>112</sup> Public Education Act 2003, art. 66(5c).

<sup>113</sup> The responsibilities of the Office of the Commissioner for Educational Rights are defined in: Ministry of Education and Public Schooling Decree 40/1999 on the Tasks and Operation of the Office of the Commissioner for Educational Rights.

students, parents and teachers.<sup>114</sup> Complaints of discrimination in education can be lodged – usually by a parent or a teacher – with a local clerk,<sup>115</sup> who in turn refers the case to the Education Ombudsman. A significant number of complaints received by the Education Ombudsman concern access to education for children with intellectual disabilities. The Education Ombudsman's *Annual Report 2001*, notes that:

In view of the complaints filed with the Office, children with mental retardation and those with 'other disabilities' may perhaps be the most exposed and vulnerable participants of the education system. Accordingly, the Office devotes special attention to complaints submitted by or with respect to such children.<sup>116</sup>

In most cases, parents of children with intellectual disabilities turn to the office to complain about inadequate resources and services, and also because of their dissatisfaction with placement procedures.<sup>117</sup> However, the Education Ombudsman is not generally perceived as independent and unbiased. The Education Ombudsman is not elected by Parliament, but is instead appointed by the National Public Education Council. The Education Ombudsman is directly and exclusively responsible to the Minister of Education. This lack of independent review in cases of discrimination in education has led to an increased demand for an independent ombudsman for disability affairs.<sup>118</sup>

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<sup>114</sup> The Office of the Commissioner for Educational Rights (hereafter, Education Ombudsman) promotes citizens' rights on issues concerning education of students, researchers, educators, teachers, parents and their associations. The Education Ombudsman is directly and exclusively responsible to the Minister of Education. Any child, parent, educator, student, researcher, teacher, or their associations, may file a petition in individual cases, if, in their view, their rights have been infringed, or there is a direct threat of an infringement. See: website of the Education Ombudsman, available at <http://www.oktbiztos.hu/mission/> (accessed 15 October 2004).

<sup>115</sup> In Hungary, local clerks work in municipalities and are responsible for all legal procedures that are relevant to municipalities' tasks, including appropriate school placements of children with intellectual disabilities. If parents and the recommended schools cannot agree on placements, clerks are responsible to take the cases to the Public Administration Office in Budapest, which is the central office for all municipalities.

<sup>116</sup> Education Ombudsman, *Annual Report of the Commissioner for Educational Rights for the Year 2001*, section on Prevalence of the Rights of Disabled Students, (hereafter, Education Ombudsman, *Annual Report 2001*), available in English on the website of the Education Ombudsman, at <http://www.oktbiztos.hu/cases> (accessed 6 July 2005).

<sup>117</sup> "A number of complaints pointed out that some municipal governments, primarily of smaller communities, do not have the resources and requisites for the provision of the mandatory services for these children as prescribed by law. [...] However, the failure to provide such services as a result of the lack of resources violates the rights of both the child and the parent. In many cases desperate parents came to the Office asking for assistance for resolving of the following conflict: their handicapped child had been rejected by a number of institutions with regular syllabuses and they had tried to integrate the child in various other institutions". Education Ombudsman, *Annual Report 2001*.

<sup>118</sup> Interview with Piroska Gyene, chairwoman, Hungarian Association for People with Intellectual Disability (ÉFOÉSZ), Budapest, 12 December 2003.

## 1.2 Structure and administration of the education system

The Hungarian education system is structured to generally segregate children with intellectual disabilities.<sup>119</sup> There is no general consensus on the education of children with intellectual disabilities in inclusive settings.

### 1.2.1 Available types of education

In accordance with the Public Education Act, children with special educational needs who are ready to enter primary school are placed in one of three forms of education by the Professional Committee: a mainstream school, a special school or home schooling. Children with disabilities living in residential institutions may also access these three forms of education.<sup>120</sup>

The Public Education Act recognises two types of state obligations towards children: *tankötelezettség*, an obligation to educate a child; and *képzési kötelezettség*, an obligation to train a child.<sup>121</sup> The latter, the “obligation to train”, is applied in practice to children with severe and/or multiple intellectual disabilities. The State, therefore, has an obligation to educate nearly all children, except for those with severe and/or multiple disabilities. In effect, a two-tier system of special education exists in Hungary. The diagnosed level of a child’s intellectual disabilities determines whether he or she will attend a proper school with other children, or, in the case of children with severe and/or multiple intellectual disabilities, will undergo training or stimulation at home or in groups of four or five at special training institutions.<sup>122</sup>

Children with intellectual disabilities who are categorised as “educable” are entitled to study in school, to receive 20 school classes per week and to receive either a diploma or certificate upon completion. They are generally taught in special schools. Children classified as educable are also entitled to home schooling,<sup>123</sup> though few take up this option.

By contrast, children with intellectual disabilities who are categorised as only “trainable” – generally those with *severe* and *profound* intellectual disabilities – have no

<sup>119</sup> National Institute for the Public Education (NIPE), *Public Education Report 2000*, NIPE, Budapest, p. 2, (hereafter, NIPE, *Report 2000*), available on the NIPE website at <http://www.oki.hu/atricle.php?kod=edu2k-chapter9.html> (accessed 29 June 2005).

<sup>120</sup> This is true, whether they live at the institution during the week and spend the weekends with their families, or whether they live full time in the institution.

<sup>121</sup> Public Education Act 1993, art. 6.

<sup>122</sup> Public Education Act 1993, art. 25.

<sup>123</sup> Public Education Act 1993, art. 120.

traditional educational opportunities, even within the special education system.<sup>124</sup> The Decree on Training Obligations, which regulates the training of these children, refers only to “training obligations” (*képzési kötelezettség*) and fails to regulate the content of such training.<sup>125</sup> Children receive only three to five hours of training per week. This minimal training time is not enough to guarantee their development to the fullest potential, and it is much less than the 20 hours per week received by other children. Training is usually carried out at a child’s home. Children who receive training are entitled to individual classes three times per week, or group classes five times per week.

The Professional Committees are charged with finding special educators who are expert in the child’s type of disabilities to conduct the training. Often, however, the education of this group of children remains the duty of their parents or guardians, which may lead to the unemployment of one parent and a resultant reduction in family income. Furthermore, a significant number of children with intellectual disabilities who are deemed trainable do not, in fact, have access to any kind of education, not even training.<sup>126</sup> It is estimated that approximately 2,000 to 2,500 children with *severe* and *profound* intellectual disabilities (and/or multiple disabilities) may be excluded from access to education, a situation that violates the Constitutionally guaranteed right to education.<sup>127</sup>

The Ministry of Education regards the training obligation as a step forward in ensuring education for all children with disabilities because prior to the Public Education Act, many children with *severe* and *profound* intellectual disabilities did not receive any type of educational services.<sup>128</sup> However, civil organisations strongly disagree and argue that the distinction between trainable and educable is discriminatory, in that it reflects different entitlements.<sup>129</sup>

Within the special education system, yet another distinction is made. As shown below in Table 4, there are two tracks of special education open to educable children with intellectual disabilities: one for children with *mild* intellectual disabilities and another for children with *moderate* intellectual disabilities.

<sup>124</sup> “If a child has the training obligation – based on the Public Education Act art. 30(6) – the Professional and Rehabilitation Committee determines training methods that contribute to the child’s development and also determines the training schedule based on the child’s condition. During the development period this means individually three classes per week or at least five classes per week in group”. Government Decree 14/1994 (VI.24.) on Training Obligations and Special Educational Services, art. 9(2), (hereafter, Decree on Training Obligations)

<sup>125</sup> Decree on Training Obligations, art. 9(1)-(4).

<sup>126</sup> Hand in Hand Foundation, *People with Multiple Severe Intellectual Disabilities*.

<sup>127</sup> OSI roundtable comment, 24 May 2004.

<sup>128</sup> Interview with Gyöngyi Mária Nagy, 16 March 2004; Written comments on the report in its draft form, by an expert on vocational education at the Ministry of Education (confidentiality requested), Budapest, 7 June 2004.

<sup>129</sup> OSI roundtable comment.

**Table 4. Educational options for children with intellectual disabilities**

School	Level of intellectual disabilities		
	“Educable” ( <i>oktatható</i> )		“Trainable” ( <i>képezhető</i> )
	Learning disabilities; or <i>mild</i> intellectual disabilities	<i>Moderate</i> intellectual disabilities	<i>Severe</i> and/or multiple intellectual disabilities; or <i>profound</i> intellectual disabilities
<b>Kindergarten</b>	Mainstream or special kindergartens	Mainstream or special kindergartens	Residential institutions or travelling educators
<b>Primary</b>	Mainstream schools or special schools for children with <i>mild</i> intellectual disabilities	Special schools for children with <i>moderate</i> intellectual disabilities	Residential institution or travelling educators
<b>Secondary</b>	Mainstream or Special Vocational Schools	Capacity-Developing Special Vocational Schools	None

At the primary level, although some children with *mild* intellectual disabilities are mainstreamed, the majority attends special schools. Children with *moderate* intellectual disabilities are rarely, if ever, mainstreamed at the primary level.

Mainstream schools, which in practice limit enrolment to children with *mild* intellectual disabilities, can only take students with special needs if the school has the capacity to provide special education and if the intention to mainstream students with disabilities is stated in the school’s deed of foundation.<sup>130</sup> This requirement is presumably an attempt to control the quality of inclusion and ensure that students with special needs receive adequate support. The Public Education Act also guarantees that, when it is recommended by a Professional Committee, children with intellectual disabilities can get access to special educational services, such as speech therapy, physical therapy, and psychological services.<sup>131</sup>

<sup>130</sup> Public Education Act 1993, art. 37(5).

<sup>131</sup> Public Education Act 1993, art. 34 and 35.

Approximately 40 per cent of children with intellectual disabilities do not continue onto the secondary level.<sup>132</sup> Children with *mild* and *moderate* intellectual disabilities both have the legal right to attend mainstream vocational schools. However, in practice, those that attend secondary school, mainly do so at special schools, with most children with *moderate* intellectual disabilities attending capacity-developing special vocational schools.<sup>133</sup>

### *Children with unfulfilled educational needs*

Among the most controversial issues in public education are the provisions for schooling children with multiple disabilities, where the predominant disability is intellectual disabilities, accompanied by behavioural challenges; and children with *severe* and/or multiple intellectual disabilities, where the predominant disability is intellectual disabilities accompanied by physical and/or sensory disabilities. Special schools are unprepared to engage with these children's special needs. Educators in special schools are unable to provide a suitable learning environment and prevent these students from dropping out of school. As a result, children with this combination of multiple disabilities often fall outside the education system.

Placing students with autism is also difficult, and sometimes even hopeless. There are some new initiatives for children with autism in Hungary, such as the Montágh Imre Special Education School or the special school in Budapest's District IV. The Deak Diák Primary School was one of the first schools to mainstream students with autism, but it functioned only for a short period before it was forced to close down for lack of funding.<sup>134</sup>

The education of students with autism and students with multiple disabilities (where the predominant disability is intellectual disability) falls under the competencies of the Ministry of Education and the Ministry of Youth, Family, Social Affairs, and Equal Opportunities (formerly the Ministry of Health, Social and Family Affairs), between which there is no effective cooperation or efficient exchange of information.<sup>135</sup> In the

<sup>132</sup> L. Bruckner, "Gyorsjelentés a fogyatékosokkal élő emberek szakképzéséről 2004" ("2004 Report on Special Vocational Education of Students with Disabilities"), in *Szakképzés az esélyteremtés jegyében – Szemelvények a fogyatékosokkal élő fiatalok szakképzési koordinációs bizottsága tagjainak munkájából*, (Vocational Education for Creating Opportunities: Articles by Members of the Vocational Education for Youth with Disabilities Coordination Committee), NSZI, Budapest, 2004, (hereafter, Bruckner, *2004 Report on Special Vocational Education*). The author is an expert on special education at the National Institute of Vocational Education (NIVE), Budapest.

<sup>133</sup> Students with mild intellectual disabilities attend special vocational schools, while students with moderate intellectual disabilities attend capacity-developing special vocational schools. The two tracks are distinct and maintained by different administrative bodies. See: Section III.4.1.

<sup>134</sup> Interview with Barbara Czeizel, 23 June 2004.

<sup>135</sup> Interview with Lászlóné Burján, director general, Special Nursery, Special Primary School, Capacity-Developing Special Vocational School, Methodological Centre, Dormitory and Child Home on Csalogány street (Budapest), Budapest, 4 December 2003.



unlikely event that a student with multiple disabilities or autism finishes primary school, there is no available secondary school option.

### 1.2.2 Education funding

Public schools receive financial support from the central Government.<sup>136</sup> This takes two forms: unrestricted or regular funding (“normative funding”), distributed through municipalities on a per-student basis; and “targeted support”, distributed directly to individual schools through calls for proposals.<sup>137</sup> Municipalities may, at their own discretion, supplement central funding from their own sources.<sup>138</sup>

Schools receive significantly more funding to educate children with intellectual disabilities. In both mainstream and special schools,<sup>139</sup> for each student with learning disabilities or *mild* intellectual disabilities, schools receive nearly twice the amount as they do for students without disabilities. For children with *moderate* intellectual disabilities, this rises to nearly three times the amount for students without disabilities. However, in both cases, given that the same ratio applies to the formula for maximum class size, schools do not profit from the additional funding, as mainstream and special classes with children with intellectual disabilities are smaller in size.<sup>140</sup> Kindergartens are funded in the same way.<sup>141</sup>

<sup>136</sup> Parliament determines the central budget available for education annually. Public Education Act 1993, art. 4 (6).

<sup>137</sup> The amount of funding received is based on the number of students enrolled. Primary schools receive HUF 193,000 (or approximately €740) per capita annually in the first four years (years 1-4) and HUF 202,000 (€780) per capita in the second four years (years 5-8). Schools providing vocational education receive HUF 197,000 (€760) per capita, and those providing vocational training, HUF 106,000 (€410) per capita. (Act CXVI of 2003 on the 2004 Budget of the Hungarian Republic and the Three-Year Framework of State Finances.)

<sup>138</sup> In Budapest, schools are funded by the municipal district in which they are located or by the city’s budget. Outside of Budapest, schools are funded either by local or county authorities. Counties are legally obliged to maintain special schools for students with intellectual disabilities, as local need requires. Municipalities are also entitled to take over the maintenance of these schools, and they were inspired to do so in the past, since they received additional funding per capita for every child with intellectual disabilities. Although this option is still open to local authorities, special education has become much more expensive, and the burden of funding special schools increasingly falls to the counties. Interview with Éva Dörnyei Barabás, director general, “Kozmutza Flóra” Special Primary, Capacity-Developing Special Vocational School and Residential Home in Veszprém, Veszprém, 3 December 2003.

<sup>139</sup> Non-governmental and confessional schools enrolling children with intellectual disabilities are entitled to the same per capita funding as municipality-maintained special schools. Public Education Act 1993, art. 4(6) and 118.

<sup>140</sup> Although many mainstream schools organise classes that exceed the legally prescribed limit. Students with *mild* intellectual disabilities count as two students without disabilities, while students with *moderate* intellectual disabilities count as three students without disabilities. Public Education Act 1993, Annex 3.

The “National Core Curriculum” and the accompanying “Curriculum Guidelines for School Education of Children with Disabilities”<sup>142</sup> describe, amongst other things, the minimum number of special classes and basic compulsory services for people with disabilities. Standard levels of state and municipal funding are insufficient to cover these compulsory classes and services. However, schools tend to provide these services, such as communication and physical therapy, regardless of whether they can afford to do so. The services provided are not necessarily of lower quality as a result, but compromises must be made. For example, in some schools speech classes are conducted in the same room as medical examinations.<sup>143</sup> Generally, schools providing special educational services, whether special or mainstream, guarantee small class sizes and individual tutoring, but due to inadequate resources, they do not provide transportation services, travelling special educators, or psychological support for special educators.

Beyond the increased per capita funding for students with disabilities, mainstream schools receive no additional resources from the State or municipalities for special educational programmes. In order to establish a proper learning environment for the integration of students with disabilities, mainstream schools must apply for funding separately. A number of different funding sources have recently been established to support the integration of students with disabilities in mainstream schools, including the National Public Foundation for Disabled Children.<sup>144</sup>

Additional funding from municipalities to promote inclusion depends on the municipalities themselves, and the capacity of schools. The amount of these funds are not centrally determined. Whether additional costs of special education – such as smaller class sizes, extra attention/individual development, transportation or travelling special educators – are guaranteed, always depends on the local level. However, there is little chance that municipalities will be able to come up with the adequate funds on their own, given that their own sources of income are insufficient for the task. Hungarian children with intellectual disabilities will, therefore, not enjoy equal

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<sup>141</sup> Kindergartens receive increased regular state funding for each child with disabilities, and these children count as two children without disabilities in the headcount. The class size and the funding, however, are not harmonised: the increased state funding for a child with disabilities is lower than the sum of two regular students who do not increase State funding. Municipalities do not support inclusive education of children with special needs, since they may require less money from the State. The ideal situation would be that children with special educational needs in inclusive nursery schools would count as two in class size, but kindergartens would also receive the double of regular state funding instead of increased funding. Interview with Barbara Czeizel, 23 June 2004.

<sup>142</sup> Ministry of Education and Public Schooling Decree Directive 23/1997 (VI.4.) on Curriculum Guidelines for School Education of Children with Disabilities (hereafter, *Curriculum Guidelines for Children with Disabilities*).

<sup>143</sup> Interview with Istvánné Mácsai director general, Special Primary School and Capacity-Developing Special Vocational School in Kalocsa, Kalocsa, 9 December 2003.

<sup>144</sup> For further information on the role of the Public Foundation for Children with Disabilities see section III.2.1.

educational opportunities until sufficient central funding is allocated to cover the full costs of inclusive education.

### 1.2.3 Quality assurance, consultation and oversight

#### *Quality assurance*

The Public Education Act mandates that all educational institutions improve the quality of educational services; implement educational programmes effectively; and use financial resources in the most effective, economical and meaningful way. Since the act covers the full range of educational institutions, from early intervention to secondary education, all educational institutions must comply with quality assurance criteria. At present, however, there is no central system of quality assurance monitoring.

From 2002, all educational institutions must ensure a certain level of quality in the provision of services. However, there has been no standardisation of quality assurance models. Some schools receive assistance under “Comenius”, a national programme, to help introduce quality measures and quality education, whereas other schools have developed their own policies on quality assurance.<sup>145</sup>

#### *Consultation and oversight*

The Public Education Act mandates that a “school chair” be created for every school.<sup>146</sup> School chairs are bodies composed of parents, educators, students, funders, child protection organisations, and members of minority self-governments<sup>147</sup> and local chambers of commerce. They should, in principle, ensure respect for students’ rights and responsibilities in decisions made by the school staff. However, school chairs are not vested with much real decision-making power, and in practice the majority do not function at all.<sup>148</sup>

The Public Education Act,<sup>149</sup> encourages students to establish self-advocacy groups.<sup>150</sup> A number of national student self-advocacy organisations have been created. Another

<sup>145</sup> In order to ensure quality educational services, a “quality development system” is to be established within every educational institution. The substance of this system is detailed in “institutional quality management programmes”. Directors of educational institutions develop these programmes, which must be accepted and implemented by the teaching staff, as the staff has a say in the development of the programmes, including regular teachers and special educators. (Public Education Act 1993, art. 29(10).)

<sup>146</sup> Public Education Act 1993, art. 60.

<sup>147</sup> In Hungary, every national minority that makes up a certain percentage of the local population has the right to establish its own municipality. Representatives of these national minority municipalities may participate actively in school chair work, although there are only very few precedents.

<sup>148</sup> Interviews with: Éva Dörnyei Barabás, 3 December 2003; and with Lászlóné Burján, 4 December 2003.

<sup>149</sup> Public Education Act 1993, art. 62-63.

organisation, the National Parental Advocacy Council (NPAC), represents the rights of parents and contributes to the preparation of legislation and policy in the area of education.<sup>151</sup> The above organisations are well-respected, even though their existence is rather formal and their work is considered rather ineffective.

However, many self-advocacy groups for students do not function at all, and those that do function, at both special and mainstream schools, tend to have very little influence.<sup>152</sup> The Hungarian Association of People with Intellectual Disability has recently established new self-advocacy groups for students, reflecting a clear need for the development of a self-advocacy movement for people with intellectual disabilities in Hungary.

### 1.3 Assessment of intellectual disability for educational purposes

The Public Education Act establishes the Professional Committees for Assessing Learning Abilities (hereafter, Professional Committees) as responsible to carry out the diagnosis of children with disabilities.<sup>153</sup> The Professional Committees are also responsible for identifying signs of behavioural problems, autism and hyperactivity. Generally, either the kindergarten a child attends or the Educational Counselling Services<sup>154</sup> propose to parents or guardians that their child undergoes an assessment. The child is then referred to the nearest Professional Committee. However, an agreement signed by the parent or guardian is required prior to initiating the assessment process.

#### 1.3.1 Assessment procedures

The Professional Committees follow international standards, such as the ICD-10. The criteria by which the Professional Committees determine the existence and extent of a child's intellectual disabilities consist primarily of IQ tests and evaluations of social skills, capacity for self-determination and general behaviour. The committees utilise

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<sup>150</sup> Disability and self-advocacy movements, by and for people with intellectual disabilities, are a new development. Self-advocacy groups are, in general, rare in Hungary, but those by people with intellectual disabilities are especially rare, and they find themselves in a difficult position, as it is a challenge for them to present their interests publicly. Oddly, special educators and parents rarely endorse the establishment and functioning of self-advocacy groups. Interviews with: Éva Dörnyei Barabás, 3 December 2003; and with Piroška Gyene, 12 December 2003.

<sup>151</sup> The NPAC consists of nine members, of which three are appointed by the Minister of Education and six by parental organisations. Public Education Act 2003, art. 67(3).

<sup>152</sup> Interview with Éva Dörnyei Barabás.

<sup>153</sup> Public Education Act 1993, art. 6.4(a).

<sup>154</sup> Educational Counselling Services (Nevelési Tanácsadó) exist in every major city and town in Hungary. They provide consultancy and educational support for all children and young people, including those with intellectual disabilities. The counsellors are generally experts, such as psychiatrists, physicians or special educators. They conduct assessments of children with different kinds of problems and, if deemed necessary, can also refer children to specialists.

international tests based on presupposed abilities and skills.<sup>155</sup> However, the Early Intervention Centre in Budapest has noted that internationally recognised tests for assessing autism and *severe* and/or multiple intellectual disabilities are still largely unknown and rarely administered in Hungary.<sup>156</sup>

Currently, there are 31 Professional Committees in Hungary.<sup>157</sup> Each committee consists of a psychologist, a special educator and a medical specialist.<sup>158</sup> By law, assessments must be conducted by all three experts.<sup>159</sup> The type of medical specialist assigned depends on the presupposed disability type; for example, it could be a psychiatrist or neurologist. If the diagnosis is appealed, the child is referred to another Professional Committee<sup>160</sup> for a second examination.<sup>161</sup>

As a rule, Professional Committees are extremely overburdened. They are charged with both assessing the need for and providing: early intervention services, initial assessment, re-assessment, assessment of learning abilities in cases of problems following school placement, and assessment of “learning difficulties” – to identify cases of dyslexia or dyscalculia. At present, only the Professional Committees can carry out legally recognised assessments. Hospitals no longer conduct assessments.

In addition to this mandate, many Professional Committees are also service providers. For example, they also conduct assessments in residential institutions, and, besides assessments, they also provide special educational services. In carrying out assessments, the Professional Committee also establishes recommendations for rehabilitation, ensuring that legally prescribed equipment necessary for rehabilitation is provided. All schools that enrol children with special needs must have all of the necessary equipment and appropriate staff for the provision of habilitation and rehabilitation services.<sup>162</sup>

An assessment is completed in a few hours, in the course of which the three experts examine the child using methods that depend on the child’s presupposed abilities and skills. It is the

<sup>155</sup> OSI roundtable comment.

<sup>156</sup> In particular, the Leither or Ados methods (for autism) and the Fröchlích (for severe intellectual disabilities) are under-utilised. Interview with Barbara Czeizel, 23 June 2004.

<sup>157</sup> There is a Professional Committee in all of the larger towns in Hungary, in addition to the county centres. There are Professional Committees in Pécs, Kecskemét, Baja, Békéscsaba, Miskolc, Szeged, Székesfehérvár, Győr, Debrecen, Eger, Szolnok, Tata, Cegléd, Kaposvár, Nyíregyháza, Nyírbátor, Kisvárda, Szekszárd, Szombathely, Veszprém and Zalaegerszeg. In some cities there is more than one Professional Committee.

<sup>158</sup> Decree on Training Obligations, art. 2(5).

<sup>159</sup> OSI roundtable comment.

<sup>160</sup> The choice of which committee the appeal is referred to is ad hoc and not prescribed by legislation.

<sup>161</sup> The ELTE Faculty of Special Education in Budapest, which often carries out re-assessments and appeals, operates as the 32nd Professional Committee. This committee has the best reputation among all the committees, and its role is not limited to reassessments; it has become common practice for parents from outside Budapest to bring their child here for assessments and other services.

<sup>162</sup> Public Education Act 1993 art. 30(3).

special educator who usually speaks with the parents or guardian to establish the child's history. All three experts conduct the assessment. Finally, based on the three professional opinions, the Professional Committee proposes a school to the family.<sup>163</sup>

The parents or guardians of the child must be present at the assessment and be informed of the decision of the committee. However, in one case, the Education Ombudsman took up the complaint of a parent whose child had been assessed on a number of occasions without his presence, and found that the committee in question had violated the law.<sup>164</sup> In addition, despite the fact that many Professional Committees are highly skilled, there has been at least one case in which a child was not assessed by a three-member committee, but by a single person.<sup>165</sup> As a result, the future of the child in question was dependent on the opinion of a single individual. Inconsistencies in the diagnosis procedure have also been observed between counties; the quality and outcome of the diagnosis procedure appears to depend on where a child lives.<sup>166</sup>

A key element missing from school placement is special preparation for children with intellectual disabilities before primary school. If a Professional Committee concludes that a child is not ready for primary school, it recommends an additional year at kindergarten. However, during this additional year, it is all too common that the child receives no special support or preparation to better prepare him or her for primary school. There are kindergartens, operated both by municipalities and by NGOs, that set good examples and provide the special support prescribed by the Professional Committee, but they are exceptional.<sup>167</sup>

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<sup>163</sup> The parent or guardian has the right to accept or refuse the recommended placement within 15 days of the assessment. Decree on Training Obligations, art. 15(1).

<sup>164</sup> The 2001 Annual Report of the Education Ombudsman notes that: "One parent complained that the members of the expert and rehabilitation committee had examined his child on numerous occasions without notifying him. Also, he was not informed of the results of the examinations and learned the findings of the examinations only much later. After the examinations, the committee came to the conclusion that the child can conduct his studies only in a special syllabus school (alternative school) and only as a private pupil (paying). In its expert opinion communicated to the parent, however, the establishment of the legal position of the child as a private pupil was shown as a request of the parent and the school. The Office established that the committee violated the law for it conducted examinations without the presence of the parents and without informing them. Consequently, we asked the head of the expert and rehabilitation committee to always conduct examinations in line with the relevant legal regulations, by informing the parents in due time and in the presence of the parents. The head of the committee accepted our recommendation. (VI/164/2000.)" Education Ombudsman, *Annual Report 2001*.

<sup>165</sup> Interview with the parent, Kecskemét, 4 February 2004.

<sup>166</sup> OSI roundtable comment.

<sup>167</sup> Interviews with Barbara Czeizel, 23 June 2004; and with Györgyné Nádor, 15 December 2003.

### 1.3.2 Overrepresentation of Roma

NGO research indicates that the assessment procedure has been a significant factor contributing to the excessive number of Roma children placed in special schools. Roma children are placed directly in special schools far more frequently than non-minority children, who may initially be given an opportunity to succeed in a mainstream setting before re-assessment and transfer to a special school.<sup>168</sup> Moreover, there are reports that Roma parents are not giving full and informed consent for their children to attend special schools, as the implications of agreeing to placement in a special school are not explained, nor are the limitations on the child's future prospects set out.<sup>169</sup> It has been observed that, in some cases, the only basis for determining whether a child should be assessed or has a disability is that the child is from a Roma family.<sup>170</sup>

This pattern of misdiagnosis has received much domestic and international publicity and now seems to be on the decline, as evidenced by a decrease in the percentage of Roma diagnosed with intellectual disabilities. However, much work remains to be done in combating discrimination against Roma children and combating their segregation in special schools. In particular, there is a clear need to lighten the workload of the Professional Committees and to improve the conditions under which they operate. There is also a need to develop a quality assurance system for the committees. In this regard, the Ministry of Education and the Professional Committees have initiated a joint self-evaluation process and have developed plans for the reconsideration of assessment protocols.<sup>171</sup>

### 1.3.3 Appeals procedures

Parents, guardians, and even children under assessment, have the right to challenge the diagnosis and any recommendations made by the Professional Committee regarding the education of a child. However, it is extremely rare for them to do so.<sup>172</sup> Parents generally enrol their child in a school based on the recommendations of Professional

<sup>168</sup> European Roma Rights Center, *Stigmata: Segregated Schooling of Roma in Central and Eastern Europe*, Budapest, ERRC, 2004, pp. 40–41, (hereafter, ERRC, *Stigmata*).

<sup>169</sup> ERRC, *Stigmata*, pp. 47–48.

<sup>170</sup> V. Mohácsi, "Government Initiatives: Hungary's School Integration Program", in E. Rekosh, M. Sleeper (eds.), *Separate and Unequal: Combating Discrimination against Roma in Education*, Public Interest Law Initiative, Budapest, 2004, p. 241, citing a report by the Minority Ombudsman (hereafter, V. Mohácsi, *Hungary's School Integration Program*).

<sup>171</sup> Information from the website of the Ministry of Education ([www.om.hu](http://www.om.hu)).

<sup>172</sup> Interview with Györgyné Nádor, 15 December 2003. However, in an interview, Barbara Czeizel, director of the Early Intervention Centre (EIC), disagreed, saying that parents that turn to experts of the centre mostly do not accept the opinion of the Professional Committees.

Committees, though it is more common for parents to challenge the school placement than the diagnosis.<sup>173</sup>

The Public Education Act states that parents can request enrolment of their child at a specific school only if the preferred school has the necessary staff and funding for the type of education required.<sup>174</sup> If the school recommended by the Professional Committee is unable or unwilling to enrol the child, on the grounds that they do not have the necessary equipment or staff, the Professional Committee is then obliged to search for another school that will enrol the child, until an appropriate one has been found.

In cases where parents or guardians do disagree with the Professional Committee's recommendation, they have the right to appeal within 15 days. If a parent appeals, the Professional Committee may require the parent to appear before it; in many cases they then try to convince the parent to send the child to the recommended school. The local authority can send the child to a school against the wishes of the parents, which violates the principle of parental choice. However, there have been cases when, following an intense battle with the local authorities, parents succeed in finally enrolling their children in the school of their choice.

Special educators and members of Professional Committees report that some parents do in fact appeal against the assessment,<sup>175</sup> in particular when the recommended school is not located in the child's hometown.<sup>176</sup> In some cases of disagreement, parents take their children to another Professional Committee for assessment or the case may end up in the Public Administration Office.<sup>177</sup> However, in practice, parents are usually not well informed about the Public Administration Office or about their right to address it in the case of a dispute. Parents may also turn to the Education Ombudsman directly when in disagreement with a Professional Committee.<sup>178</sup>

In practice, though, parents sometimes simply disregard the assessment results, rather than appealing against them. When a Professional Committee recommends a school, a copy of the Professional Committee's assessment report is sent to both the parents and the recommended school. In the meantime the parents may take the child to a different school, which does not have the assessment results. In this case, the

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<sup>173</sup> OSI roundtable comment.

<sup>174</sup> Public Education Act 1993, art. 30(3).

<sup>175</sup> The Education Ombudsman has also reported a number of complaints from parents about the placement process. Education Ombudsman, *Annual Report 2001*.

<sup>176</sup> Interview with Györgyné Nádor, 15 December 2003.

<sup>177</sup> The Public Administration Office (Közigazgatási Hivatal) is the body responsible for deciding on the legality of school placement procedures. The office examines appeals concerning placements and the functioning of schools. It is also the responsible body for deciding on legality of placement procedures. The office examines appeals considering placements and all those appeals that relate to the functioning of schools.

<sup>178</sup> OSI roundtable comment.



municipality is required to search for the child.<sup>179</sup> The child is usually found after the start of the school year, and, since the child has already begun classes, in most cases the child will remain at the school. These are often the children who are integrated into mainstream schools that are not in any sense prepared for their inclusion. The schools lack the educational aids, personnel and other conditions necessary for effective education. Children attending schools that are not able to meet their needs often end up being later moved to special schools.<sup>180</sup>

According to a professional working in the field, parents often have unrealistic expectations about their children.<sup>181</sup> In these cases, special educators and/or the Professional Committees try to convince them to opt for the best available solution, which may not always be a mainstream school. However, parents often reject these suggestions and fight for the integration of their child in various ways. This can include pushing for schools to develop the necessary conditions for inclusion,<sup>182</sup> enrolling the child in a school that is not prepared for a child with special needs or teaching the child at home themselves. In this latter case, if the Professional Committee disagrees with home schooling, the educational and financial responsibilities for the child's education rest entirely with the parents.

#### 1.4 Early intervention services

Early intervention service, and other support, is provided to young children (and the families of young children) who have, or are at risk of developing, a condition or special needs that may adversely affect their development. Early intervention services aim to lessen the effects of the child's condition and maximise the child's development and inclusion. Neurologists and special educators have noted that early intervention services are extremely important for children with intellectual disabilities, because these services assist children in the development and maintenance of skills during a critical developmental period. Early intervention services enable children with intellectual disabilities to narrow developmental gaps. They can also ease their integration into a

<sup>179</sup> Decree on Training Obligations, art. 18 and 19.

<sup>180</sup> An expert on vocational education at the Ministry of Education reported that further comprehensive research is needed on the transition from segregated schools to unprepared mainstream schools. Written comments on the report in its draft form (confidentiality requested), Budapest, 7 June 2004.

<sup>181</sup> Interview with Györgyné Nádor, 15 December 2003.

<sup>182</sup> See, for example: Mária Salné Lengyel and Mária Kőpatakiné Mészáros, "Az együttnevelés jelenlegi helyzete, OKI-kutatás tapasztalatai", ("Current Situation of Integration, NPPI research"), in *Fejlesztő pedagógia*, Budapest, 2001/3.

mainstream educational setting.<sup>183</sup> Children with intellectual disabilities who do not have access to early intervention services consistently demonstrate less aptitude in communication, movement, intellectual and socialisation skills.<sup>184</sup>

The Public Education Act mandates early intervention for all children with special needs.<sup>185</sup> Children may receive early intervention services upon the recommendation of the Professional Committees,<sup>186</sup> which are responsible for providing early intervention services. These services may be provided at a child's home or in residential institutions, through the Educational Counselling Services, or in other centres that provide special educational services.<sup>187</sup> However, the primary problem regarding access to early intervention services is that parents are often unaware of the existence of Professional Committees and of the available early intervention services until after their children have finished kindergarten, when the services are less effective.

Since 2000, there has been a steady decline in student numbers. Because funding is on a per capita basis, kindergartens are eager to attract as many students as possible, and they have begun enrolling more children with intellectual disabilities, for whom they create special conditions. This "competition" for students has had the positive effect of increasing opportunities for the mainstreaming of children with intellectual disabilities, and of properly preparing them for primary school. Nonetheless, this is still not common practice, and it is not a substitute for a formal system of early intervention services.

The early intervention network in Hungary is inadequate and cannot guarantee equal access to early intervention services throughout the country. While Professional Committees have a legal mandate to provide early intervention services, in practice they rarely do so. As a result, NGOs attempt to fill this gap, and NGO initiatives have inspired the Government to improve the system of early intervention. NGOs that

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<sup>183</sup> This is true also for children with autism, as early intervention services sometimes help these children to overcome some characteristics of autism. Interview with a parent (confidentiality requested) of a young adult with autism, member of the Advocacy Group of People with Autism, Budapest, 26 May 2004. The young adult is a supported employment service user who, as a child, attended a mainstream school.

<sup>184</sup> Interviews with: Rozalia N. Palkovics, special educator and programme manager, Salva Vita Foundation, Budapest, 27 November 2003; Barbara Czeizel, 7 January 2004; and Györgyné Nádor, Budapest, 15 December 2003.

<sup>185</sup> Early intervention services should be provided to children from birth up to age five. In cases where service provision has been delayed, services can be extended for an additional three years. While the act describes the ideal situation where disability is diagnosed prior to the age of three, in practice, service provision usually starts later. Therefore, early intervention services are generally provided in nursery schools for children older than age three. Interview with Barbara Czeizel, 7 January 2004.

<sup>186</sup> The Early Intervention Centre (EIC) in Budapest is an exception in that it may also recommend early intervention services.

<sup>187</sup> Public Education Act 1993 art. 34(1).

provide early intervention services are entitled to state funding by contracting with the Professional Committee.<sup>188</sup>

The Early Intervention Centre (EIC) in Budapest was the first NGO to provide early intervention services. It was established in 1991, in order to fill the existing gaps in the early intervention system. Since its establishment, it has assessed approximately 3,000 children, and 220 families are currently participating in its comprehensive early intervention services.<sup>189</sup> The EIC conducts an annual assessment of each child, and the child's parents participate in the assessment. The centre provides a comprehensive assessment of a child's abilities and needs, after which, with parental permission, the assessment results must be accepted by the Professional Committees.

The EIC only provides services for residents of Budapest, though, in some cases, exceptions are made. Children up to age five can receive services at the EIC, but since kindergartens rarely employ special educators, parents generally want their children to continue receiving services at EIC, up to and beyond age five. There is no public funding for the EIC to serve children over five. The EIC aims to increase public awareness of the need for, and availability of, early intervention services, by organising training programmes for professionals working in the health care and education sectors. The training programmes are intended to target professionals – such as midwives, paediatricians, district nurses, social workers, social welfare officers, staff at prenatal intensive care centres<sup>190</sup> and experts who work with children in local special developmental centres (for example, in kindergartens) from outside the capital.

Outside the capital, early intervention centres operate in Zalaegerszeg, Kaposvár, Szombathely, Pécs and Nyíregyháza. These centres each employ from four to five experts. However, despite the great demand for early intervention services, early intervention centres outside the capital do not operate full-time. They hire experts only on a part-time basis, so that the quality of the services offered is compromised. In

<sup>188</sup> The Early Intervention Centre (EIC) Budapest receives the same State funding as the Professional Committees receive for early intervention services. In 2003, the EIC received HUF 235,000 (or approximately €900) per capita, from the Ministry of Health, Social and Family Affairs. However, this pioneering initiative lacks adequate State support and the centre must apply for grants in order to continue its work. The centre provides services at no cost to parents. Interview with Barbara Czeizel, 23 June 2004.

<sup>189</sup> These numbers reflect Budapest only. In Hungary, it is estimated that between 5-7 per cent of children are in need of early intervention services. Many children residing in rural areas, however, do not receive early intervention services, due to the lack of a countrywide network of early intervention service providers and to the limited availability of information about services offered and their importance to the development of children with disabilities. Source: Interview with Barbara Czeizel, 23 June 2004. More information on the centre is available at [www.koraifejlesztzo.hu](http://www.koraifejlesztzo.hu).

<sup>190</sup> Perinatal Intensive Centres (perinatális intenzív centrum) function in hospitals where they provide health care services for people at risk of premature birth or born with some disorder.

particular, it is important that hired experts should be required to undergo an accredited training programme.<sup>191</sup>

Early intervention services play a critical role in improving the life chances of children with intellectual disabilities. An effort needs to be made to better inform parents about the availability of these services. It is not sufficient that early intervention services are available only in Budapest and a few other cities; a countrywide early intervention network is urgently needed.

## 2. GOVERNMENT EDUCATION POLICY

*The main reference for Government policy on the education of children with intellectual disabilities is the National Disability Programme, which establishes a number of progressive goals for inclusive education. However, the mechanisms for evaluating the programme and ensuring its implementation are at present inadequate, and many goals in the area of education have not yet been implemented. One important result of the programme thus far has been the establishment of the National Public Foundation for Disabled Children, which supports activities for children with all types of disabilities through a number of programmes promoting social integration. The Foundation has backed a number of projects targeting children with intellectual disabilities, their families, and schools – including mainstream and special schools. Of particular relevance are the Foundation's programmes for improving mainstream schools' preparedness for enrolling children with intellectual disabilities. The work of the Foundation has been widely praised by special educators. During Hungary's accession to the EU, the European Commission's Regular Reports on Hungary made no mention of the education of children with intellectual disabilities. However, a number of Phare funded programmes supported the education of children with intellectual disabilities, in particular through early intervention and education in special vocational schools. Since its accession to the EU on 1 May 2004, Hungary is eligible for EU Structural Funds. The funds will be used to support projects in a number of areas of direct relevance for people with intellectual disabilities, such as: projects aimed at the mainstreaming of children with special educational needs; projects for lifelong learning; and projects for the development of school infrastructure, including special education.*

### 2.1 The EU and education policy

During Hungary's accession to the EU, the European Commission's 2002 Regular Report on Hungary made no mention of the education of people with disabilities.<sup>192</sup> Instead, it proposes a number of actions for increasing the education levels of socially disadvantaged children, with a special emphasis on programmes for the Roma

<sup>191</sup> Interview with Barbara Czeizel, 23 June 2004.

<sup>192</sup> European Commission, *2002 Regular Report on Hungary's Progress towards Accession*, SEC (2002) 1404, European Commission, Brussels, 9 October 2002, available on the commission website at [http://europa.eu.int/comm/enlargement/report2002/hu\\_en.pdf](http://europa.eu.int/comm/enlargement/report2002/hu_en.pdf) (accessed 12 December), (hereafter, European Commission, *2002 Regular Report – Hungary*).

minority.<sup>193</sup> Similarly, the 2002 and 2003 Regular Reports<sup>194</sup> describe the deplorable conditions experienced by Roma children in schools throughout Hungary. However, both the 2002 and 2003 Regular Reports fail to mention the limited or complete lack of access to education of children with intellectual disabilities and, as with Roma children, their segregation in special schools.

While the reports do not go deeply into the problems of Hungary's children with intellectual disabilities, EU funds were used to support education programmes targeting these children. The EU Phare programme in Hungary was designed to promote the social integration of youths disadvantaged on multiple levels. The majority of programmes targeted Roma students, and they included new and comprehensive educational projects.<sup>195</sup> Other Phare projects were aimed specifically at improving the lives of people with intellectual disabilities. These projects targeted areas ranging from early intervention to education in special vocational schools.<sup>196</sup>

Since its accession to the EU on 1 May 2004, Hungary is eligible for EU Structural Funds. In March 2003, Hungary submitted its National Development Plan to the European Commission, which establishes the objectives of the five Operational Programmes, under which the Structural Funds will be allocated for the period 2004–2006.<sup>197</sup> Of these, the highest share of these funds will be dispersed under the Human Resources Development Operational Programme (HRD-OP), which is funded primarily by the European Social Funds (ESF). Within the framework of the HRD-OP, a number of measures target the mainstreaming of children with special educational needs, lifelong learning, and the development of school infrastructure,

<sup>193</sup> European Commission, *2002 Regular Report – Hungary*, Chapter 18(a-c).

<sup>194</sup> European Commission, *2003 Regular Report on Hungary's Progress Towards Accession*, European Commission, Brussels, 9 October 2003, available on the commission website at: [http://europa.eu.int/comm/enlargement/report2003/hu\\_en.pdf](http://europa.eu.int/comm/enlargement/report2003/hu_en.pdf) (accessed 12 December).

<sup>195</sup> The projects supported were: HU9904-01 “Hátrányos helyzetű fiatalok társadalmi integrációja, különös tekintettel a Roma kisebbségre” (Social Integration of Disadvantaged Youth, with Emphasis on the Roma Minority); and HU0002 “A Roma kisebbségi további szociális integrációjának támogatása” (Support for Further Integration of Romani Minorities). Further details are available at [www.cfcu.hu](http://www.cfcu.hu).

<sup>196</sup> National Institute for Public Education (OKI), *Egyenlőtlenségek és méltányosság a közoktatásban (Inequality and Equity in Public Education)*, chapter 10, Budapest, 2000, available in English from the OKI website at <http://www.oki.hu/article.php?kod=edu2k-chapter10.html> (accessed 1 December 2004).

<sup>197</sup> Government of the Republic of Hungary, *Hungarian National Development Plan 2004–2006*, Budapest, 26 March 2003 (hereafter, National Development Plan), available on the website of the National Development Office at [http://www.nfh.hu/doc/nft/letolt3/NDP\\_Hungary.pdf](http://www.nfh.hu/doc/nft/letolt3/NDP_Hungary.pdf) (in English) (accessed 15 December 2004).

including special education.<sup>198</sup> It is widely expected that these programmes will strengthen inclusive education.

## 2.2 Government education policy

The main reference for government policy on the education of people with disabilities is the National Disability Programme. The programme covers access to education of students at all ages, from early intervention to higher education. In accordance with the Public Education Act, the programme identifies the following education related goals:

- increasing the number of well-equipped mainstream schools at all educational levels;
- providing training programmes for special educators to write inclusive educational curricula;
- increasing transparency and cooperation amongst schools and across the different levels of schooling;
- increasing the number of existing tools and educational programmes for students with disabilities;
- establishing a counselling system for students in higher education;
- broadening vocational training options available to people with disabilities; and
- developing a coherent and comprehensive system of education, rehabilitation and employment.

An important result of the National Disability Programme was the establishment of the National Public Foundation for Disabled Children (hereafter, Foundation), which is under the responsibility of the Ministry of Education. The Foundation supports activities for children with all types of disabilities. Its overall mission is to participate and assist in the implementation and achievement of the strategic goals set out in the National Disability Programme. To this end, the Foundation designs programmes and

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<sup>198</sup> See: Ministry of Employment and Labour, *Human Resource Development Operational Programme* (hereafter, Ministry of Employment and Labour, *HRD-OP*), available on the website of the Ministry at <http://www.fmm.gov.hu/upload/doc/200405/hrdop.pdf> (in English) (accessed 15 December 2004), p. 4.

methods that address rehabilitation guidelines and social inclusion in a coordinated manner.<sup>199</sup>

Amongst its wide array of programmes, the Foundation supports social integration projects targeting children with intellectual disabilities and their families, as well as both mainstream and special schools for children with intellectual disabilities.<sup>200</sup> Of particular relevance are the Foundation's programmes for improving mainstream schools' preparedness for enrolling children with intellectual disabilities. The Foundation cooperates with NGOs providing services and counselling, and it elaborates directions for the development of educational tools, based on information collected from the public discussions that it organises. Special educators and directors of special schools are uniformly satisfied with the work of the Foundation. They report that it is both supportive and flexible in meeting their needs as educators.<sup>201</sup>

Prior to the adoption of the National Disability Programme, in 1999, consultations and public discussions were held. Ministries<sup>202</sup> distributed questionnaires, and the final programme draft was sent to educational institutions, NGOs and other actors in the area of education. The public discussions provided an opportunity for these stakeholders to react to, and comment on, the draft programme. However, stakeholders approached by the ministries generally said that their comments and recommendations were not given adequate consideration, and they felt that the

<sup>199</sup> Programmes developed by the National Public Foundation for Disabled Children (hereafter, Foundation), aim to bring together various organisations operating in different sectors that impact the lives of people with disabilities. For example, some projects promote the education of people with disabilities in inclusive settings by coordinating the activities of various educational institutions, such as early intervention centres, kindergartens, primary schools and special secondary schools. The Foundation is also responsible for organising forums to ensure an effective and efficient flow of information and exchange amongst the various stakeholders. Examples of the Foundation's activities include: giving courses for families or guardians on how to be supportive toward family members with disabilities; offering programmes for exploring and developing the capabilities of young children; supporting new models, such as travelling special educators and alternative methods for vocational training; improving information exchanges between stakeholders; and organising integrated summer camps (for children with and without disabilities). For further information (in Hungarian), see the Foundation's website at [http://www.fgyk.hu/m\\_p\\_1.htm](http://www.fgyk.hu/m_p_1.htm) (accessed 30 June 2005).

<sup>200</sup> The following are projects currently being implemented: "Support to Segregated Schools in Elaborating and Organising Educational Methodologies and Innovation"; "Innovation of Methods Applied in Segregated Schooling"; "Development of Networks of Travelling Educators Supporting Disabled Children in Integrated Schools"; and "Support for Parents whose Children are Enrolled in Integrated Schools National Public Foundation for Disabled Children".

<sup>201</sup> Interviews with: Éva Dörnyeyiné Barabás, 3 December 2003; with Istvánné Mácsai, 9 December 2003; and with Lászlóné Burján, 4 December 2003.

<sup>202</sup> The programme involved ministries such as the Ministry of Education; Ministry of Health, Social and Family Affairs; Ministry of Employment and Labour; Ministry of Economy; and Ministry of Transport.

comments were not included in the final programme.<sup>203</sup> Only the Hungarian Association for People with Intellectual Disability (ÉFOÉSZ) reported that it was consulted and interviewed many times, and that its comments and recommendations were to some extent incorporated into the final programme.<sup>204</sup>

In general, participation in the policymaking process needs to be broadened, to include special educators and administrators at special schools. Remarking on the preparation of the Disabled Persons Act, one of the authors of the legislation noted that a better effort should have been made to consult with school representatives,<sup>205</sup> as the majority of special schools still have not altered their approach to the education of people with disabilities and do not welcome the aim of social inclusion as set out in the act.<sup>206</sup>

Nearly all people interviewed for this report agreed that, while the Disabled Persons Act and the National Disability Programme are well elaborated, their implementation has been slow. Those interviewed stated that, in the course of their work they refer to the act, but in many areas it exists only on paper, because unacceptably large gaps remain between law and practice.

The Government's Action Plan for the National Disability Programme directs the Ministry of Education to conduct an annual evaluation of the programme and to report annually to Parliament on its implementation.<sup>207</sup> Yet, despite the efforts of numerous stakeholders, since its inception in 1999, no changes have been made to the programme and its progress (or lack thereof) was only once presented to Parliament.<sup>208</sup> The Ministry of Education coordinates the annual evaluations for Parliament. However, representatives of the ministry have noted that they receive no feedback on the evaluations and no further actions are taken by Parliament.<sup>209</sup> The primary reason

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<sup>203</sup> The directors of several special schools from Budapest and other parts of the country were disappointed with the consultation process. Although their input was solicited, in the end their suggestions were largely ignored. Interviews with: Éva Dörnyei Barabás, 3 December 2003; Istvánné Mácsai, 9 December 2003; and Lászlóné Burján, 4 December 2003.

<sup>204</sup> The Hungarian Association of People with Intellectual Disability (ÉFOÉSZ) is an advocacy organisation consisting of people with intellectual disabilities, their parents or guardians, and professionals. Branches outside Budapest are sometimes unaware about what is happening in the capital. A representative of the Ministry of Education observed that it would be much easier for the ministry if such large advocacy groups were better organised. Interview with Gyöngyi Mária Nagy, 16 March 2004.

<sup>205</sup> Interview with the Mihály Kogon, 18 March 2004.

<sup>206</sup> Special educators, together with the Ministry of Education, consider the Public Education Act 1993 as the determinant document on education and attribute more authority to it than to the National Disability Programme. Interviews with: Mihály Kogon, 18 March 2004; and with Gyöngyi Mária Nagy, 16 March 2004.

<sup>207</sup> 2062/2000 (III.24) Government Decree on the Action Plan for the National Disability Programme.

<sup>208</sup> Interview with Mihály Kogon, 18 March 2004.

<sup>209</sup> OSI roundtable comment.



for the limited feedback is thought to be the lack of interdepartmental dialogue and the poor flow of information.<sup>210</sup>

While the Disabled Persons Act and the National Disability Programme have brought many positive changes, they fail to provide the standards and mechanisms necessary for successful implementation.<sup>211</sup> More specifically, the act itself is comprehensive and compatible with EU legislation, but fails to establish the requirements for, or a system of, monitoring its implementation.<sup>212</sup> The largest problem is seen to be the fact that, in practice, no parameters exist for measuring educational trends; no professional guidelines are provided; no one is actually aware of the real objectives; and there are no realistic models to be followed.

### 3. EDUCATION IN PRACTICE

*The decentralised Hungarian education system allows mainstream and special schools to design their own curricula and programmes, in accordance with the National Core Curriculum and the “Curriculum Guidelines for School Education of Children with Disabilities”. At present, less than half of the teachers in special kindergartens and primary schools for children with intellectual disabilities hold special education degrees. There are very few special educators employed in mainstream schools. The special education degree programmes offered by the Faculty of Special Education at Eötvös Lóránd University are widely respected, but they tend to produce specialists in one type of disability, rather than special educators who can assess and support children with a wide range of disabilities. All special educators are obliged to receive professional training every seventh year. In general, they say they are satisfied with the quality of the training they receive.*

*In Hungary, inclusive education is at a very early stage. In 2003, the percentage of children with disabilities attending mainstream kindergartens was a relatively high 68 per cent, but, at the primary level, this figure is much lower, at 17.5 per cent. There is only limited data on the numbers of children with intellectual disabilities attending mainstream schools. In 2002–2003, 2,598 students with intellectual disabilities were mainstreamed at the primary level. The total number of children with intellectual disabilities at all school levels has been estimated at 3,200. Programmes targeting inclusive education have begun to receive more attention. In Hungary, however, debate on whether it is desirable to mainstream children with more severe intellectual disabilities is still ongoing, as evidenced by the lack of consensus amongst educational specialists on this issue. There is also a corresponding need for the formulation of educational policy that explicitly addresses the criteria and process of mainstreaming. Due to the declining birth rate, and the resulting fall in student numbers, in the early 1990s, schools began accepting some students with intellectual disabilities. This process was termed “austere integration”, as it had limited success due to the fact that schools were unprepared for the special educational needs of these students. Even today, most mainstream schools lack the necessary space and sufficient support staff, in particular, special educators. Meanwhile, most school staff, including regular teachers, special educators, and therapists, do not have enough training in*

<sup>210</sup> OSI roundtable comment.

<sup>211</sup> Interviews with Ilona Gere, 11 December 2003; and with Lászlóné Burján, 4 December 2003.

<sup>212</sup> Interview with Mihály Kogon, 18 March 2004.

*special education. Once operational, the proposed special methodological centres should provide very valuable additional support for mainstream schools, and they should encourage further integration.*

*At present, though, the main way in which children with intellectual disabilities can receive an inclusive education is in innovative schools, or “alternative schools”, which are mostly NGO-operated and, like any other school, eligible for regular State funding. Innovative schools import educational methodologies from other countries. However, although such schools serve as very valuable good-practice models, which could in the future be replicated across the country, they face a number of constraints: notably a lack of external support and supervision; low salaries; and limited opportunities for continuing education and professional development. In other cases, children with intellectual disabilities and autism are enrolled in mainstream schools through the advocacy of parents. In general, though, most parents and guardians remain unaware of their rights.*

*Every county must maintain at least one special primary school for children with mild intellectual disabilities and another for children with moderate intellectual disabilities. In the 2002–2003 school year, at the primary level, 32,231 students with intellectual disabilities were enrolled in special schools, while a total of 6,175 students with intellectual disabilities attended special vocational schools. At present, very few children with severe intellectual disabilities and/or multiple disabilities are enrolled in special schools, though their numbers are on the increase. Special schools take two forms: day schools or boarding schools. According to the census, in 2001, there were 2,421 children with intellectual disabilities in special boarding schools. Most special boarding schools are located outside town centres, so transportation can prove a major challenge. The standard and quality of education in special schools in Hungary is acceptable, and sometimes even excellent. However, such segregated settings inherently foster the social exclusion of students. Roma students are very disproportionately represented at such schools, mainly due to inadequate assessment procedures. This tendency has been noted with concern, both by domestic and international observers, and a number of programmes and initiatives have been implemented with the aim of addressing this situation.*

*In Hungary, few children with intellectual disabilities are schooled at home. Home schooling takes two forms: either special educators visit children in their homes, or students make regular visits to the supervisory special school, usually that nearest to the student’s home. The Public Education Act provides for a system of travelling special educators, but it does not identify a source of funding for the system. Therefore, home schooling and special educational services are generally not available to children with special educational needs living in more rural areas of the country. An estimated 2,000 to 2,500 children with severe and/or multiple intellectual disabilities are excluded from any form of education or training. Children with disabilities living in residential institutions can be enrolled in the same three forms of education available to other children: mainstream schools, special schools or home schooling. Generally, children living in residential institutions study in schools outside the institution, together with other children who have not been institutionalised. There are 2,549 children with intellectual disabilities in orphanages in Hungary.*

### 3.1 Resources and support

#### 3.1.1 Curricula Development

The Hungarian education system is decentralised,<sup>213</sup> so that both mainstream and special schools can design their own curricula and programmes, in accordance with the National Core Curriculum. The National Core Curriculum applies to all schools and can be tailored to meet needs particular to individual schools, students and the wider community.<sup>214</sup> Schools enrolling students with disabilities must also follow the “Curriculum Guidelines for School Education of Children with Disabilities”, issued by the Ministry of Education in 1997.<sup>215</sup>

The Curriculum Guidelines require the implementation of specific educational support services, but they allot schools a great deal of freedom for the development of individual educational plans for children with disabilities. The guidelines set out the tools, topics, general goals, aims and expectations for special education. The aims of habilitation and rehabilitation in education are defined as the socialisation and successful social inclusion of people with disabilities. Local educational programmes for children with disabilities take the form of training, individual development programmes, or programme elements that are incorporated into curricula or into extracurricular programmes.

Individual habilitative and rehabilitative services<sup>216</sup> must be provided for students with intellectual disabilities at all school levels, in both mainstream and special schools, according to each student’s particular needs. The National Core Curriculum establishes that students must have the opportunity to receive individualised services. However, mainstream schools that enrol students with intellectual disabilities without proper preparation and support often fail to tailor education to the individual needs of students with disabilities. Instead, these students are expected to perform at the same standards as students without disabilities.<sup>217</sup>

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<sup>213</sup> Schools are entitled to develop their own local/institutional curricula based on the framework laid out in the National Core Curriculum. School curricula and educational programmes are always developed at the individual school level.

<sup>214</sup> The hierarchy of the documents that govern curriculum development is as follows: (1) the National Core Curriculum, the most important and core document; and (2) the “Curriculum Guidelines for School Education for Students with Disabilities”. On the basis of these two documents, each school develops its own curricula and programmes, which are meant to be adapted and tailor-made to the needs of children with special educational needs.

<sup>215</sup> “Curriculum Guidelines for Children with Disabilities”, Appendix 2.

<sup>216</sup> These services include, for example, speech therapists and physiotherapists. All these services follow the definitions given by the Ministry of Education. These services correspond to the rehabilitation services determined by the Ministry of Health, Social and Family Affairs, though these are primarily special educational services.

<sup>217</sup> NIPE, *Report 2000*.

With regard to class size, each student with *mild* intellectual disabilities counts as two students, while each student with *moderate* intellectual disabilities or autism is counted as three students.<sup>218</sup> However, mainstream schools often place more than the prescribed number of children in a classroom, thus denying children with intellectual or learning disabilities the opportunity to actively participate in class and to receive sufficient attention and support from the teacher.<sup>219</sup>

The education of children with autism is more expensive than the education of children with other types of disabilities. While most students with other types of disabilities can learn in groups with the support of one special educator, children with autism need at least three or four supporters. This service is inaccessible at the moment, and the regular State funding guaranteed for the education of autistic children does not mirror this demand.<sup>220</sup>

### 3.1.2 Teacher training

In 1999–2000, only 3,014 out of 7,244 teachers in special kindergartens and primary schools for children with intellectual disabilities held special education degrees.<sup>221</sup> There is no data on how many special educators are employed by mainstream schools to educate children with special needs, but the number can be assumed to be extremely low.

The Faculty of Special Education at Eötvös Lóránd University offers a four-year degree in special education. The faculty is widely respected for both its undergraduate and postgraduate programmes, and it is the only faculty of its kind in Hungary. The faculty also organises accredited training for nursery and primary school teachers, and offers a new advanced degree to prepare educators for emerging issues in mainstream education. However, the faculty is structured around specific disability types<sup>222</sup> and, accordingly, students are expected to specialise in specific disability types. Moreover, the Faculty of Education only offers courses in teaching special education, while mainstream educators study in another faculty. Since future mainstream and special educators attend different departments, they generally do not meet, do not share experiences, and do not hear about each others work and methods. The chairperson of ÉFOÉSZ is of the opinion that this “department or faculty segregation” serves to

<sup>218</sup> Public Education Act 1993, Appendix.

<sup>219</sup> Interviews with: Éva Dörnyei Barabás, 3 December 2003; Istvánné Mácsai, 9 December 2003; and Lászlóné Burján, 4 December 2003.

<sup>220</sup> Interview with the parent of an autistic child, Budapest, 26 May 2004.

<sup>221</sup> NIPE, *Report 2000*, chapter 9, on Special Needs in Education (Hungarian-language version).

<sup>222</sup> For example, there are separate departments for hearing impairment and learning difficulties/intellectual disabilities.

reinforce segregation of children with (intellectual) disabilities from children without disabilities within the education system.<sup>223</sup>

A member of a Professional Committee has observed that instruction at the Faculty of Special Education creates and reinforces specialised knowledge of discrete disabilities and fails to provide a holistic approach.<sup>224</sup> One consequence of such specialisation is that professionals and experts in special education will not have knowledge across a range of disabilities, so that, in some cases, they could make a misdiagnosis. For example, in one reported case, an interview with a girl with a hearing disability could have resulted in her being assessed as having intellectual disabilities, if an experienced member of the Professional Committee conducting the interview had not been able to correctly interpret her symptoms.<sup>225</sup> Demand is great for well-trained professionals – physicians, psychiatrists, educators, therapists and social workers – to work with children with autism, and there is a clear need for new methodologies for training professionals to work with children with autism.

The National Public Education Council is charged with the ongoing training and development of special educators.<sup>226</sup> Every special educator is obliged to receive 120 hours of professional training every seventh year. The cost of this training is often covered by a teacher's school. The National Accreditation Committee selects the training programmes to be supported, based on prescribed criteria.<sup>227</sup> Schools with successful proposals then organise training courses, which are developed bottom-up and correspond to current trends, needs and interests. Special educators are satisfied with the training<sup>228</sup> as well as with the conferences organised by the National Public Foundation for Disabled Children, because they provide an opportunity for special educators to share experiences and hear about new educational models.

### 3.2 Inclusive education

The concept of inclusive education acknowledges that all children and young people can learn, and that all children and young people need support. All students are

<sup>223</sup> Interview with Piroska Gyene, chairperson of the Hungarian Association for People with Intellectual Disability (ÉFOÉSZ), Budapest, 12 December 2003.

<sup>224</sup> Interview with Györgyné Nádor, 15 December 2003.

<sup>225</sup> Interview with Györgyné Nádor, 15 December 2003.

<sup>226</sup> Public Education Act 1993, art. 96 and its amended version, Public Education Act 2003, art. 63.

<sup>227</sup> The Public Education Act 1993 and the Law on Higher Education 2004 describe the functioning of the National Accreditation Committee. Act LXXX of 1993 on Higher Education, Gazette 1993/107, 3 August 1993. Last amended by Act LX of 2004 on the Amendment of Certain Acts on Education that Promote the Enforcement of Educational Rights, and Certain Acts on Education that serve the development of Higher Education System and its Institutions, Gazette 2004/91, 28 June 2004.

<sup>228</sup> Interviews with Éva Dörnyeiné Barabás, 3 December 2003; with Istvánné Mácsai, 9 December 2003; and with Lászlóné Burján, 4 December 2003.

different, and have different learning needs; inclusive education enables the structures, systems, and learning methodologies to meet the needs of all learners. For the system to be fully inclusive, attitudes, behaviour, teaching methodologies, curricula and the environment must be tailored to meet the needs of all learners. However, at present, most children with intellectual disabilities in Hungary receive education in segregated special schools; very few receive inclusive education, in a mainstream school.

The National Institute for Public Education<sup>229</sup> (NIPE) *2003 Report on Public Education* states that the number of students in special education in Hungary is significantly higher than other Organisation for Economic Co-operation and Development (OECD) countries.<sup>230</sup> Special education in Hungary is consistently criticised by many stakeholders,<sup>231</sup> who maintain that, while it may be of high quality, at present it does not promote social inclusion.<sup>232</sup> Before the implementation of the Public Education Act, “special education” in fact referred only to educational services provided in special schools. However, it is increasingly also becoming part of mainstream education. Over the last few years, the most controversial debate regarding education in Hungary is the question of whether students with special needs, in particular students with intellectual disabilities, should be mainstreamed or educated in special schools. Recently, educational strategies that target inclusion and the promotion of equal opportunities for students with intellectual disabilities have begun to receive more attention among stakeholders.

### 3.2.1 Mainstreaming

In 2003, the share of children with disabilities (in general) enrolled in mainstream kindergartens was 68 per cent, while in primary schools the percentage was a mere 17.8 per cent.<sup>233</sup> There are no official figures on the number of students with disabilities attending secondary school, but it can be assumed to be much lower than the 17.8 per cent for primary schools.

There is only limited data on the mainstreaming of children with intellectual disabilities. In the 2002-2003 school year, 2,499 (out of 30,720) children with *mild*

<sup>229</sup> The National Institute for Public Education (NIPE), under the authority of the Ministry of Education follows current trends and developments in education both in Hungary and internationally. It reports on various educational programmes and publishes special issues (professional journals) containing evaluations of the observed trends, developments and programmes, and it also organises workshops.

<sup>230</sup> NIPE, *Report 2003*, section 9.2.4. This data is for all disability groups; there is no specific data on mainstreaming for children with intellectual disabilities. The OECD report cited by NIPE is *Special Needs Education—Statistics and Indication*, Paris: OECD, 2000.

<sup>231</sup> The main critics of special education are advocacy organisations, inclusive schools and some parents. It is rare for students who attend special education to criticise this form of education.

<sup>232</sup> NIPE, *Report 2000*, “Special Needs in Education” (chapter 9).

<sup>233</sup> NIPE, *Report 2000*, Section 4.7.1, p. 1.

intellectual disabilities, 57 (out of 3,628) children with *moderate* intellectual disabilities, and 42 (out of 481) children with autism attended mainstream primary schools.<sup>234</sup>

In Hungary, approximately 60 per cent of people with intellectual disabilities continue on to the secondary level, although the number is reported to be increasing slowly. It is rare for students with intellectual disabilities to be mainstreamed at the secondary level, and nearly all secondary students with intellectual disabilities attend either special vocational or capacity-developing special vocational schools. Attendance at a mainstream vocational school is almost exclusively limited to students with *mild* intellectual disabilities. In the 2002–2003 school year, 546 students with *mild* intellectual disabilities attended mainstream vocational schools. Students with *moderate* intellectual disabilities and students with autism are extremely under-represented in mainstream secondary schools: in 2002–2003, eight students with *moderate* intellectual disabilities and only one student with autism attended mainstream vocational schools.<sup>235</sup>

### “*Austere integration*”

Hungary is presently facing a radical decline in student numbers, due to a generally decreasing birth rate, and schools are now trying to attract as many students as possible. In consequence, more children with *mild* intellectual disabilities are being enrolled in mainstream schools, and more children with *moderate* intellectual disabilities are being enrolled in special schools for students with learning disabilities and *mild* intellectual disabilities. However, as yet, these schools are not adequately prepared to educate these new groups of children or to provide them with the special educational services they require. Still, circumstances are slowly improving.<sup>236</sup>

The most marked phenomenon in education in recent years was “austere integration”, as Hungarian special educators came to call it. In the early 1990s, the admission of children with intellectual disabilities into mainstream schools started spontaneously, generally as a result of demographics and limited financial resources. Schools needed to attract as many students as they could, so they enrolled many children with intellectual disabilities without any real preparation.

Austere integration, which is estimated to have affected a few thousand children with intellectual disabilities in primary schools, has not altered the present high levels of segregation in education, given that these mainstream schools usually do not have the legally required technical, conceptual and pedagogical conditions.<sup>237</sup> While many of these students were initially mainstreamed, there were inadequate human and financial

<sup>234</sup> Bruckner, *2004 Report on Special Vocational Education*.

<sup>235</sup> Bruckner, *2004 Report on Special Vocational Education*.

<sup>236</sup> NIPE, *Report 2000*, Chapter 9 (special Needs in Education)

<sup>237</sup> NIPE, *Report 2000*, Chapter 9 (Special Needs in Education).

resources to support their continued education in mainstream secondary schools, and often, even in mainstream primary schools. Their integration was therefore only temporary, and most were subsequently transferred to special schools.

*Support for students with intellectual disabilities within mainstream schools*

At present, the most pressing questions relating to inclusive education are: How can mainstream schools be encouraged to enrol students with intellectual disabilities? How can the correct conditions for their enrolment be created? How can appropriate curricula and methodologies be ensured? How can the individual needs of each student with intellectual disabilities really be met?

One precondition of successful mainstreaming is a receptive school administration and teaching staff. It is also important that parents of all children, both with and without disabilities, are informed about the mainstreaming process – why it is important and what it entails. Moreover, all staff, including regular teachers, special educators and therapists, need to undergo training in special education. This training would enable staff to come together in teams to provide planning services, personal support, skills development outside the classroom, counselling and parental support.

At present, however, mainstream schools experience an endemic shortage of space and a lack of staff able to provide individual support to students with special needs.<sup>238</sup> In particular, they lack special educators. Some special educators do now work in mainstream schools, providing direct support to students in the form of individual educational programmes, therapies or counselling. However, as it is still rare for mainstream schools to hire special educators, most schools are still unable to offer the same quality education to children with disabilities as special schools.<sup>239</sup> Making these methods and therapies available to students with intellectual disabilities would significantly reduce the number of students placed in special education, by increasing opportunities for mainstreaming.<sup>240</sup>

The special methodological centres, set up under the Public Education Act 2003, are expected to significantly improve the support offered to children with intellectual

<sup>238</sup> National Institute of Public Education, *Report on Public Education 2003*, NIPE, 2003, Chapter 9.3, p. 16.

<sup>239</sup> The 2001 Annual Report of the Commissioner for Educational Rights notes that: “Although in some cases Professional Committees propose integrated teaching and education of children with various ‘other disabilities’, not all teachers are prepared for the challenges. In some instances, they simply do not have qualifications for working with children who have special needs. In many cases, children with behavioural disorders, hyperactivity, dyslexia or counting difficulties were treated simply as ‘bad children’ and considered a burden on the school.” Education Ombudsman, *Annual Report 2001*, section on the prevalence of the rights of disabled students.

<sup>240</sup> Recent statistics indicate a correlation between the availability of special support services and the inclusion of people with disabilities in schools. In areas where more children are involved in special education services, the level of mainstreaming is higher. NIPE, *Report 2003*.



disabilities studying in mainstream schools.<sup>241</sup> The centres operate at the county level and provide professional services, such as diagnosis; counselling for parents and students; developmental programmes; and therapy for students with intellectual disabilities. The advantage of establishing special methodological centres is that they allow all children to remain in their local environments with their families, because local schools can enrol these children and provide them with a better quality education. At the time of writing, special methodological centres have yet to be established in every county.

In addition to employing experts to provide special services, the centres would also coordinate a network of travelling special educators. Among their other duties, these educators would visit mainstream schools, either relieving them of the need to develop their own institutional expertise in special education or, as is more likely, consulting with school staff on methodological approaches and support.<sup>242</sup>

Many advocacy groups and other stakeholders in Hungary are critical of special educators in special schools. The critics claim these educators are overprotective of children with intellectual disabilities and resist the trend towards mainstreaming.<sup>243</sup> However, in general, special educators are not against mainstreaming *per se*; rather they are concerned that the majority of mainstream schools are unable to offer high quality education to children with intellectual disabilities.<sup>244</sup> Indeed, special educators agree that the general trend toward inclusion is positive, but note that mainstream schools are slow in establishing the appropriate conditions.

Hungarian society is still debating the question of whether it is desirable to mainstream students with more severe intellectual disabilities. Amongst those interviewed for this report, there seemed to be agreement that mainstreaming is not appropriate for *all* students with intellectual disabilities. Many thought students with *mild* intellectual disabilities should by all means be mainstreamed, but most interviewees said that students with *moderate* and/or *severe* intellectual disabilities are probably better off in special schools. These views may reflect the fact that mainstreaming is at an early stage in Hungary, and they may be an indication that more public discussion and debate is needed on the issue. There is also the question of whether children with more severe

<sup>241</sup> Public Education Act 2003, art. 24(1).

<sup>242</sup> Another important gap in the Public Education Act is that it does not mandate supervision of special educators. There is great demand on school psychologists to provide support for special educators, who, while very devoted, are subject to “burnout syndrome”. The problem, according to special educators, is that supervision is not part of regular practice and that schools do not hire psychologists to help with the work of both special educators and students. Some school directors organise internal supervision, in-services and compulsory class visits by the staff, but this requires much energy and organisation from already overburdened directors. Interviews with Éva Dörnyei Barabás, 3 December 2003; and Lászlóné Burján, 4 December 2003.

<sup>243</sup> NIPE, *Report 2000*.

<sup>244</sup> Interviews with Éva Dörnyei Barabás, 3 December 2003; with Istvánné Mácsai, 9 December 2003; and with Lászlóné Burján, 4 December 2003.

intellectual disabilities benefit most from participation in regular classrooms or in special classes in mainstream schools. In either case, with proper support services in place, it is difficult to deny that mainstreaming provides children with all levels of intellectual disabilities the opportunity for development to their fullest potential, and it increases the extent to which they are able to integrate into society.

Until now, the expectations of different stakeholders (especially those directly involved, such as special educators) and the criteria and process for mainstreaming students with disabilities have not been explicitly stated. A positive step in the direction of inclusive education would be to formulate educational policy that addresses the above issues, thus reducing ambiguity in the mainstreaming process.<sup>245</sup> It is also critical to increase public awareness about these issues.<sup>246</sup>

### *Innovation in education*

The Public Education Act encourages the development of innovative educational institutions that are meant to serve as new and unique models.<sup>247</sup>

Innovative schools use progressive pedagogical methods approved by the National Public Education Council.<sup>248</sup> The majority of innovative schools are NGO-operated, although all receive normative state funding, and most have imported educational methodologies from other countries. Non-governmental innovative kindergartens or primary schools are defined as those that have “special educational methods and services and are mainstream institutions”.<sup>249</sup> These “model educational institutions” have detailed plans for the inclusion of students with intellectual disabilities.

Hungary has several examples of innovative schools that follow good practices in inclusive education. In Budapest, for example, such schools include the Children’s House, Waldorf schools, Montessori school and Burattino.<sup>250</sup> All of these schools are NGO-operated. Common characteristics of innovative schools are:

<sup>245</sup> Interview with Mihály Kogon, 18 March 2004.

<sup>246</sup> Public awareness campaigns were rare before 2003. This changed with the 2003 European Year of People with Disability, when many campaigns were organised by both the Ministry of Education and the Ministry of Employment and Labour. However, the majority of these campaigns focused on disability in general, and people with physical disabilities, rather than people with intellectual disabilities.

<sup>247</sup> Public Education Act 2003, art. 83(3) The act refers to these innovative educational institutions as “alternative schools”.

<sup>248</sup> The Public Education Act 1993 describes the functioning of the National Public Education Council, which accredits educational institutions. Public Education Act 1993, art. 96.

<sup>249</sup> Maria Kopatakiné Meszaros (ed.), *Befogadó Iskolák, elfogadó közösségek (Inclusive Schools, Inclusive Communities)*, NIPE, Workshop of Integration Methodology, Budapest, 2003, (hereafter, NIPE, *Inclusive Schools*).

<sup>250</sup> Interview with Piroska Gyene, 12 December 2003.

- both children with special educational needs and children without disabilities are enrolled;
- the schools serve as an integral part of their communities;
- the schools have highly qualified personnel;
- the schools have permanent and ongoing internal supervision;<sup>251</sup>
- the schools offer flexible curricula and schedules; and
- there are a maximum of 20 students per class.<sup>252</sup>

In 2003, the NIPE report *Inclusive Schools, Inclusive Communities* highlighted good practices in inclusive education from six pioneer mainstream schools chosen from various regions in Hungary.<sup>253</sup> The report concluded that the Public Education Act has been effective in supporting the innovation of programmes to assist students with the transition from special to mainstream schools and that these innovative institutions are models worthy of replication. Nonetheless it also found that innovative schools face a number of difficulties and challenges, such as the lack of external supervision;<sup>254</sup> low salaries; limited opportunities for continuing education and professional development; and lack of local special methodological centres.<sup>255</sup>

Innovative schools and their learning and teaching methodologies have been the subject of various local and national media coverage,<sup>256</sup> and professional essays and reports.<sup>257</sup> There was a noted increase in media coverage of these new models in light of the 2003 European Year of People with Disability. However, not all media coverage has been positive. During the same period Hungarian tabloids published alarmist articles on the integration of children with intellectual disabilities into mainstream classrooms. The articles tended to focus on cases involving children who had intellectual disabilities combined with behavioural problems and who were said to be a source of disruption in the classroom.

<sup>251</sup> Internal supervision here means that special educators together with various experts meet on a weekly basis to discuss various difficulties and cases. External supervision means involvement of an external expert, such as a psychologist, who provides support to the work of the special education team.

<sup>252</sup> These schools count students with certain disabilities as equal to two or three students without disabilities, so they have optimally sized classes. NIPE, *Inclusive Schools*.

<sup>253</sup> The towns and cities involved are: Székesfehérvár, Budapest, Szigetvár, Kaposvár and Tiszavasvári.

<sup>254</sup> External supervision refers to an expert or consultant, such as a psychologist, who is not on staff at the school and assists the work of the special education team.

<sup>255</sup> NIPE, *Inclusive Schools*.

<sup>256</sup> The collection and review of the articles was made possible by Observer, a media watch organisation.

<sup>257</sup> See, for example: *Fejlesztő Pedagógia: Út az együttnevelés felé, (Developmental Education: Towards Inclusive Education)*, a professional journal of pedagogy, Budapest, 2001/3.

*Parents' rights and self-advocacy*

Parents or guardians have the right to send their children to the school that best conforms with their philosophical and religious beliefs and is best suited to the abilities, capacities and interests of their child.<sup>258</sup> They also have the final word on which school their child attends. The only restriction on parents' choice of school is that the school in question must be able to ensure the proper conditions for the education of their child, though in practice this requirement presents a serious barrier.<sup>259</sup>

Parents of children with disabilities may ask the local mayor to assist in establishing the proper conditions in local schools for the education of their children.<sup>260</sup> They also have the right to establish parental advocacy organisations at schools attended by their children.<sup>261</sup> Nevertheless, parents rarely exercise these rights. In some cases, parents of children with intellectual disabilities have disabilities themselves, or they live on a limited income and therefore have more difficulty maintaining contact with schools. Of course, there are a few active parents that participate in the school chairs, contribute to the overall functioning of the school and take an interest in following the development of their children, but they are in the minority. Another explanation for the limited involvement of parents in the educational process is that they are in general not well informed of their rights, or of issues relating to social inclusion and the benefits of mainstreaming.

Some parents, contrary to the recommendation of the Professional Committee, enrol their children in mainstream schools and thereby inspire the school community to develop conditions for special education. In other cases, parents have attended classes with their children, to provide the necessary support that is often lacking in mainstream schools.

In one case, for example, a mother of a child with autism reported attending class with her son and, with her additional support, the child graduated from a mainstream school.<sup>262</sup> She reported a very good experience with a State school.<sup>263</sup> The school has adapted the "Zsolnay" educational model, which meant that prior to enrolment, teachers, students without disabilities and the student with autism attended information and training sessions. The mother was present with her child from the beginning, even at enrolment, which served to reassure everyone involved. Over a

<sup>258</sup> Public Education Act 1993, art. 13(1).

<sup>259</sup> Public Education Act 1993, art. 30(3).

<sup>260</sup> Public Education Act 1993, art. 13(4).

<sup>261</sup> Public Education Act 1993, art. 59(1).

<sup>262</sup> Interview with a parent (confidentiality requested) of a young adult with autism, member of the Advocacy Group of People with Autism, Budapest, 26 May 2004. The young adult is a supported employment service user who, as a child, attended a mainstream school.

<sup>263</sup> Interview with a parent (confidentiality requested) of a young adult with autism, member of the Advocacy Group of People with Autism, Budapest, 26 May 2004. The young adult is a supported employment service user who, as a child, attended a mainstream school.

period of time, the mother gradually stopped attending class with her son. The class spent 12 successful years together, and even graduated as a group. The mother believed that the experienced, well-prepared and supportive teaching staff were key to the successful mainstreaming of her son. She also thought that her presence at the beginning was crucial. She confirmed that mainstreaming is possible only if adequate and tailor-made support is provided for students with intellectual disabilities; otherwise, as very often happens, students with intellectual disabilities end up in the back rows as supposed “fools”.

### 3.2.2 Special schools

In 2002–2003, 32,231 students with intellectual disabilities were enrolled in special schools at the primary level,<sup>264</sup> while at the secondary level, a total of 6,175 students with intellectual disabilities attended special vocational schools.<sup>265</sup>

The Public Education Act mandates that every county must maintain at least one special primary school for children with *mild* intellectual disabilities and another for children with *moderate* intellectual disabilities. Special schools take two forms, day schools and boarding schools. According to the 2001 Census, there are 2,421 children with intellectual disabilities in special boarding schools.<sup>266</sup>

The standard and quality of education in special schools in Hungary is acceptable, and sometimes even excellent. However, such segregated settings inherently foster the social exclusion of students. Special schools are obliged to offer curricula covering education, health care and targeted habilitation and rehabilitation services.<sup>267</sup> There is no separate legislation for the education of students with intellectual disabilities, though the Curriculum Guidelines for the School Education of Children with Disabilities<sup>268</sup> regulate curriculum development in special education, supplementing the National Core Curriculum.

Special schools arrange for their students to participate in community activities, such as cultural and sporting events, on a regular basis. Special educators report that local communities are much more open to children with disabilities, a positive trend that

<sup>264</sup> Bruckner, *2004 Report on Special Vocational Education*.

<sup>265</sup> Bruckner, *2004 Report on Special Vocational Education*.

<sup>266</sup> *2001 Census*, Table 2.3.11 Disabled persons living in institutions by type of the most severe disability, the destination institution and the type of financing of the institution, available on the CSO website at [http://www.npszamlalas.hu/eng/volumes/12/tables/load2\\_3\\_11.html](http://www.npszamlalas.hu/eng/volumes/12/tables/load2_3_11.html) (accessed 15 December 2004).

<sup>267</sup> These services are also prescribed by the National Core Curriculum. Public Education Act 2003, art. 6.

<sup>268</sup> *Curriculum Guidelines for Children with Disabilities*, Appendix 2.

has emerged only in the last few years.<sup>269</sup> It is imperative that children with intellectual disabilities participate in community events, in order to challenge widespread stereotypes or prejudices about people with intellectual disabilities.

As the majority of special schools are located outside of town or city centres, special schools face difficulties in providing transportation to and from school and in ensuring accessibility to school buildings.<sup>270</sup> Material and staffing conditions in these schools also vary, depending on factors such as location, the amount of financial support provided by the municipality and the quality of school leadership.

Although the enrolment of children with *severe* intellectual disabilities and/or multiple disabilities in special schools is on the increase, the number enrolled is still very small. There is an urgent need for children with *severe* intellectual disabilities and/or multiple disabilities to be given access to education in a non-residential setting. For this to happen, special schools must be required to accept this group of children and offer special educational services for them. These children have the right to a proper education and a system of day services, and provision of these must be established without delay.<sup>271</sup> In addition, regular transportation needs to be arranged to and from school, at no cost to the family. In short, it is not children who should comply with the education system, but the system that should comply with the needs of children and their inherent diversity.<sup>272</sup>

#### *Over-representation of Roma children*

The 2000 NIPE report on education in Hungary observed that Roma children are disproportionately placed in special schools for children with intellectual disabilities.<sup>273</sup> The *NIPE Report 2000* states that:

One way of segregation of Roma within the educational system – which is not uncommon in other Central-European countries either – appears to be directing them into so-called special schools and classes organised for children with a slight mental handicap. Nearly half the children attending such institutions are of Roma origin, which is an approximately fivefold rate compared to their participation in the whole of public education.<sup>274</sup>

The Parliamentary Ombudsman for Civil Rights has also reported cases where schools have requested that students undergo assessment for intellectual disabilities solely

<sup>269</sup> Interviews with: Éva Dörnyei Barabás, 3 December 2003; Istvánné Mácsai, 9 December 2003; and Lászlóné Burján, 4 December 2003.

<sup>270</sup> Interview with Éva Dörnyei Barabás, 3 December 2003.

<sup>271</sup> Hand in Hand Foundation, *People with Multiple Severe Intellectual Disabilities*, p. 28, ref. 95.

<sup>272</sup> Interview with Barbara Czeizel, 23 June 2004.

<sup>273</sup> NIPE, *Report 2000*, Chapter 9, p. 3.

<sup>274</sup> NIPE, *Report 2000*, Chapter 9, p. 6.

because of their Roma ethnicity.<sup>275</sup> Several international organisations, such as Save the Children<sup>276</sup> and the United Nations High Commissioner for Human Rights,<sup>277</sup> have appealed to the Hungarian Government to act to correct the over-representation of Roma students in special schools. Recently, a report by the European Committee on Romani Emancipation (ECRE) also called EU decision-makers' attention to this phenomenon.<sup>278</sup>

Despite the positions taken by the above domestic and international organisations, many special educators and Professional Committee members emphasise that all placements in special schools are based on assessment results, and for this reason, they do not consider Roma children to be victims of discrimination. It has also been reported that many members of this same group believe that Roma children are unable to keep up in mainstream schools and should therefore be educated only in special schools. For more on how the assessment procedures for intellectual disability contribute to patterns of discrimination against Roma children, see section III.1.3.

Many Roma children are placed in remedial and “catch-up” classes, which proceed at a slower pace and set lower standards than mainstream classes, using an “adjusted curriculum”.<sup>279</sup> Discriminatory attitudes among school staff result in Roma children being assigned to such catch-up classes, even where there is no academic rationale for such placement.<sup>280</sup> As these classes receive additional funding, there is an incentive for schools to maintain them, and consequently, children are rarely considered to have “caught up” so that they can be transferred to mainstream classes.<sup>281</sup>

The *NIPE Report 2000* identifies a number of possible ways to promote the social inclusion of certain vulnerable groups, including Roma. In particular, it recommends:<sup>282</sup>

- the development of pedagogical methods for inclusive education;
- the introduction of training for teachers in inclusive classrooms;
- the development of programmes to raise public awareness about inclusive education and to increase sensitivity of teachers; and
- financial incentives.

<sup>275</sup> Cited in V. Mohácsi, *Hungary's School Integration Program*, p. 241.

<sup>276</sup> Save the Children, *Denied a Future: Volume 2*, London, Save the Children, 2001, p. 134.

<sup>277</sup> OHCHR, “Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance: Mission to Hungary, Czech Republic, and Romania”, E/CN.4/2000/16/Add.1, p. 33, ref. 150.

<sup>278</sup> ECRE, *The Hungarian ZSED – Zone of Segregated Educational Denial*, 2003 available at <http://www.eu-romani.org/reports.htm> (accessed 6 July 2005).

<sup>279</sup> ERRC, *Stigmata*, p. 65.

<sup>280</sup> ERRC, *Stigmata*, pp. 63–65.

<sup>281</sup> V. Mohácsi, *Hungary's School Integration Program*, p. 241.

<sup>282</sup> NIPE, *Report 2000*, chapter 9, on Special Needs in Education, (Hungarian-language version).

Importantly, the report recommends that both Roma children and children with intellectual disabilities should be mainstreamed. It also recommends increased flexibility in education, to ensure the success of people with varying abilities in mainstream settings.

The Ministry of Education has now launched a new initiative, called “Out from the Back Row”, to counter the over-representation of Roma children in special schools.<sup>283</sup> The programme aims to organise the re-assessment of children deemed to have mild disabilities and to improve the working of the Professional Committees, so that less children are diagnosed with mild intellectual disabilities, in line with practices elsewhere in the EU. The Ministry has also temporarily provided mainstream schools with 70 per cent of the support that special schools receive for each student of Roma ethnicity, in an attempt to offset any additional costs, and to reduce the financial incentive behind the active recruitment of Romani students by special schools.<sup>284</sup>

### 3.3 Education outside the school system

#### 3.3.1 Home schooling

Although there are no official figures, home schooling is relatively uncommon in Hungary. The Public Education Act provides for home schooling for students who suffer from health problems.<sup>285</sup> Professional Committees may also recommend home schooling for students with a combination of serious health problems and special educational needs.

Municipalities are financially responsible for home schooling, while Professional Committees and the local special school (in the absence of a system of special methodological centres) provide the necessary services and experts, such as special educators. Students enrol in a single school, which is then responsible for supervising their home schooling. Home schooling takes two forms: special educators visit children at their homes, or children travel to the supervisory special school. Sometimes a combination of individual tuition and regular visits to school are prescribed. However, regardless of the exact arrangement, the Professional Committee and special educators from the supervisory special school develop an individual educational plan for every home-schooled student. Students schooled at home receive about ten hours of instruction per week.

Home schooling in more rural areas is dependent upon a system of travelling special educators. In conjunction with the proposed special methodological centres, the Public Education Act provides for a system of travelling educators, who would work as

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<sup>283</sup> Addition information on the programme can be found in Hungarian on the Ministry of Education’s website at [www.om.hu](http://www.om.hu). For media sources (in Hungarian) see [www.observer.hu](http://www.observer.hu).

<sup>284</sup> See: Ministry of Education website ([www.om.hu](http://www.om.hu)).

<sup>285</sup> Public Education Act 1993, art. 120.



consultants, visiting children with intellectual disabilities in rural areas and providing services similar to those provided by special methodological centres. However, despite the enormous demand for such services, the system has not yet been established. One reason for this is the fact that the Public Education Act does not identify a specific source of funding for the system. Special educators from outside Budapest have reported that children from rural areas who require special educational services often do not receive them because of limited access to travelling special educators.<sup>286</sup>

Another obstacle to a well-functioning system of travelling educators is the high service costs. Special educational services at home for a single child cost a special school the same amount as a special class with three or four children.<sup>287</sup> Special educators also prefer that students, health permitting, visit school because, like all children, children with intellectual disabilities have social needs that cannot be fulfilled at home.

The present system of home schooling has a number of other weaknesses. First, due to the limited capacities of special schools, children undergoing home schooling receive only ten hours of schooling per week. Second, schools generally do not organise transportation for home schooled students who are able to make regular visits to school, which means that parents need to arrange for transportation to and from school. Although the municipality reimburses the costs, transportation costs are high, and parents always incur additional costs.

### 3.3.2 Educational opportunities for children in residential institutions

People with intellectual disabilities are the most frequently institutionalised group of people with disabilities. The number of people with intellectual disabilities living in institutions far exceeds the numbers of people with any other disability types.

Children with disabilities living in institutions can be enrolled in three forms of education: a mainstream school, a special school or home schooling. This is true, regardless of whether they reside in the institution only during the week (Monday to Friday) and spend their weekends with their family members, or whether they reside in the institution seven days a week.

## 4. TRANSITION FROM EDUCATION TO EMPLOYMENT

*In Hungary, approximately 60 per cent of students with intellectual disabilities continue their studies at the secondary level, although the number of students with intellectual disabilities at the secondary level is reported to be slowly increasing. Segregation of students with intellectual disabilities in special*

<sup>286</sup> Interview with Éva Dörnyei Barabás, 3 December 2003.

<sup>287</sup> Interview with Éva Dörnyei Barabás, 3 December 2003.

vocational schools remains pronounced, and primarily students with mild intellectual disabilities have the opportunity to attend mainstream vocational schools. In the 2002–2003 school year, only 555 students with intellectual disabilities attended mainstream vocational secondary schools. Students with mild intellectual disabilities can attend special vocational schools and receive a nationally recognised certificate. Students with moderate intellectual disabilities can attend capacity-developing special vocational schools and receive training in independent living skills and simple routine vocational activities, but the certificate they receive is not yet nationally recognised. In Hungary, approximately 8,000 students, mainly students with intellectual disabilities, attend special vocational schools. The main criticism of these schools is that they do not adequately prepare students for work on the open labour market. In particular, most students are not able to access work experience externally from the schools. The “Workplace Practice” Programme, developed by the non-governmental Salva Vita Foundation and supported by the National Public Foundation for Disabled Children, offers one model of good practice in this area. Under this programme, students at capacity-developing special vocational schools are placed in mainstream workplaces in different locations, over a two-year period. Participants who complete the programme have much improved chances of securing employment on the open labour market.

More than 60 per cent of the people with intellectual disabilities who were sampled in the 2001 Census had not finished primary school. The transition from school to employment can be particularly difficult for these children, and there are also difficulties for those who leave residential institutions. Support services are presently inadequate to cope with their needs, and overburdened special educators are unable to assure the required follow-up services. The special needs of children and young people with autism, and their families, are particularly neglected. To address this situation, some schools have established clubs for young people with intellectual disabilities, to assist them with the transition period. However, for this group, there is a need for coordinated Government policy on the provision of follow-up services. At present, the opportunities for adults with intellectual disabilities to access adult and lifelong education are also very limited.

#### 4.1 Vocational education and training

In Hungary, approximately 60 per cent of students with intellectual disabilities continue their studies at the secondary level, nearly all of these attend special schools, either special vocational or capacity-developing special vocational schools. The number of students with intellectual disabilities at the secondary level is slowly increasing, but segregation of students with intellectual disabilities in special vocational schools remains pronounced.

Mainstream vocational secondary schools are generally unprepared for enrolling students with intellectual disabilities. Although a few students with intellectual disabilities attend mainstream secondary schools, their number is very small. In 2002–2003, of 7,200 students with disabilities who attended special vocational schools, 6,730, or nearly 94 per cent, have intellectual disabilities. At mainstream schools, the number of students with intellectual disabilities for the same year was 555.<sup>288</sup>

<sup>288</sup> Bruckner, 2004 Report on Special Vocational Education.

In practice, students with *mild* intellectual disabilities generally attend special vocational schools,<sup>289</sup> while students with *moderate* intellectual disabilities attend capacity-developing special vocational schools. The two tracks are distinct and maintained by different administrative bodies. The vocational education offered by both special vocational schools and capacity-developing special vocational schools is two to three years in length.<sup>290</sup>

In 2003–2004, approximately 8,000 students with disabilities – mostly students with intellectual disabilities – attended 128 special vocational and capacity-developing special vocational schools. The number of students attending special vocational schools is increasing annually by about 10 per cent, a trend that is expected to continue in the 2005–2006 school year. This increase reflects the decision of an increasing number of students, including students with intellectual disabilities, to continue their studies beyond the primary level.

Special vocational schools are not mainstream schools, though they do enrol students from other disadvantaged groups, in practice, mainly Roma children. They prepare students for vocational exams, employment and independent living. Hungary has a total of 128 special vocational schools, which are financed by municipalities, counties, churches and NGOs and employ 801 educators.<sup>291</sup> Students completing the two-year courses at special vocational schools receive certificates of vocational education that are listed in the National Educational Register, and so are nationally recognised.<sup>292</sup>

It is very rare for students with *moderate* intellectual disabilities to attend special vocational schools, as the support required by this group of students is not available.<sup>293</sup>

<sup>289</sup> Only a small number of students with intellectual disabilities actually continue on to the secondary level, and these are primarily students with *mild* intellectual disabilities. This explains why, at the secondary level, most students with intellectual disabilities attend special vocational schools.

<sup>290</sup> In 1998, the system of vocational education was transformed, as vocational schools replaced schools that trained skilled workers. In vocational schools, years 9 and 10 are compulsory. In year 9, students participate in vocational “preparatory training”, and in year 10 they participate in vocational “underlying training”. Actual vocational training begins only in year 11 (and only if the student is above age 16). The training lasts one to three years, as determined by the National Educational Register. Special vocational schools are similarly structured. An important methodological option in special vocational education is the recognized flexibility to adjust the length of education, by anywhere from 1-3 years, and to organise small classes of 6-12 students. Interview with László Bruckner, 25 June 2004.

<sup>291</sup> Municipalities finance the operation of 45 special vocational schools; counties finance 72 schools; churches three schools; and NGOs six schools. Central Statistical Office, *Statistical summary on vocational education 2001–2002*, Budapest, 2002 (in Hungarian).

<sup>292</sup> The National Educational Register lists all the vocations for which the State provides financial support towards training and education. Public Education Act 1993, art. 27; and Act LXXVI of 1993 on Vocational Education, Gazette 1993/99, 21 July 1993. Last amended by Act LX of 2004 on the Amendment of Certain Acts on Education that Promote the Enforcement of Educational Rights, and Certain Acts on Education that serve the development of the Higher Education System and its Institutions, Gazette 2004/91, 28 June 2004.

<sup>293</sup> Namely, an adapted curricula; special equipment, such as visual aids, textbooks and video recorders; and specially trained personnel.

However, students who complete special primary schools for students with *moderate* disabilities can attend a capacity-developing special vocational school.<sup>294</sup> These schools teach self-determination and simple vocational skills in a segregated setting and offer 15 classes of vocational training per week. The schools provide training in independent living skills and simple routine vocational activities, such as house cleaning, pottery or kitchen work. Upon completion of capacity-developing special vocational schools, students receive certificates that are not part of the National Educational Register, so they are of limited value. The vocations for which the certificate holder has been trained appear on the certificate.<sup>295</sup>

It is common practice for special vocational schools to extend the duration of a student's studies upon request, as law and general practice allow for such a change if it is in keeping with local curricula. After receiving their first vocational certificate, students often begin training for a second vocation, as the second vocational certificate is also free for students with intellectual disabilities. Otherwise, students with intellectual disabilities at special vocational schools receive the same certificate as their peers without disabilities.<sup>296</sup>

### *Work experience*

The vocational education programmes offered at both types of special vocational schools are widely criticised for not adequately preparing students for the challenges and expectations of the open labour market.<sup>297</sup> Students completing capacity-developing special vocational schools are at a particular disadvantage in finding employment, whether at sheltered workplaces or on the open market, because their training is not in fact vocational training, and consequently, they are unprepared for most types of employment. The rare exceptions are those innovative special vocational schools and capacity-developing special vocational schools that collaborate with NGOs

<sup>294</sup> Article 20(3) of the Public Education Act 2003 describes the functioning of these schools.

<sup>295</sup> The National Institute for Vocational Education is presently developing "modularised"-type vocational education. Various abilities are the input, and a few various vocational abilities would be the output. Under this initiative, developed, "partial" vocational skills would become respected and utilised. Students who are not able to obtain a vocational diploma would receive a "levelled down" diploma, which would nonetheless still be accepted by the State. This diploma would entitle them to work as semi-skilled workers and would be recognised by institutions offering adult education. Written comments on the report in its draft form, by László Bruckner, Budapest, 25 June 2004.

<sup>296</sup> Written comments on the report in its draft form, from László Bruckner, 25 June 2004.

<sup>297</sup> Training for vocations for which there is no demand on the labour market is not only common at special vocational schools, but throughout vocational education in general in Hungary. Written comments on the report in its draft form by László Bruckner, 25 June 2004.

providing vocational programmes designed specifically to prepare students for mainstream work environments.<sup>298</sup>

The majority of people with intellectual disabilities attending special vocational schools would be much better placed to secure employment on the open labour market if the schools could provide them with better preparation. There are two main means by which special secondary school students gain practical knowledge about different vocations: in internal and external workshops. Internal workshops, held within the special schools, are generally unable to prepare students for employment on the open labour market, as they do not replicate real work conditions. However, there are some students with intellectual disabilities who lack communication and other work skills necessary for employment on the open labour market, and, for these students, internal workshops are ideal.

In general, though, most students would be much better prepared for future employment if special secondary schools were able to find them work practice placements in inclusive environments. Students with better and more marketable skills benefit most from external workshops. In an inclusive employment setting, these students become familiar with the work day and associated responsibilities; learn social patterns appropriate to employment that can be utilised upon completion of school; and expand their social network.

Schools have been recommended by representatives of the National Institute for Vocational Education<sup>299</sup> (NIVE), among others, to take the following steps:

- a gradual transition from overprotective internal workshops to external workshops in real workplaces;<sup>300</sup>
- the implementation of educational modules<sup>301</sup> that aim to promote the employment of students from special schools; and

<sup>298</sup> The following are considered “model schools”: Special Vocational School in Csepel; “Százszáz” Special Vocational School; “Martin János” Special Vocational School in Miskolc; Special Vocational School in Kőszeg; and Special Primary and Capacity-Developing Special Vocational School on Üllői street. Criteria for the selection were said to be innovation and the development of alternative educational programmes. Interview with Attiláné Nikovits, a representative of the National Institute of Vocational Education (NIVE), Budapest, 18 March 2004.

<sup>299</sup> NIVE supervises the development of vocational education programmes, harmonises them with the demands of the labour market and develops new educational modules to be implemented by schools. NIVE has recently developed a new module on preparation for employment in inclusive workplaces in collaboration with NGOs in the field. NIVE supervises vocational educational processes and evaluates new educational models and services. It has established close relationships with community-based service providers (non-profit organisations), and it collects information from them and often collaborates with them on the elaboration of new services and models.

<sup>300</sup> Interview with Attilane Nikovics, 18 March 2004.

<sup>301</sup> Special educational modules are institutional-level educational programmes that schools have the option of implementing. In exchange for introducing a new module, schools receive as an incentive normative (per capita) funding for implementation.

- a general change of attitude by school administration and teaching staff towards inclusive approaches that lead to employment on the open labour market.<sup>302</sup>

Since 1998, the “Workplace Practice Programme” has offered one model of vocational preparatory training that provides students with the opportunity to learn about different vocations by participating in work practice, or internships, at workplaces on the open labour market. The programme was developed by the Salva Vita Foundation and is supported by the National Public Foundation for Disabled Children.<sup>303</sup> Within the framework of the programme, students at capacity-developing special vocational schools have the opportunity to work in mainstream workplaces. The programme includes both special educational elements and external workshops, allowing participants to acquire skills and experience in mainstream workplaces. Students participating in the programme try out eight different types of employment in various locations, over a two-year period.<sup>304</sup> Participants report that the work experience gained over the duration of the programme enables them to make their own decisions concerning employment in the future.

The “Workplace Practice Programme” is one example of the type of innovative educational programmes that special secondary schools should consider implementing to improve participants’ chances of securing employment on the open labour market. The programme is presently functioning at four schools within Budapest and at eight schools outside the capital.<sup>305</sup> It is recognised as a model programme by the Ministry of Education, the NIVE and the Public Foundation for Children with Disabilities.

Vocational education is financed through the national Labour Market Fund, into which all firms are obliged to pay a “vocational contribution”. This fund is utilised by organisations, chosen through a competitive selection process, that run vocational training programmes. Even with this funding, though, schools for people with intellectual disabilities often face financial hardship, for which different solutions have emerged in practice. One solution is for firms to contract directly with special vocational schools by providing work and training for students with intellectual disabilities. Because of their student status, the young people themselves cannot receive payment, and the firms instead make financial contributions to foundations established by parents.

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<sup>302</sup> NIVE, *Report 2003 – For the determination of developmental guidelines for special vocational schools*, Budapest, 2003, p. 38.

<sup>303</sup> A more detailed description of the Workplace Practice Programme is available in Hungarian on the Salva Vita Foundation website at [www.salvavita.hu](http://www.salvavita.hu) (accessed 3 July 2005).

<sup>304</sup> Examples of workplaces include: zoos (gardening); laundries (washing, ironing); post offices (sorting documents); and factories.

<sup>305</sup> In Gic, Miskolc, Hódmezővásárhely, Kalocsa, Veszprém, Székesfehérvár, Győr and Gyula.

## 4.2 Follow-up services

According to those who work in the disability field, an important problem in Hungary is the existing gap between available social services and structured follow-up services.<sup>306</sup> As children reach adolescence or leave school, many services come to an end. Students and their parents are left on their own, and often do not know where to turn for assistance.

After leaving school, it is rare for people with intellectual disabilities to find employment. The opportunities for supported or sheltered employment are limited, and there are few accessible day centres. Most, therefore, end up back at home or, in the worst cases, in residential institutions. Children leaving residential institutions, and those finishing primary and secondary level special schools, are especially disadvantaged, as they have almost no access to employment services. Due to the lack of opportunities and/or follow-up services, many people with intellectual disabilities simply disappear from the system. They either end up on the street or isolated at home, with no services.

Under these circumstances, the responsibility for follow-up services always falls on special educators. However, while special educators, who are overburdened and underpaid, may provide some extra support to a child, this assistance takes place on a very informal level and cannot be relied upon. For this reason, many schools, especially special schools, see it in their students' best interests if they are kept in school as long as possible.<sup>307</sup> However, rather than simply spend more time in school, students with intellectual disabilities would benefit more from programmes designed to help them locate employment and participate more fully in public life.

To address this situation, some schools, in cooperation with the local branch of the Hungarian Association for People with Intellectual Disability (ÉFOÉSZ), have created clubs for young people with intellectual disabilities and their parents. These clubs provide an opportunity for young people who are no longer attending school to develop and maintain communication skills that enable them to integrate more easily into the community. The clubs also prevent young people with intellectual disabilities from disappearing from the system. Although useful, the clubs are far from sufficient. In order to secure employment, people with intellectual disabilities who have left school are in need of active employment services, training and supported employment services.

There are similar gaps in the provision of social and educational services for people with autism. The demand for support services for families with a family member with autism is great, especially since a familiar environment, stability and security are extremely important for people with autism. In addition to home care or day services, developmental activities

<sup>306</sup> Interviews with Éva Dörnyei Barabás, 3 December 2003; with Istvánné Mácsai, 9 December 2003; and with Lászlóné Burján, 4 December 2003. The importance of follow-up services was also emphasised by Barbara Czeizel, interviewed on 7 December 2004.

<sup>307</sup> Interview with Attiláné Nikovits, representative of the National Institute of Vocational Education, Budapest, 18 March 2004.

also need to be made available to all children with autism.<sup>308</sup> It would be preferable to see the needs of people with autism incorporated into social welfare and education systems, prompting the increased training of service providers qualified to work with people with autism. At a minimum, though, if a parent or a relative provides home care for a family member with autism, then the caretaker should receive some sort of financial support from the State. At present, such support is not available.

### 4.3 Adult and lifelong education

There are very few opportunities for lifelong learning for adults with intellectual disabilities in Hungary. The Public Education Act sets out a legal framework for adult education,<sup>309</sup> but it does not in fact provide for any educational programmes for adults with intellectual disabilities.

A small number of adults with intellectual disabilities attend adult education courses or vocational training programmes organised at the initiative of the Ministry of Employment and Labour. However, the available opportunities are simply not sufficient. There are nine Regional Labour Force Development and Training Centres that provide so-called integrated courses on adult vocational education, which anyone may attend, including people with disabilities. However, these courses are not tailored to individual needs and provide no educational support services. Only one of the nine regional development centres, in Békéscsaba (Békés County), provides vocational education courses that are designed for adults with intellectual disabilities. There is, however, a model regional development centre in Székesfehérvár, where a methodology from Germany has been adapted, and people with disabilities – including people with intellectual disabilities – have opportunities to carry out work practice or internships. Service users may also undergo complex aptitude tests to determine their preparedness for work.

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<sup>308</sup> Interview with a parent (confidentiality requested) of a young adult with autism, member of the Advocacy Group of People with Autism, Budapest, 26 May 2004. The young adult is a supported employment service user who, as a child, attended a mainstream school.

<sup>309</sup> The creation and introduction of the National Education Register into special vocational schools was a major advance in improving education and employment opportunities for people with intellectual disabilities. The same should be done with adult education. Written comments on the report in its draft form, from László Bruckner, 25 June 2004.



## IV. Access to Employment for People with Intellectual Disabilities

*The Hungarian Constitution guarantees the right to work, the right to freely choose a job or profession and the right to equal compensation for equal work without discrimination, but it does not specifically address the employment of people with disabilities. However, the Equal Treatment Act guarantees equal treatment in employment for people with disabilities, and the Disabled Persons Act establishes that, if people with disabilities cannot secure employment on the open market, sheltered workplaces must employ them. The Joint Decree on People with Altered Working Capacity regulates the rehabilitation process, occupational rehabilitation services, and State financial compensation for lost income due to altered working capacity. It also regulates eligibility for State subsidies for employers who employ people with disabilities.*

*In Hungary, in the area of employment, two types of capacity are assessed for people with disabilities: working capacity and employment capacity. OOSZI conducts assessments to evaluate the working capacity of adults with intellectual disabilities. OOSZI's assessments are expressed as a percentage of altered working capacity. An altered working capacity of at least 40 per cent generally entitles a person to social benefits; it also entitles a person to employment in sheltered workplaces and to employment through a fixed-period subsidy, which employers can obtain from local labour offices. Labour offices and local health services jointly conduct assessments of employment capacity. These assessments are intended to determine the extent of a person's remaining abilities and match their abilities to types of work. Both assessments, of working capacity and employment capacity, are conducted solely by medical doctors, and they focus on health and medical conditions. To better reflect the real potential of people with intellectual disabilities, both assessments need to be comprehensively reformed, so that they ensure a more multidisciplinary and comprehensive approach. NGO service providers in Hungary have already developed some employment assessment procedures that could be used as models for this reform.*

*People with intellectual disabilities are heavily dependent on social welfare benefits. Most adults with intellectual disabilities do not have the required work experience to access unemployment benefits or the invalidity pension. People with mild or moderate intellectual disabilities mainly receive various social benefits that depend on a number of factors, such as age and number of years employed. Some people in this group with the required work experience receive invalidity pensions. Adults with severe and profound intellectual disabilities are eligible for disability support, which they retain even if they secure employment. People who are under the age of 25, have 100 per cent altered working capacity, and do not already receive a pension, are eligible for the invalidity benefit. Given the limited and unstable employment possibilities presently available to people with intellectual disabilities, and the limited access to employment services, social welfare benefits are a steady and stable source of support. These benefits tend to act as a disincentive to employment. Presently, most unemployed people with intellectual disabilities do not register at the local offices of the National Employment Service, and, therefore, they cannot access available employment services or rehabilitation services. This is mainly due to a lack of awareness of their rights and of available services. Furthermore, the staff at the labour offices is not trained to deal with the special needs of people with intellectual disabilities, and, in any case, they cannot meet the current demand for individualised services. As a result, labour offices mainly rely on cooperation with non-governmental rehabilitation and employment service providers.*

## 1. LEGAL AND ADMINISTRATIVE FRAMEWORK

### 1.1 National employment legislation

The Constitution guarantees all people the right to work, the right to freely choose a job or profession and the right to equal compensation for equal work without discrimination.<sup>310</sup> It further guarantees Hungarian citizens the right to social security.<sup>311</sup> There are no separate constitutional provisions relating specifically to the employment of people with disabilities.

The most important legislation relating to access to employment and social benefits for people with intellectual disabilities is:

- the Equal Treatment Act;
- the Disabled Persons Act;
- Act LXX of 2004 on the Amendment of Act IV of 1991 on Job Assistance and Unemployment Benefits, (hereafter, Employment Promotion Act).<sup>312</sup>

The Equal Treatment Act brings Hungarian national legislation and policy into conformity with the provisions of the EU Employment Directive.<sup>313</sup> The act requires equal treatment in a number of areas, including employment;<sup>314</sup> social security and health care;<sup>315</sup> and education and training.<sup>316</sup> It also establishes the new Equal Opportunities Programme,<sup>317</sup> which aims to promote equal opportunities, including for people with disabilities, and to eliminate discrimination in all areas of life, including employment.

The act amends a number of other laws and decrees in the area of employment, including the Labour Code. The prohibition of discrimination and the requirement for equal treatment were strengthened and became part of employment law.

The Equal Treatment Act sets forth the duties of the new Equal Treatment Committee, which is responsible for ensuring compliance with the principle of equal treatment established in the act – including equal treatment with respect to employment.<sup>318</sup>

<sup>310</sup> Constitution, art. 70B (Work) (1)-(4).

<sup>311</sup> Constitution, art. 70E (Welfare) (1)-(2).

<sup>312</sup> Act LXX of 2004 on the Amendment of Act IV of 1991 on Job Assistance and Unemployment Benefits, Gazette 2004/94, 2 July 2004, (hereafter, Employment Promotion Act).

<sup>313</sup> Equal Treatment Act 2003, art. 65 (a).

<sup>314</sup> Equal Treatment Act 2003, art. 21-23.

<sup>315</sup> Equal Treatment Act 2003, art. 24-25.

<sup>316</sup> Equal Treatment Act 2003, art. 27-28

<sup>317</sup> Equal Treatment Act 2003, Section IV. The Equal Opportunities Programme also aims to improve the employability of disadvantaged groups, including people with intellectual disabilities.

<sup>318</sup> Equal Treatment Act 2003, art. 13-17.

However, as of December 2004, this body has yet to be established. At present, County Labour Courts are charged with providing legal remedies in cases of discrimination. Appeals from County Labour Courts are heard by the General County Courts. The Chamber of Labour in the Supreme Court hears appeals from these courts.

The Disabled Persons Act is the most comprehensive legislation specifically guaranteeing people with disabilities equal opportunities in all areas of life, including employment. The act supports the employment of people with disabilities on the open labour market with a proviso to the effect that, if they are unable to secure employment, sheltered workplaces must employ them.<sup>319</sup> However, the act falls short of making a strong stand in favour of employment on the open labour market for people with disabilities.

The Employment Promotion Act elaborates support services and benefits designed to assist the unemployed in securing gainful employment. It also authorises the Ministry of Employment and Labour to establish additional entitlements for people with altered working capacity.<sup>320</sup>

There are also a number of decrees that regulate the employment of people with disabilities.<sup>321</sup> Particularly relevant is the Joint Decree on Employment and Social Care of People with Altered Working Capacity (hereafter, Joint Decree on People with Altered Working Capacity),<sup>322</sup> which was amended in 2004. This decree sets out the rehabilitation process, occupational rehabilitation services and State financial compensation for lost income due to altered working capacity (in cases where

<sup>319</sup> Disabled Persons Act 1998, art. 15(1). In practice sheltered workplaces only employ people with an altered working capacity of at least 40 per cent.

<sup>320</sup> Employment Promotion Act, art. 2.

<sup>321</sup> Other relevant decrees are: Ministry of Health, Social and Family Affairs Decree 80/2003 (XII.23) on the Amendment of Ministry of Welfare Decree 33/1998 (VI. 24) on Medical Tests and Opinions on Aptitude for Positions, Trades and Personal Hygiene, Gazette 2003/153, 23 December 2003; Governmental Decree 18/2001 (VI.30) on Manpower Loaning, on the Registration Procedure of Private Manpower Mediation and Conditions of Their Functioning; Ministry of Economy Decree 30/2000 (IX.15) on Labour Market Services and Related Incentives; Ministry of Employment Decree 11/1998 (IV.29) on Rehabilitation Procedures Provided by Labour Offices and on Support Promoting Employment of People with Altered Working Capacity; and Ministry of Employment Decree 6/1996 (VII.16) on Supports Promoting Employment and on Labour Market Fund Support Provided in Crises.

<sup>322</sup> Joint Decree of the Ministry of Employment and Labour, the Ministry of Health, Social and Family Affairs, and the Ministry of Finance 12/2004 (IV.16) on the Amendment of Joint Decree of the Ministry of Health and the Ministry of Finance 8/1983 (VI.29) on Employment and Social Care of People with Altered Working Capacity, Gazette 2004/48, 16 April 2004, (hereafter, Joint Decree on People with Altered Working Capacity).<sup>322</sup> Available on the Ministry of Employment and Labour's website at <http://www.fmm.gov.hu/main.php?folderID=1&articleID=804&iid=1&ctag=articulist> (in Hungarian) (accessed 1 December 2004).

occupational rehabilitation is not practicable).<sup>323</sup> The decree also regulates the available subsidies for employers who employ people with disabilities (people with altered working capacity). This category includes sheltered workplaces.<sup>324</sup> In addition, the decree states that employers are obliged to guarantee appropriate working conditions for people with disabilities.<sup>325</sup>

## 1.2 Capacity assessments for employment purposes

For employment purposes, people with intellectual disabilities undergo assessments for two different types of capacity: “working capacity” (*munkavégző képesség*) and “employment capacity” (*foglalkoztathatóság*).

Working capacity refers to a person’s general ability to work and is expressed in terms of a percentage of altered working capacity. OOSZI is responsible for conducting assessments of working capacity. Employment capacity refers to the suitability of a person’s skills and abilities for different occupations. The assessment of employment capacity for employment and vocational rehabilitation purposes is conducted jointly by the local offices of the National Employment Service (hereafter, labour offices) and by local health offices. In the course of this assessment, a person’s abilities and skills are matched to specific occupations.

Both assessments are primarily medical assessments conducted by doctors. There is a need to redesign the assessments to reflect a more interdisciplinary and comprehensive approach to disability. The establishment of a system of comprehensive and interdisciplinary assessment(s) for employment purposes is urgently needed, as is the implementation and harmonisation of existing legislation regulating assessment procedures.<sup>326</sup> The NGO community in Hungary has developed a number of assessments that could be wholly or partly replicated by the Government (see section IV.1.2.2).

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<sup>323</sup> Joint Decree on People with Altered Working Capacity, art. 1 and 9-13.

<sup>324</sup> Joint Decree on People with Altered Working Capacity, art. 19-30.

<sup>325</sup> Joint Decree on People with Altered Working Capacity, Point III/6.

<sup>326</sup> OSI roundtable comment.

### 1.2.1 Assessment of working capacity and employment capacity

#### *Assessment of working capacity*

OOSZI (the National Medical Expert Institute), an independent entity established by the National Health Insurance Fund (OEP), has two primary responsibilities.<sup>327</sup> First, it evaluates a person's working capacity, which may entitle the person to rehabilitation services and an invalidity pension – depending on the extent to which working capacity has been altered. Second, it confirms the existence of severe disability, by which the person becomes eligible for a social benefit called “disability support”.

In accordance with the Act on the Obligatory Health Insurance Scheme,<sup>328</sup> the assessment for determining an individual's level of altered working capacity<sup>329</sup> and degree of disabilities (*leszázalékolás*) is carried out by medical committees at OOSZI. These committees examine approximately 350,000 people every year.<sup>330</sup> The committees assign a percentage of altered working capacity according to established guidelines,<sup>331</sup> but advantages in terms of increased social benefits are generally available only for people with an altered working capacity of at least 40 per cent – that is, a remaining working capacity of 60 per cent. People with an altered working capacity of at least 40 per cent are entitled to work in sheltered workplaces.<sup>332</sup>

Sheltered workplaces, such as “target organisations”,<sup>333</sup> use the results of the assessment made by OOSZI.<sup>334</sup> Companies can only apply for state subsidies if they employ

<sup>327</sup> The responsibilities of OOSZI are to provide professional opinions about working capacity and the degree of disability necessary for qualifying for deficiency, fixing social insurance benefits, and social and family allowances. See *Health Insurance in Hungary: A Brief Presentation of the National Health Insurance Fund and its History*, available, in English, on the website of the National Health Insurance Fund at [http://www.oep.hu/oepdok/fajlok/health\\_insurance.pdf](http://www.oep.hu/oepdok/fajlok/health_insurance.pdf) (accessed 15 December 2004), p. 6, (hereafter, *Insurance Fund Presentation*).

<sup>328</sup> Act LXVIII of 1998 on the Amendment of Act LXXXIII of 1997 on *Services to be Provided by the Obligatory Health Insurance Scheme*, Gazette 1998/103, 14 November 1998, (hereafter, *Act on the Obligatory Health Insurance Scheme 1998*).

<sup>329</sup> The procedure for determining reduction of working capacity, and the degree to which this influences an individual's work productivity, is regulated by: Ministry of Health, Social and Family Affairs Decree 80/2003 (XII.23.) on the Amendment of Ministry of Welfare Decree 33/1998. (VI. 24.) on Medical Tests and Opinions on Aptitude for Positions, Trades and Personal Hygiene, Gazette 2003/153, 23 December 2003.

<sup>330</sup> *Health Insurance Fund Presentation*, p. 6.

<sup>331</sup> In practice, the OOSZI medical committees determine an altered working capacity of under 40 per cent primarily in cases of accidents. An altered working capacity above 40 per cent is usually awarded to people with permanent disabilities. OSI roundtable comment.

<sup>332</sup> *Joint Decree on people with altered working capacity*, art. 28(1.a).

<sup>333</sup> At least 60 per cent of the workforce in target organisations must be persons with altered working capacity. In Hungary, the majority of people with intellectual disabilities work in such organisations. See: Section IV.3.3.

<sup>334</sup> Interview with Péter Horváth, 14 May 2004.

people with an altered working capacity of at least 40 per cent. In the case of target organisations, the State subsidies are allocated per capita and are more generous for employees with higher percentages of altered working capacity.

The assessment of the working capacity of an individual with disabilities is usually carried out only once. An individual with disabilities is entitled to appeal against an assessment decision and, in fact, such appeals are common. In most cases, the appeal concerns the awarded percentage of altered working capacity: the person with disabilities or their family want an increase in the assessed percentage altered working capacity, so that they will be eligible for higher social benefits.

Currently, the OOSZI and the Ministry of Health are working to reform the system for the assessment of working capacity.<sup>335</sup> As of 1993, county level methodological centres should be conducting working capacity assessments.<sup>336</sup>

### *Assessment of employment capacity*

Since 1998, the labour offices are responsible for vocational rehabilitation.<sup>337</sup> The offices cooperate with local health services in conducting assessments of employment capacity. The assessment consists of an evaluation of an individual's remaining work-related abilities from a medical perspective, and it is carried out by doctors.<sup>338</sup> The assessment focuses specifically on the individual's health and medical condition. It does not adequately take into account individual capacity and aptitude, as it does not involve the application of psychological, pedagogical, social or occupational principles. Based on the assessment, the doctors indicate those occupations for which the person has remaining capacity. Staff at the labour offices use the results of the assessment and the list of matching types of work to assist people with altered working capacity in finding employment.<sup>339</sup>

The assessments of employment capacity are a positive example of inter-sectoral cooperation between local health services and local labour offices. Nonetheless, the system for employment capacity assessment is in need of wholesale reform. In

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<sup>335</sup> OSI roundtable comment.

<sup>336</sup> OSI roundtable comment.

<sup>337</sup> The labour offices were established in all county capitals as branches of the National Employment Office, and are under the authority of the Ministry of Employment and Labour. The labour offices register unemployed people and provide them with up-to-date information on employment opportunities; organise training programmes; fund employers to establish and improve workplaces for people (there are special programmes that target increased employability of people with disabilities); and locate jobs. They are obliged to provide support for people with disabilities, including people with intellectual disabilities. However, in practice the support provided is limited, since staff do not have training in working with people with intellectual disabilities.

<sup>338</sup> Interview with Péter Horváth, 14 May 2004.

<sup>339</sup> Interview with Péter Horváth, 14 May 2004.

particular, it should be redesigned to better assess people's abilities, rather than their disabilities. Many people with intellectual disabilities perform much better "on the job" than results from assessments of employment capacity would suggest.<sup>340</sup> This potential needs to be captured through a redesigned multidisciplinary assessment.

### 1.2.2 Other types of assessment

#### *Assessments carried out by NGOs*

Some innovative NGOs carry out comprehensive assessments of working capacity that are more accurate in determining what a person with disabilities is capable of and that lead to more suitable job placements. These assessments include a comprehensive aptitude test, and they take into consideration social and vocational skills, in addition to a person's health condition.<sup>341</sup> Moreover, the assessment is generally conducted by a multidisciplinary team, composed of medical doctors, social workers, psychologists and other specialists. For example, at one NGO supported employment agency, the Salva Vita Foundation in Budapest, a special educator conducts comprehensive working capacity and aptitude tests, which take into account medical opinions, while a social worker examines service user abilities on the open labour market. With this type of comprehensive assessment, people with intellectual disabilities receive appropriate job placements and are more likely to retain employment over the long term.

### 1.3 The role of the social welfare system

Despite a drastic increase in the number of pensioners and unemployed in the 1990s, and the increased financial burden upon the State, the Hungarian State still continues to prioritise passive financial support rather than active employment measures.

Social welfare benefits in Hungary often act as a disincentive to employment. Although people with intellectual disabilities are generally eager to work, due to the growing demand for more qualified workers and gradually narrowing employment opportunities, in most cases they prefer stable State support to risking uncertain employment. For most benefits, people with intellectual disabilities do not lose eligibility if employed.

People with intellectual disabilities may be eligible for the following main types of benefits:

- Unemployment benefits (*munkanélküli járadék*) – for people who have worked for the required amount of time before losing their employment.

<sup>340</sup> Interview with Andrea Dávid, director, Salva Vita Foundation, Budapest, 16 March 2004.

<sup>341</sup> Interview with Ferencné Réti, director general, "Kraxner Alajos" Special Employment Residential Home, in Csobánka, Budapest, 4 December 2003.

- Invalidity pension (*rokkantsági nyugdíj*): for people with altered working capacity who have worked for the required amount of time before losing their employment;
- Disability support (*fogyatékosági támogatás*) – for people with *severe* or *profound* disabilities, including people with severe intellectual disabilities; there is no requirement of having worked previously;
- invalidity benefit (*rokkantsági járadék*) – for those who are under age 25, have 100 per cent altered working capacity, and do not already receive a pension.

People with intellectual disabilities who are not assessed as having *severe* intellectual disabilities are not entitled to disability support, but they are generally entitled to various other benefits, depending on whether they meet certain established criteria relating to age, number of years actively employed, and current employment status.

Adults with intellectual disabilities rarely register with local labour offices. This is partly due to a limited awareness amongst people with intellectual disabilities and their families that, as citizens, people with intellectual disabilities have the right to employment, vocational rehabilitation and unemployment benefits. Another reason is that most people with intellectual disabilities do not receive *unemployment benefits*, as they must have been employed for a few years to be eligible for these benefits. The local labour offices' task, which in this case is vocational rehabilitation, is made more difficult because statistics are not available on the number of unemployed adults with intellectual disabilities and the target audience itself cannot be easily located.

Eligibility for an *invalidity pension* is similarly problematic. To be eligible, a person must have at least two years of employment before age 22, and four years employment before age 24; and they must have altered working capacity.<sup>342</sup> However, students with intellectual disabilities generally attend school until age 24, and are therefore unable to meet these eligibility criteria. The eligibility criteria for both unemployment benefits and invalidity pensions need to be changed, if people with intellectual disabilities are also going to enjoy these benefits.<sup>343</sup>

The OOSZI assessment determines entitlement to *disability support*. All people over 18 years of age with severe disabilities, including *severe* and *profound* intellectual disabilities, are entitled to this benefit,<sup>344</sup> as they are considered to be unable to care for themselves. The level of the disability support benefit is based on the minimum monthly pension, which in 2004 was HUF 23,000 gross (or approximately €89).<sup>345</sup>

<sup>342</sup> Act LXXXI of 1997 on the Provision of Social Insurance, in a single framework with implementing Government Resolution 168/1997 (X.6).

<sup>343</sup> OSI roundtable comment.

<sup>344</sup> Disabled Persons Act 1998, art. 23.

<sup>345</sup> The *National Disability Programme* specifies the details of the implementation of disability support. *National Disability Programme*, 8(1).



Depending on the nature of the individual's disabilities, monthly disability support payments range between 65 per cent and 80 per cent of the minimum pension. This is equivalent to between HUF 14,950 and HUF 18,400 (or approximately €58 to €71). By comparison, in April 2004 the minimum wage in Hungary is HUF 53,000 (or approximately €204).<sup>346</sup>

Eligibility for social welfare benefits is not generally connected to the number of hours worked, and only some benefits are retracted if the person enters either full-time or part-time employment. The invalidity pension may be retracted when a person is hired full-time, but disability support or the invalidity benefit are not affected by employment status.<sup>347</sup> Similarly, people with disabilities may receive disability support in conjunction with an invalidity pension, and, in addition, if they work less than eight hours per week, may even earn wages without losing either benefit. If employed, people with intellectual disabilities generally earn more than the total amount of benefits they stand to lose.

#### 1.4 Labour office employment and rehabilitation services

The labour offices provide a range of services to people with employment difficulties, including counselling, training and giving necessary employment-related information. From 1998, local labour offices have also been responsible for providing vocational counselling services for people with altered working capacity. However, due to the current high unemployment rate in Hungary, the labour offices generally cannot keep up with the demand for individualised services, so they rely on cooperation with non-governmental service providers to meet this demand.<sup>348</sup>

In the rare cases when adults with intellectual disabilities register for employment services, they do so at local labour offices, which register them as people with altered working capacity. The local labour offices refer adults with intellectual disabilities who want to participate in vocational training to the Regional Labour Force Development and Training Centres (RLFDTCs). However, at present, such referrals are very rare, mainly due to the lack of adequate information provision at the local level and the fact that there are only nine RLFDTCs in the country. Adults with intellectual disabilities tend to be uninformed about their rights and entitlements. Most therefore miss the opportunity to register at the local labour office, so they do not appear in the system and are considered as "inactive" rather than unemployed.

In order to improve service provision for people with altered working capacity, the Ministry of Employment and Labour supports training for labour office staff. It has also called for proposals from the labour offices to make their offices more accessible to

<sup>346</sup> Disabled Persons Act 1998, art. 23(a).

<sup>347</sup> Disabled Persons Act; and Decree No. 83/1987 (XII. 27) of the Council of Ministers on Invalidity Benefits, Gazette nr. 1987/63 on 27 December 1987.

<sup>348</sup> OSI roundtable comment.

people with disabilities. Following the establishment of “rehabilitation working groups” in all local labour offices, the ministry initiated the establishment of Rehabilitational Information Centres (RICs)<sup>349</sup> in county labour offices. There are plans to establish one RIC in every county,<sup>350</sup> and, to date, they have been established in 11 of the 20 counties in Hungary.<sup>351</sup> RICs aim to provide comprehensive support services for people with disabilities seeking employment, while also disseminating information to employers. However, at present, the counselling services provided by the RICs are poor and need improvement.

## 2. GOVERNMENT EMPLOYMENT POLICY

*During Hungary’s accession to the EU, the European Commission’s Regular Report on Hungary made a number of references to the need to improve the employment situation of people with disabilities in general, but it did not specifically refer to people with intellectual disabilities. However, funds from the EU’s Phare programme were used to support a number of projects promoting the employment of this group. Hungary is now selecting projects to be funded through EU Structural Funds. These projects should, in future, make a significant contribution towards improving and tailoring the employment services available to people with intellectual disabilities, and towards increasing their employment rates.*

*The main Government policy on the employment of people with disabilities is described in the National Disability Programme. The programme contains a number of goals that are highly relevant to promoting the employment of people with intellectual disabilities. Most importantly, it aims to restructure the sheltered employment system, including its legislative framework and system of financing. Another objective is to improve employment services for people with disabilities. This has led to the establishment of Rehabilitational Information Centres (RICs) which are located at county labour offices and are tasked with providing comprehensive support services for people with disabilities seeking employment. However, as with other areas, the implementation of the National Disability Programme’s objectives on employment has not been adequately monitored, and many foreseen projects are still in an early stage of implementation.*

*The Government promotes the employment of people with disabilities – on the open labour market and in sheltered workplaces – through the quota system, state subsidies and tax incentives. At present, however, the tax incentives available are not very attractive, so they do not have a significant impact. Under the quota system, five percent of the staff in all companies employing more than 20 people must be employees with an altered working capacity. The quota system has not been effective, as the penalties for noncompliance, though increased substantially in recent years, still remain too low to act as a real disincentive. Moreover, there is only limited monitoring of companies’ compliance with the system. The penalties for noncompliance go towards the Rehabilitation Fund, from which funding is then made available to NGOs providing employment services and sheltered workplaces. Companies fulfilling the*

<sup>349</sup> The establishment of Rehabilitational Information Centres (RIC) was a goal of *the National Disability Programme*. See: Section IV.2.2.1.

<sup>350</sup> Interview with Péter Horváth, 14 May 2004.

<sup>351</sup> See: Ministry of Employment and Labour, *Call for proposals for establishing centres that provide comprehensive rehabilitation services and information*, Budapest, 20 December 2003, available on the Ministry website ([www.fmm.gov.hu](http://www.fmm.gov.hu)).

*quota requirement are also eligible to receive a State subsidy called State Support for Increased Rehabilitational Employment, which covers salary and other costs associated with employing people with disabilities over an 18-month period, with the amount of support subsequently reduced. Sheltered workplaces are also eligible for State subsidies, but NGOs are as yet not eligible.*

## 2.1 The EU and Government employment policy

The European Commission's 2002 Regular Report on Hungary notes that the National Disability Programme has produced initial results in the areas of work environment, communications, transportation, health care, education and training, employment, sports and leisure time, and social welfare.<sup>352</sup> It also calls Hungarian policymakers' attention to the need to meet the challenges of labour market transformation and to accelerate human resource development.<sup>353</sup> However, the report only refers to people with disabilities in general, not specifically to people with intellectual disabilities.

### *EU funds*

In the framework of the Phare programme, the EU supported a number of disability-related initiatives in Hungary over the last few years, including many projects that also targeted people with intellectual disabilities, amongst other groups. One of these projects, "Promotion of Employment of People with Disabilities", is aimed at improving the living conditions of people with disabilities in three regions of eastern Hungary.<sup>354</sup>

In 2002, the National Public Foundation for Employment<sup>355</sup> (OFA) was appointed to establish, within its institutional framework, the EQUAL National Programme

<sup>352</sup> European Commission, *2002 Regular Report on Hungary's Progress towards Accession*, SEC (2002) 1404, European Commission, Brussels, 9 October 2002, available on the commission website at [http://europa.eu.int/comm/enlargement/report2002/hu\\_en.pdf](http://europa.eu.int/comm/enlargement/report2002/hu_en.pdf) (accessed 12 December), Chapter 13(a), (hereafter, European Commission, *2002 Regular Report – Hungary*).

<sup>353</sup> According to the report, "employment policies should aim at increasing the overall employment rate [...] addressing regional mobility and reviewing the tax and benefit systems to increase incentives for inactive people to seek and accept job offers". European Commission, *2002 Regular Report – Hungary*, Chapter 13(b).

<sup>354</sup> Hungary's eastern regions are much more underdeveloped regarding both employment and rehabilitation conditions. "Supporting the employment of people living with disabilities", Project No. HU0105-02, available on the Ministry of Employment and Labour website at [www.fmm.gov.hu/main.php?folderID=2017](http://www.fmm.gov.hu/main.php?folderID=2017) (accessed 15 December 2004).

<sup>355</sup> The National Public Foundation for Employment (OFA) supports employment programmes for socially disadvantaged groups; organises Employment Partnerships; supports labour research; applies innovative employment policy tools and evaluates current tools to encourage the hiring of the long-term unemployed; supports pilot studies; and supports non-State organisations on the labour market. The OFA also supports six governmental target organisations in different parts of Hungary. See the website of the National Public Foundation for Employment ([www.ofa.hu](http://www.ofa.hu)).

Office.<sup>356</sup> The OFA thereby assumed responsibility for coordination of the EQUAL programme at the national level and began providing vocational counselling services within the framework of the EQUAL programme. The EQUAL programme supports innovation in the development of inclusive workplace practices and sheltered workplaces for people with altered working capacity.<sup>357</sup>

As an EU member State, Hungary is now selecting projects to be funded through EU Structural Funds.<sup>358</sup> A main objective of the Human Resources Development Operational Programme (HRD-OP) is to reduce inequalities of opportunity and to assist people in overcoming disadvantages, in particular people with disabilities.<sup>359</sup> The HRD-OP includes priorities and measures on employment; education and training; and social services and health care, many of which are relevant to people with intellectual disabilities. Within the framework of the programme, from May 2004, a number of grants became available for Hungarian schools, workplaces and many other organisations and institutions.<sup>360</sup> One of the most important programmes (under HRD-OP Priority 1) aims to modernise labour offices and improve the availability of tailor-made employment services – including for people with intellectual disabilities.<sup>361</sup>

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<sup>356</sup> Government Decree 1218/2002 (XII. 29.) on the Acceptance of the National Development Plan and the Operative Programs, the further schedule of planning work, and the timely tasks related to the institutional system of execution, Gazette 2002/166, 29 Dec 2002. Repealed and replaced by *Government Decree 1/2004 (I.5.) on the Institutions Responsible for the Domestic Use of subventions from the EU structural funds and Cohesion Fund*, Gazette 2004/1, 5 January 2004.

<sup>357</sup> OSI roundtable comment.

<sup>358</sup> Hungary's "National Development Plan" establishes the objectives of the five Operational Programmes, under which the Structural Funds will be allocated for the period 2004–2006. *National Development Plan*.

<sup>359</sup> The main aims of the HRD-OP are to raise the level of employment and the competitiveness of the workforce, the rationale being that participation in the labour market is essential in preventing social exclusion and poverty. The five priorities of the HRD-OP are: (1) supporting active labour market policies; (2) fighting social exclusion by promoting access to the labour market; (3) supporting life long learning; (4) developing the infrastructure of education, social services and health care; and (5) technical assistance. The total budget of the HRD-OP for the period 2004–2006 is €750 million (of which €562 million is from EU funds and €187 million from national, mainly Government, funding). Ministry of Employment and Labour, *HRD-OP*, p. 4.

<sup>360</sup> The calls for proposals are established under the measures outlined under the five priorities of the HRD-OP. See the Proposal Information Portal (Tenerum Ltd.) available at <http://gvop.hu/tenerum.php?pid=53> (in Hungarian only) (accessed 4 July 2005).

<sup>361</sup> OSI roundtable comment.

The Government ensured a broad consultation process in the development of the HRD-OP,<sup>362</sup> and the responsible ministries involved NGOs, both in the development and the implementation of the programme. At the same time, the Ministry of Employment and Labour published a handbook, called “Supportive Services on the Labour Market”, for NGOs wishing to engage in activities related to the employment of people with disabilities. Non-governmental representatives said the handbook is very comprehensive and oriented towards solving existing problems for people with disabilities.<sup>363</sup> The ministry has also announced its plan for a three-year joint NGO-ministerial cooperative effort, which, among its goals, targets people with intellectual disabilities.<sup>364</sup> The plan sets out the ministry’s priorities for the period 2003–2006, and these priorities can be used by NGOs as an orientation point. The Salva Vita Foundation and other NGOs are satisfied with these priorities.

Programmes initiated under the Regional Development Operational Programme (RD-OP) also contain numerous opportunities for launching projects that target the employment of people with altered working capacity.<sup>365</sup>

## 2.2 Government employment policy

### 2.2.1 Development of national programmes

The National Disability Programme addresses, among other areas, the employment sector, and aims to secure equal access to employment opportunities and services for people with disabilities. It also aims to increase inter-sectoral dialogue on social rehabilitation and labour market services, while helping to prevent duplication of effort across and within sectors. The programme unequivocally states the need for

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<sup>362</sup> Three ministries worked in partnership and consultation to develop the HRD-OP (the Ministry of Employment and Labour; the Ministry of Education; and the Ministry of Health, Social and Family Affairs). They had discussions with various state bodies such as the Governing Board of the Labour Market Fund, the Labour Market Committee, the Interest Reconciliation Council for Public Education, and the Council for the Disabled. Following official discussions, consultations on the draft of the operational programme were held with various stakeholders, such as umbrella NGOs, county labour centres and several hundred professional organisations.

<sup>363</sup> Interview with Andrea David, 16 March 2004.

<sup>364</sup> Ministry of Employment and Labour, *Civil Strategy and Action Plan for 2003–2006*, booklet, Ministry of Employment and Labour, Budapest, 2003. A summary is available on the Ministry website ([www.fmm.gov.hu](http://www.fmm.gov.hu)).

<sup>365</sup> Hungarian Territorial and Regional Development Office, *Regional Development Operational Programme (RD-OP), Programme Complement, 2004 to 2006*, 28 January 2004, Priority 2 (Strengthening the regional dimension of human resource development), Measure 3 (Support for local employment initiatives), available at [http://www.nfh.gov.hu/doc/angol/ndp/OPRD\\_2004.01.29.pdf](http://www.nfh.gov.hu/doc/angol/ndp/OPRD_2004.01.29.pdf) (accessed 5 July 2004).

programmes promoting employment opportunities on the open labour market for people with disabilities.<sup>366</sup>

A primary goal of the programme is reform of the existing system of financial support to employers and employment service providers. In particular, the programme calls for the restructuring of State subsidies to workplaces employing people with intellectual disabilities,<sup>367</sup> as well as restructuring of the sheltered employment system, its legal framework and its system of financing.<sup>368</sup> Some of the more ambitious objectives set out in the programme are a new incentive system for employers; accessible workplaces; and employment and training programmes promoting employment in mainstream workplaces.<sup>369</sup>

Within the framework of the National Disability Programme, the Ministry of Employment and Labour has initiated several projects for the social inclusion of people with disabilities. Many of these projects are relevant for people with intellectual disabilities.<sup>370</sup> The broader aims of these projects include:

- improving the dissemination of information by setting up Rehabilitational Information Centres (RICs) at county labour offices,<sup>371</sup> where an information and counselling system for both employees and employers would be established;
- developing rehabilitation infrastructure in eastern regions of the country;
- creating modern workplaces in rural areas;
- developing workplaces for people with autism.

A periodic evaluation of the National Disability Programme was underway as of September 2004, after which every Ministry, including the Ministry of Employment and Labour, will prepare its summary of results and recommendations.<sup>372</sup> However, most projects foreseen in the programme have not yet been implemented, including many projects in the area of employment. Among the projects that have been implemented, are three projects, developed by the National Public Foundation for

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<sup>366</sup> *National Disability Programme*, Point 6 (Employment).

<sup>367</sup> *National Disability Programme*, Point 6 on employment.

<sup>368</sup> *National Disability Programme*, Point 6 on employment.

<sup>369</sup> *National Disability Programme*, Point 6 (Employment).

<sup>370</sup> Conference on “People with altered work abilities on the labour market”, organised by the Ministry of Employment and Labour, 8 December 2003, Budapest.

<sup>371</sup> The RICs aim to provide comprehensive support services for people with disabilities seeking employment. See also: Section IV.1.4.

<sup>372</sup> Interview with Péter Horváth, 14 May 2004.

Employment,<sup>373</sup> that successfully targeted people with intellectual disabilities, among other groups.

### 2.2.2 Government incentives for employers

The Government promotes the employment of people with disabilities – on the open labour market and in sheltered workplaces – through the quota system; tax incentives; and state subsidies. However, to date, there have been no efforts to employ people with intellectual disabilities in local or county authorities or in State bodies. This type of initiative would both set a positive example and help to raise public awareness of the need to ensure the social inclusion of people with intellectual disabilities.

#### *Quota system*

The quota system is not effective in securing employment for people with intellectual disabilities, most employers prefer to pay the penalty for noncompliance.

Companies employing more than 20 people must ensure that five percent of their staff are employees with altered working capacity.<sup>374</sup> Those companies that do not comply with the quota requirement must pay a penalty for each person with altered working capacity not employed as required by the quota. This penalty is referred to as a “rehabilitation contribution”.<sup>375</sup> The penalty has increased steadily over recent years. From 2004, it was increased almost threefold, to HUF 117,600 (or approximately €470) per capita/per annum, yet it remains too low to be a real disincentive.<sup>376</sup> Monitoring and enforcement of the quota requirement is the responsibility of the Taxation Office (APEH). However, there is no system in place to track compliance with the quota system.<sup>377</sup>

<sup>373</sup> These are: Alternative services promoting employment on the open labour market (Np-A/2002); Transitional employment programmes targeting reintegration of people to the open labour market (Np-T/2002); and the “I Work Again” programme (UDP/2002). Further information is available on the website of the National Public Foundation for Employment ([www.ofa.hu](http://www.ofa.hu)).

<sup>374</sup> Employment Promotion Act, art. 41.

<sup>375</sup> The amount of the rehabilitation contribution is defined in: Employment Promotion Act 2004, art. 41A and 42A.

<sup>376</sup> The penalty was HUF 24,400 (or approximately €94) per capita/per annum in 2000; HUF 31,500 (€121) in 2002; and HUF 37,300 (€144) in 2003.

<sup>377</sup> Interview with Péter Horváth, 14 May 2004.

Funds from the rehabilitation contribution constitute the Rehabilitation Fund, which is part of the larger Labour Market Fund.<sup>378</sup> The Ministry of Employment and Labour distributes funds from the Labour Market Fund to various organisations, through calls for proposals, issued mainly by the labour offices. Beneficiaries include NGOs providing employment services for people with disabilities and sheltered workplaces, such as target organisations.<sup>379</sup> This restructured distribution of the Rehabilitation Fund represents a positive shift.<sup>380</sup> Based on the experiences of county labour office branches, and the number of proposals submitted, the restructuring has had a positive influence on the variety and type of workplaces funded.

### *State subsidies*

The Salary Support for Increased Rehabilitational Employment (*rehabilitációs foglalkoztatás bővítését szolgáló bértámogatás*) is one form of State subsidy available to people with intellectual disabilities. The salary support is available to people with an altered working capacity of at least 40 per cent and is administered by local labour offices. The labour offices cover the cost of employment for an 18-month period, with the level of support reduced gradually over the 18-month period.<sup>381</sup> This type of State subsidy is available to employers who meet the quota requirement for employing people with altered working capacity, but NGOs are not eligible. In 2003, approximately 2,000 employers utilised this subsidy.<sup>382</sup> People with altered working capacity whose employment costs are subsidised by local labour offices enjoy a special advantage: they cannot be easily dismissed, because the employer is required to pay back the subsidy to the labour offices in cases of unjust dismissal. The Ministry of Employment and Labour holds that the above type of subsidy is compatible with EU requirements, as it is reduced over a fixed term.<sup>383</sup>

<sup>378</sup> Ministry of Employment Decree 11/1998 (IV.29) on Rehabilitation Procedures Provided by Labour Offices and on Support Promoting Employment of People with Altered working capacity; Ministry of Health, Social and Family Affairs Decree 80/2003 (XII.23) on the Amendment of Ministry of Welfare Decree 33/1998. (VI. 24) on Medical Tests and Opinions on Aptitude for Positions, Trades and Personal Hygiene, Gazette 2003/153, 23 December 2003; Government Decree 9/1999 (I.27) on the Amendment of Government Decree 89/1995 (VII. 14) Employment-Health Services, Gazette 1999/5, 27 January 1999; and Government Decree 212/2004 (VII.13) on the Amendment of Government Decree 43/1999. (III.3) on the Detailed Rules of Financing Health Care Services from the Health Insurance Fund Gazette 2004/100, 13 July 2004.

<sup>379</sup> The National Public Foundation for Employment supports six governmental target organisations in different parts of Hungary.

<sup>380</sup> Interview with two representatives of the Service Provision Department, Budapest Labour Office, Budapest, 7 December 2003.

<sup>381</sup> Ministry of Employment and Labour Decree 11/1998 (IV.29) on Rehabilitation Procedures Provided by Labour Offices, art. 4.

<sup>382</sup> Interview with Péter Horváth, 14 May 2004.

<sup>383</sup> Interview with Péter Horváth, 14 May 2004.



Under the Joint Decree on People with Altered Working Capacity, for-profit organisations are eligible for subsidies of between 45-135 per cent of the minimum wage, for each employee with altered working capacity. The level of the subsidy that for-profit organisations such as companies receive increases as a function of the number of people with altered working capacity hired by the organisation. Consequently, companies where people with altered working capacity constitute a larger percentage of the workforce receive a larger subsidy.<sup>384</sup> Sheltered workplaces, also defined under the decree as for-profit organisations, are eligible for State subsidies, although a different calculation is used to determine the amount of subsidies for social employment centres and selected target organisations. Social employment centres receive a subsidy of between 50-135 per cent of the minimum wage per employee with altered working capacity, depending on the number of people with altered working capacity employed by the centre. Selected target organisations receive the subsidy at a much higher rate of 135-320 per cent, depending on an employee's percentage of altered working capacity.

The EU has recognised the Joint Decree on People with Altered Working Capacity as being in conformity with an EU Directive on State subsidies for employment support.<sup>385</sup> In any case, however, due to domestic pressure, the system of State subsidies for enterprises is expected to be changed. A new draft law, to replace the Joint Decree on People with Altered Working Capacity, is currently under preparation.<sup>386</sup>

In response to a position paper on the new draft law prepared by the Ministry of Employment and Labour,<sup>387</sup> the National Union of Sheltered Workshops believes that the new system of subsidies is not well conceived.<sup>388</sup> According to the union, the position paper focuses on subsidies, to the exclusion of non-monetary means of support; it ignores national circumstances; it fails to build upon existing good practices; and it has failed to incorporate the opinions of employers. The union accepts the need to amend the current legislation, and asserts that the bill should: focus on promotion of employment on the open labour market; introduce new rehabilitation tools that

<sup>384</sup> Joint Decree on People with Altered Working Capacity, art. 27(a)(2). For example, if people with altered working capacity make up 5-10 per cent of the staff, the firm receives 45 per cent of the minimum wage as a subsidy for each employee with altered working capacity.

<sup>385</sup> European Commission Regulation (EC) No 2204/2002 of 12 December 2002 on the Application of Articles 87 and 88 of the EC Treaty to State aid for employment, Official Journal of the European Communities L 337/3, 13 December 2002, available on the commission website at [http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l\\_337/l\\_33720021213en00030014.pdf](http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_337/l_33720021213en00030014.pdf) (accessed 15 December 2004).

<sup>386</sup> OSI roundtable comment.

<sup>387</sup> Ministry of Employment and Labour, "Position Paper on Promoting Employment of People with Altered Working Capacity", available on the ministry's website (in Hungarian) at [www.fmm.gov.hu](http://www.fmm.gov.hu) (hereafter, Ministry of Employment and Labour, *Position Paper*). The position paper is part of the process of drafting new legislation to replace the Joint Decree on People with Altered Working Capacity.

<sup>388</sup> Interview with Zoltán Balogh chairman, National Union of Sheltered Workshops (VSZOSZ), Nyíregyháza, 10 May 2004. The union has 94 members.

promote mainstream employment; and continue to motivate employers using the existing incentives, without reducing State subsidies for sheltered workshops and without endangering their continued operation.

In defence of the position paper, the Ministry of Employment and Labour highlights its aim to increase the proportion of people with altered working capacity employed on the open labour market. At the same time, the Ministry acknowledges that sheltered workplaces need to be maintained for those unable to meet the requirements of the open labour market. The position paper prepared by the Ministry states that the greatest challenges in the current “rehabilitation-subsidy-sheltered workshop triangle” are the absence of monitoring on the use of subsidies; a lack of clear roles, expectations and responsibilities of actors who receive subsidies, with respect to rehabilitation services; and limited implementation of EU legislation.<sup>389</sup>

According to the position paper, the ministry plans is to address the above challenges in the new legislation by:

- providing clear criteria and expectations in financing;
- clarifying the legal distinction between employment on the open labour market and sheltered employment;
- determining requirements regarding professional and quality standards for rehabilitation services;
- entitling NGOs to apply for State subsidies; and
- guaranteeing differentiated work types and workplaces for people with various work abilities and capacities.<sup>390</sup>

Under present legislation, the responsibilities of organisations and firms receiving State subsidies are not properly specified and regulated. Target organisations in particular have been criticised, as the rehabilitation services that they are expected to provide, and quality assurance criteria, are not properly defined.<sup>391</sup>

In anticipation of the new legislation, the National Public Foundation for Employment has already begun advertising calls for proposals from target organisations, in order to assist them in preparing for the provision of new services, especially rehabilitation services. All sides agree that target organisations must prepare to provide these new services, and that new forms of rehabilitation services should be designed and made available to meet the individual differences in skills and abilities of people with altered working capacity.<sup>392</sup> There is also agreement that small enterprises

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<sup>389</sup> Ministry of Employment and Labour, *Position Paper*.

<sup>390</sup> Ministry of Employment and Labour, *Position Paper*.

<sup>391</sup> Ministry of Employment and Labour, *Position Paper*.

<sup>392</sup> Interview with Ilona Gere, researcher, ILO Budapest, 11 December 2003.

should be given incentives to employ people with disabilities, given that 800,000 small enterprises do business in Hungary.<sup>393</sup>

### *Tax incentives*

A tax reduction is available to small and medium-sized firms that have no quota requirement (i.e. that employ less than 20 people), individual entrepreneurs and primary producers after each employee with altered working capacity, to the amount of the paid wage (not to exceed the minimum wage). The taxation system also allows each person with altered working capacity a reduction in their personal income tax, in the amount of HUF 2,000 (or approximately €9) per month. However, as people with altered working capacity generally earn the minimum wage, which is not taxable under current taxation law, this does not act as a real incentive.

## 3. EMPLOYMENT IN PRACTICE

*Despite these incentives, in Hungary, the vast majority of people with disabilities do not have access to any kind of employment. Most people with intellectual disabilities are financially dependent on social benefits or support from their family. Only ten per cent of people with intellectual disabilities, or less than 4,000 people, are in employment, down from 30 per cent in 1990. Very few can access employment on the open market – mainly through supported employment. As of 2004, there were only five NGOs providing supported employment services in five cities within Hungary, and legislation on supported employment was not yet in place. The Salva Vita Foundation introduced the supported employment methodology in Hungary in 1998. To date, it has supported more than 150 people with intellectual disabilities on the open labour market. Everyone involved in the programme, including employers, are satisfied with the foundation's employment services. However, there is now a need to replicate this model more widely, and the Government must fund supported employment services across the country.*

*Although supported employment offers the best opportunities for the social inclusion of people with intellectual disabilities, at present, most people with intellectual disabilities who are able to access employment do so in sheltered workplaces. These workplaces generally do not adequately prepare people with intellectual disabilities for employment on the open labour market. Sheltered workplaces can be social employment centres or target organisations, both of which offer very low salaries for employees with disabilities. Social employment centres are mainly municipally maintained small-scale workshops that provide work opportunities of a limited variety, such as producing textiles and industrial paper. Target organisations are large, for-profit organisations or firms; by law, people with altered working capacity must make up at least 60 per cent of the staff, but in practice, the share is closer to 80 per cent. In 2003, the total State subsidies received by target organisations was significant, at approximately €151.2 million. Over recent years, many social employment centres have been transformed into target organisations, as the level of available State subsidies is significantly higher. However, because target organisations only employ more skilled workers, the transformation of the employment centres has resulted in far fewer sheltered employment opportunities for people with moderate and severe intellectual disabilities. People with intellectual disabilities employed in target*

<sup>393</sup> OSI roundtable comment.

*organisations are generally satisfied with their work and feel lucky to have been able to find employment.*

*Target organisations have been criticised by stakeholders for not providing adequate rehabilitation services for employees with altered working capacity. However, at present they are not obliged by law to do so. Draft legislation on the system of State subsidies for enterprises is under preparation. The primary aim of this legislation is to increase the proportion of people with altered working capacity employed on the open labour market. The new legislation is also expected to clarify the roles and expectations of organisations receiving subsidies – including responsibilities related to rehabilitation – and to introduce a mechanism for monitoring the use of subsidies.*

### 3.1 Statistical background

The following chronic problems characterise the Hungarian labour market: relatively low levels of employment, high unemployment rates, persistent regional disparities and weak regional mobility of the labour force.<sup>394</sup> In 2002, the overall employment rate was 56.3 per cent of the population.<sup>395</sup> From 1990 to 2001, the percentage of unemployed people who receive state financial support increased from 57.5 per cent to 76.7 per cent.

The 2003 “National Development Plan” notes that, in Hungary, the position of people with disabilities and serious health problems in the labour market is extremely poor compared to other EU countries. Only ten per cent of these people are employed in Hungary, compared to the 2003 EU average of 40 per cent.<sup>396</sup> The report also notes that “their levels of qualification are low, and their economic activity is only one sixth the average of the total population”.

In Hungary, the vast majority of people with intellectual disabilities do not have access to any kind of employment or work. The main ways in which they can gain employment are on the open labour market, mostly through supported employment programmes; in sheltered workplaces, which include target organisations and social employment centres; and in day centres and residential institutions. The main source of data on the employment situation of people with intellectual disabilities is the 2001 census. As shown below in Table 5, this reveals that just 3,992 people with intellectual disabilities declared themselves to be in employment.

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<sup>394</sup> Ministry of Employment and Labour, HRD-OP.

<sup>395</sup> Ministry of Employment and Labour, HRD-OP.

<sup>396</sup> *National Development Plan*, I.5.5.4 People with Disability.

**Table 5. Employment situation of people with intellectual disabilities (in 2001)**

Employment situation	People with intellectual disabilities		People with disabilities (in general)	
	Number of people (includes children)	Percentage (per cent)	Number of people (includes children)	Percentage (per cent)
In employment	3,992	7.0	51,806	9.0
Unemployed	671	1.2	11,706	2.0
Inactive earner	26,903	47.2	442,815	76.8
Dependent	25,397	44.6	70,679	12.2
<b>Total</b>	<b>56,963</b>	<b>100</b>	<b>577,006</b>	<b>100</b>

Source: Central Statistical Office<sup>397</sup>

In 1990, 43.6 per cent of the population was employed, and 31.1 per cent of working age people with disabilities were in employment (see table 6 below). However, despite an improved economy, data from the 2001 census actually demonstrate a decrease in the employment rate of working age people with disabilities, to just 17.9 per cent. With respect to people with intellectual disabilities, the 2001 census reveals that, while in 1990, 14.1 per cent of out the working age population with intellectual disabilities were in employment, this had fallen to just 10.6 per cent in 2001.

**Table 6. People with intellectual disabilities in employment (1990 and 2001)**

	2001		1990	
	People with disabilities	People with intellectual disabilities	People with disabilities	People with intellectual disabilities
Total number of working age (i.e. age 15-59)	289,529	37,584	195,910	43,495
Total number in employment	51,806	3,992	61,065	6,130
Proportion of working age people in employment (per cent)	17.9	10.6	31.1	14.1

Source: Central Statistical Office<sup>398</sup>

The percentage of people with intellectual disabilities working in sheltered workplaces diminished between 1990–2001. This reduction is mainly due to the ongoing transformation of social employment centres into target organisations, which enjoy

<sup>397</sup> 2001 Census, 2.2.1 Disabled persons by economic activity, type of disability and sex, available on the CSO website at [http://www.nepszamlalas.hu/eng/volumes/12/tables/load2\\_2\\_1\\_2.html](http://www.nepszamlalas.hu/eng/volumes/12/tables/load2_2_1_2.html) (accessed 15 December 2004).

<sup>398</sup> 2001 Census, Table 2.2.1 Disabled persons by economic activity, type of disability and sex; and Table 2.1.1 Disabled persons by type of disability, age group and sex, available on the CSO website at [http://www.nepszamlalas.hu/eng/volumes/12/tablak2\\_1.html](http://www.nepszamlalas.hu/eng/volumes/12/tablak2_1.html) (accessed 15 December 2004).

higher State subsidies. At present, the majority of people with intellectual disabilities who are in employment work in target organisations.<sup>399</sup>

There is no data available from the Central Statistical Office on the percentage of people with intellectual disabilities placed through supported employment. In 2002, of the 200 largest for-profit firms, 58.1 per cent employed people with altered working capacity, but only 3.8 per cent of these were people with intellectual disabilities, making this group the most excluded from employment. People with disabilities (of all disability types) earn, on average, 24.1 per cent less than their colleagues without disabilities.<sup>400</sup>

### 3.2 Supported employment

Only five percent of people with altered working capacity are employed on the open labour market,<sup>401</sup> mainly through programmes using the supported employment methodology and other programmes targeting inclusive employment. At the national level, the Ministry of Employment and Labour cooperates with, and supports, 58 non-profit organisations that work on the improvement of work opportunities for people with altered working capacity. However, the employment of people with intellectual disabilities on the open labour market is facilitated exclusively by the method of supported employment.<sup>402</sup>

The Joint Decree on People with Altered Working Capacity regulates the employment of people with altered working capacity, including people with intellectual disabilities, on the open labour market. Nevertheless, the integration of people with intellectual disabilities into workplaces on the open labour market is not regulated by law, and the earliest date by which Parliament is expected to pass supported employment legislation is 1 January 2006. The implementation of supported employment programmes, and the establishment of necessary support services, is still a “work in progress”. Currently, only five NGOs provide supported employment services for people with intellectual disabilities.

The supported employment methodology was first introduced in Hungary in 1998 by the Salva Vita Foundation. It provides comprehensive support for both people with

<sup>399</sup> Interview with Péter Horváth, Budapest, 13 May 2004.

<sup>400</sup> Robert Komaromi, *A megváltozott munkaképességű és fogyatékos munkavállalók munkaerő-piaci integrációjáról (Labour Market Integration of Employees with Altered working capacity and Disabilities)*, in *Esély*, 2003/5, Budapest.

<sup>401</sup> Presentation given by a representative of the Employment Rehabilitation Secretariat of the Ministry of Employment and Labour, at the Conference on “Work Experience – Preparing Young People with Disabilities for Employment”, Budapest, 28-29 January 2004.

<sup>402</sup> The supported employment methodology is the only methodology specifically elaborated for supporting the open labour market employment of people with intellectual disabilities. OSI roundtable comment.

intellectual disabilities and their employers. The Salva Vita Foundation's overarching goal is promoting successful, continuous and long-term employment of people with intellectual disabilities in workplaces on the open market, with "proportional wages".<sup>403</sup> At the centre of the supported employment methodology is respect for individual dignity and the provision of adequate and individualised support.

The main elements of the supported employment methodology for people with intellectual disabilities developed by the Salva Vita Foundation are:<sup>404</sup>

- contact with the job-seeking service user;
- comprehensive assessment of a service user's work abilities (by a special educator);
- development of an individual job-seeking strategy (with social workers);
- training the service user for job placement;
- job development (finding tailor-made jobs for supported employment service users);
- individualised job placement tailored to the individual;
- preparing the employer and future colleagues to meet the service user;
- on-site job training;
- support for the service user in adapting to the job, including providing a job coach until the service user is prepared for independent work and travel to the workplace; and
- follow-up during the entire period of employment (in groups and individually).

Applicants must be motivated and have various abilities. However, the supported employment methodology was designed with the understanding that skills and abilities are developed during training and that different jobs require different abilities. Consequently, the methodology recognises that, with the assistance of a job coach, service users are able to learn and adapt on the job. Careful matching of service users to appropriate jobs is essential. To this end, independent special educators at the Salva Vita Foundation determine a person's suitability for work on the open labour market. The special educators then make recommendations to social workers, service users and parents. Social workers observe applicants' abilities on-site. The foundation does not encounter discrimination from employers because, prior to approaching employers, it

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<sup>403</sup> "Proportional" wages mean that people with intellectual disabilities receive the same salaries as their colleagues without disabilities with similar levels of experience and qualifications. Proportional wages are not symbolic.

<sup>404</sup> Interview with Andrea Dávid, 16 March 2004.

assesses workplaces for suitability. Typically, those employers who agree to employ people with intellectual disabilities are already open and socially sensitive.<sup>405</sup>

Since 1998, the Salva Vita Foundation has placed and supported more than 150 people with intellectual disabilities on the open labour market. Many of these people have long-term contracts with their present employers. The foundation's service users generally have *mild* intellectual disabilities; a much smaller number have *moderate* intellectual disabilities. When they first approach the Salva Vita Foundation, service users are often unemployed and do not have any foreseeable employment opportunities. People with intellectual disabilities who are unable to meet the requirements of the open labour market are referred by Salva Vita to target organisations with vacancies.

Because of the large gaps in the Hungarian social welfare system, people rarely receive any support from organisations such as family support centres. Therefore, the Salva Vita Foundation has taken it upon itself to provide a range of services to ensure the long-term employment of its service users. For instance, the foundation's social workers work together with the service user's family members and provide family care services for them. With Salva Vita's support, people with intellectual disabilities often begin their lives anew and become active community members and citizens.<sup>406</sup> All stakeholders, including employers, report that they are very satisfied with these supported employment services. As a way of showing appreciation for employers and their efforts, Salva Vita has established the Award for Integrated Employment, which is given annually to the three employers who have made the greatest contribution to improving the welfare of people with intellectual disabilities.<sup>407</sup>

Nonetheless, supported employment opportunities for people with intellectual disabilities remain rare, and there is a clear need for a national network of supported employment service providers.<sup>408</sup> The Salva Vita Foundation began disseminating its supported employment methodology in 2003, and people with intellectual disabilities

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<sup>405</sup> Interview with Andrea Dávid, 16 March 2004.

<sup>406</sup> In one case, for example, a Salva Vita service user joined his workplace's trade union.

<sup>407</sup> In 2003 and 2004, the Deputy Under-Secretary to the Minister of Employment and Labour presented the award to the three "Employers of the Year".

<sup>408</sup> Interview with Andrea Dávid, 16 March 2004.



now have access to the supported employment services of the Salva Vita Foundation in five Hungarian cities.<sup>409</sup>

In the future, two main goals are to secure regular (normative) funding from the State for supported employment services, and to make the services available to people with intellectual disabilities across the country.<sup>410</sup> Until the Government supports the establishment of a national network of supported employment service providers, people with intellectual disabilities will continue to be systematically denied access to employment on the open labour market. Besides enacting legislation to support such a system, it is also important for the Government to provide funding for supported employment as an integral part of the employment system.

### 3.3 Sheltered workplaces

Of those people with altered working capacity in employment, 95 per cent are employed in sheltered workplaces.<sup>411</sup> People with *mild* and *moderate* intellectual disabilities who have the skills and the motivation to work, and are able to find employment, primarily work in sheltered workplaces, mainly target organisations.<sup>412</sup> Two types of sheltered workplaces exist in Hungary: social employment centres and target organisations.

#### *Social employment centres*

A social employment centre is a type of sheltered workshop that is generally maintained by a municipality and provides employment opportunities for people with altered working capacity who are economically inactive. These centres also provide employment to other socially disadvantaged groups, such as the elderly or single mothers.<sup>413</sup> Employees of social employment centres may work at home, onsite at the centre or at other locations.

Social employment centres provide activities that promote the development of employees' existing abilities. However, the type of work available in most centres for

<sup>409</sup> In Szekszárd, Veszprém, Pécs, Miskolc and Budapest. Other cities are home to similar models, which also assist people with altered working capacity in securing employment on the open labour market and initiating integration into the workplace. One example is the "4M" model, which the Ministry of Employment and Labour has adapted from a model from the UK, and is designed to increase the employability of people with disabilities. (In Hungarian, "4M" stands for "Megoldás Megváltozott Munkaképességű Munkavállalóknak" meaning "solution for employees with altered working capacity"). Source: Conference on people with altered work abilities on the labour market.

<sup>410</sup> Interview with Andrea Dávid, 16 March 2004.

<sup>411</sup> Conference on people with altered work abilities on the labour market

<sup>412</sup> It is important to recall, however, that the employment rate of people with disabilities is a mere ten per cent. *2001 Census*.

<sup>413</sup> Interview with Andrea Dávid, 16 March 2004.

people with altered working capacity is of limited variety and typically consists of producing textiles and industrial paper, typography, book binding, gardening, handicrafts or packaging. The salaries at social employment centres are very low. Employees at social employment centres must have contracts.

Social employment centres receive State subsidies for each employee with at least a 40 per cent reduction in working capacity. The level of the subsidy is based on the monthly minimum wage,<sup>414</sup> but is calculated according to the percentage of employees with altered working capacity at the centre.<sup>415</sup>

The last few years have witnessed an increase in the number of unemployed amongst people with intellectual disabilities, due to recent closures of social employment centres. The regular and substantial State subsidies mandated in the Joint Decree on People with Altered Working Capacity create a situation whereby it is more lucrative for social employment centres to operate as target organisations, because the State subsidies available for target organisations are more generous. In addition, as municipalities fail to ensure adequate resources, the financial conditions under which most social employment centres operate have worsened, providing centres with another reason to seek the status of a target organisation.

However, as target organisations are geared towards profit making and require a better skilled workforce, people with fewer and less valuable skills are generally made redundant. The result is that people with *moderate* and *severe* intellectual disabilities, who previously found employment in social employment centres, now have fewer, or no, employment opportunities.

With the new legislation to replace the Joint Decree on People with Altered Working Capacity (see above, section 2.2.2 on government incentives), a new system of State financial support for enterprises is envisaged. This legislation will impact the operation of social employment centres, and municipalities are expected to play a bigger role in the new system.

### *Target organisations*

In Hungary, target organisations are the only truly accessible employment opportunity for people with intellectual disabilities.<sup>416</sup> Target organisations are for-profit organisations or firms where people with disabilities comprise at least 60 per cent of the

<sup>414</sup> As of April 2004 the minimum wage in Hungary is HUF 53,000 (or approximately €204).

<sup>415</sup> For example, if 5-20 per cent of employees have altered working capacity, the subsidy is 50 per cent of the minimum wage, for each person with altered working capacity; if 20-40 per cent of employees have altered working capacity, the subsidy rises to 75 per cent of the minimum wage; for 40-60 per cent, the subsidy is 100 per cent; and for more than 60 per cent, it reaches 135 per cent. Joint decree on people with altered working capacity, art. 27(c).

<sup>416</sup> Ilona Gere, *A megváltozott munkaképességű emberek bekapcsolása a munka világába (Integrating People with Altered Work Abilities into the Labour Market)*, (unpublished).

staff.<sup>417</sup> Whereas social employment centres are small-scale sheltered workshops, target organisations tend to be very large firms. Target organisations primarily employ people with altered working capacity: approximately 80 per cent of employees at target organisations have altered working capacity.

In 2003, target organisations employed 31,159 people with altered working capacity.<sup>418</sup> Target organisations generally employ people with *mild* intellectual disabilities because they are more skilled. Only rarely do people with *moderate* intellectual disabilities find employment at target organisations. Target organisations offer employment contracts to their employees. Despite low wages, there are always waiting lists for target organisations.<sup>419</sup> People with disabilities, including people with intellectual disabilities, are generally satisfied with the work environment and the nature of work in target organisations, and they say they feel “lucky ” to have the opportunity to work.<sup>420</sup>

The National Public Foundation for Employment supports six governmental target organisations in different parts of the country.<sup>421</sup> Target organisations receive substantial subsidies for employing people with intellectual disabilities. In 2003, the total State subsidy paid to target organisations was significant, at around HUF 37.8 billion (or approximately €151.2 million).<sup>422</sup> In order to continue receiving State subsidies, a target organisation’s profit may not exceed six per cent. The level of the State subsidy depends on the percentage of employees with altered working capacity and on each employee’s level of altered working capacity – the higher an employee’s percentage of altered working capacity, the higher the subsidy.<sup>423</sup> As for social employment centres, the subsidy is calculated as a percentage of the minimum wage.

In theory, a variety of different target organisations and social employment centres should be established, to cater to different abilities and skills, and different skill levels. However, at present, there is only one type of target organisation in Hungary to serve the different individual needs of people with disabilities. This state of affairs is considered by both the Hungarian Association for People with Intellectual Disability (ÉFOÉSZ) and the Research Institute of Labour to be a serious problem.

<sup>417</sup> Joint decree people with altered working capacity, art. 27(c).

<sup>418</sup> Interview Zoltán Balogh, 10 May 2004.

<sup>419</sup> Interview with a social worker, Salva Vita Foundation, Budapest, 25 October 2003.

<sup>420</sup> Interview with a social worker, Salva Vita Foundation, Budapest, 25 October 2003.

<sup>421</sup> These are: Agora in Pécs, ERFO Ltd. in Budapest, Főkefe Ltd. in Budapest, Savaria Nett-Pack Ltd. in Szombathely, Kézmű in Budapest, and Szegedi Fonafeldolgozó in Szeged.

<sup>422</sup> Interview with Zoltán Balogh, 10 May 2004.

<sup>423</sup> See Section 2.2.2, Government incentives for employers.

The Joint Decree on People with Altered Working Capacity, adopted in 1983 and amended again in 2004, governs the financing of target organisations. However, target organisations' compliance with regulations was poorly monitored.<sup>424</sup>

Target organisations are often criticised by many stakeholders. The main complaint is that the responsibilities of organisations and firms receiving State subsidies are not properly specified and regulated. In particular, until recently, the rehabilitation services that target organisations are expected to provide, and quality assurance criteria, have not been properly defined. The future amendments to the decree are meant to address this criticism. In particular, it is envisaged that the legislation will:<sup>425</sup>

- clearly define the professional and financial expectations of target organisations;
- set out the responsibilities of target organisations in regard to rehabilitation services and quality assurance measurements;
- provide a legal definition that clarifies the difference between employment in sheltered workshops and employment on the open labour market;
- entitle NGOs to regular State funding; and
- guarantee a wider range of work opportunities for people with disabilities of differing skills and abilities.

The draft legislation foresees that target organisations should be providers of rehabilitation services. It is envisioned that the quality of rehabilitation services, including the quality of work produced, should improve. Target organisations would receive subsidies if they provide rehabilitation services for people with altered working capacity, including people with intellectual disabilities. They would also receive subsidies if they assist their best workers in finding employment on the open labour market.<sup>426</sup>

One possible drawback to the new system, however, is that the more skilled employees – those with the potential to find employment on the open labour market – may hesitate to leave their secure positions at target organisations. It may therefore prove necessary to elaborate a means for motivating the more skilled workers in target organisations to seek employment on the open labour market. A variety of sheltered workshops should also be established for other workers with differing abilities.<sup>427</sup>

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<sup>424</sup> OSI roundtable comment.

<sup>425</sup> Ministry of Employment and Labour, *Position Paper*.

<sup>426</sup> Ministry of Employment and Labour, *Position Paper*.

<sup>427</sup> Interviews with: Andrea Dávid, 16 March 2004; Judit Lechnerné Vadász, counsellor at the National Employment Office in Budapest, Budapest, 10 January 2004; and Ilona Gere, 11 December 2003.

### 3.4 Other employment opportunities

#### *Employment in residential institutions*

The significant number of people with intellectual disabilities living in institutions are in an especially difficult position, and few have any access to work or employment. Residential institutions with more open and flexible management may provide work for residents by contracting with external firms or sheltered workshops.<sup>428</sup> However, this is very rare.

Exploitation of people living in residential institutions was not uncommon until the Parliamentary Ombudsman for Civil Rights launched an investigation into allegations of abuse. According to the complaint, an employer had signed contracts with an institution to employ residents, without naming the residents in the contract.<sup>429</sup> Not only were residents not named in the contract, the institution appropriated the residents' wages for its own purposes. The Ombudsman called upon the parties to correct the contracts, with the immediate result that the employer dismissed a number of employees and, in the end, refused to continue to contract the employees living in the institution. Many of the residents were under *plenary* guardianship. The investigation triggered a public discussion of *plenary* guardianship and the right to employment.<sup>430</sup>

#### *Day centres*

The services provided by day centres are very important in preventing the institutionalisation of people with intellectual disabilities.<sup>431</sup> Day centres offer people with intellectual disabilities employment opportunities that are primarily designed to serve as vocational rehabilitation. The type of work organised for day centre users is limited to simple activities and usually consists of handicrafts. People working at day centres receive wages, though the amount earned is minimal.

<sup>428</sup> Interview with Ferenczné Réti, 4 December 2003.

<sup>429</sup> OSI roundtable comment.

<sup>430</sup> OSI roundtable comment.

<sup>431</sup> Day centres provide activities and work for people with intellectual disabilities during the day, relieving some of the burden of care from guardians and parents who are then free to find employment. Interview with Andrea Dávid, 16 March 2004.

## V. Conclusions

At present, the vast majority of people with intellectual disabilities in Hungary are not able to access inclusive education or any kind of employment or work. In recent years, the country has taken a number of important steps aimed at improving the situation of people with intellectual disabilities. Mainly as a result of Hungary's accession to the EU, the legislative basis for the social inclusion of people with intellectual disabilities has been strengthened. There have been a number of important policy developments, and there has been improved consultation with NGOs and other organisations representing, or working with, people with intellectual disabilities and their families.

However, a number of important barriers remain to be addressed. The Government should, as a priority, take steps to reduce the number of people who are under *plenary* guardianship and/or living in residential institutions. To ensure access to inclusive education, discriminatory educational entitlements need to be abolished, and inclusive education must be prioritised as a central goal of education policy. Mainstream schools should be provided with the necessary resources to enable children with all levels of intellectual disabilities to receive education in a mainstream environment. Procedures for the assessment of intellectual disability for educational purposes should be improved, and early intervention services should be made available throughout the country. With respect to access to employment, main priorities are to improve access to, and quality of, vocational training, and to make supported employment services available to people with intellectual disabilities throughout the country. The procedures for the assessment of working capacity need to be comprehensively reformed, and employment services must be tailored to the needs of people with intellectual disabilities. The Government should ensure that a range of employment opportunities are available for people with disabilities, such that individuals can secure an employment opportunity that matches their particular skill level.

The "National Programme on Disability Affairs" forms the basis for disability policy in Hungary. The programme incorporates a number of important and progressive objectives and goals, many of which are of direct relevance to the lives of people with intellectual disabilities. However, despite its laudable aims, the programme's rate of implementation has been slow to date; most of its objectives and planned projects are yet to be realised in practice. There has been no independent evaluation of the programme's impact to date, and the mechanisms currently in place for evaluating the programme's progress, and ensuring effective cooperation and coordination between the relevant ministries, are at present inadequate. The programme has not been updated since its adoption in 1999. To ensure the full and timely implementation of all programme goals, the Government should take immediate steps to set up an effective monitoring system and to see to it that all involved ministries are held fully accountable for fulfilment of the established objectives.

A very high percentage of people with intellectual disabilities in Hungary live in some form of residential institution. Apparently, the deinstitutionalisation process, which is

ongoing throughout Central and Eastern Europe, has had only a limited impact in Hungary. Independent living is an essential prerequisite for the full social inclusion of people with intellectual disabilities. The Government should, therefore, as a priority, ensure that adults and children with intellectual disabilities can access independent living alternatives to residential care throughout the country, and it should ensure that they and their families have access to the support services they need. The Government should develop a clear policy on deinstitutionalisation and establish targets aimed at reducing the population of people with intellectual disabilities in residential care. To this end, day centres and sheltered workshops for the employment of people with more severe intellectual disabilities should be made available throughout the country, to enable people with intellectual disabilities to remain with their families rather than being forced to move into residential care. Children with more severe intellectual disabilities should be provided with real education opportunities in a non-residential setting, either at a school or through quality home schooling.

In Hungary, many people with intellectual disabilities are placed under guardianship by the courts at age 18. At present, the procedures used in guardianship hearings do not sufficiently take into account the individual abilities of people with intellectual disabilities, and monitoring of guardianship decisions is inadequate. In a majority of cases, *plenary* guardianship is imposed, and the individual's decision making capacity is fully removed. This has serious implications for all areas of the individual's life, including access to employment. In particular, it is not clear whether people under *plenary* guardianship can be employed, even if their guardian signs the employment contract. As a result, employers have refused to employ people under *plenary* guardianship, either in sheltered workplaces or through supported employment programmes. To ensure that people with intellectual disabilities are able to exercise their civil and economic rights to the fullest possible extent, the Government should, as a priority, amend all relevant legislation, so that people under *plenary* guardianship are, by law, permitted to enter into employment. It should also undertake a comprehensive reform of all guardianship procedures, including assessment procedures.

Inclusive education in Hungary is at a very early stage. The education system currently segregates children with intellectual disabilities from children without disabilities, and it also segregates children according to the level of their disabilities. A significant number of children with intellectual disabilities are excluded from access to any form of education. The most urgent area for reform is the present two-tier system of education. With regard to a child's education, the State can have one of two types of responsibility: an obligation to educate or an obligation to train. The two obligations confer different educational entitlements upon a child. The Government should, as a priority, abolish the highly discriminatory educable/trainable distinction. It should amend existing legislation, to ensure that children with all levels of intellectual disabilities have equal access to quality education. The Ministry of Education should determine the number of children with more *severe* intellectual disabilities or autism who presently do not have any access to education. It should then take all necessary steps to ensure the enrolment of these children into schools. In those cases where this is

not possible, the Ministry should ensure that the new system of travelling special educators is able to provide these children, especially the ones living in rural areas, with special educational services at home.

Currently, few children with any type of special needs are integrated into mainstream education, at the primary level and above. To extend access to inclusive education, the Government should now make the mainstreaming of children with intellectual disabilities a central and overarching goal of national education policy. It should also ensure that the parents or guardians of children with intellectual disabilities have the explicit right to choose to enrol their child in a mainstream kindergarten or primary school near to their home town, and it should ensure that this right is respected in practice. One of the most important barriers to inclusive education is the inadequate support presently available to children with intellectual disabilities at mainstream schools. The Ministry of Education should provide mainstream schools with the funding, staff and other resources they need to meet the specific educational needs of children with intellectual disabilities. The Ministry should encourage the development of expertise in mainstream schools, and it should ensure that children with intellectual disabilities receive adequate support, tailored to their individual needs, such that they are not only enrolled in mainstream education, but can remain in a mainstream environment throughout their education.

Effective early intervention services are particularly important for children with intellectual disabilities and their families. However, at present, early intervention services are not available throughout the country, and most parents are unaware of those services that are available. There is no coordinated Government policy in this area. As an essential step towards preparing children with intellectual disabilities for integration into mainstream education, the Government should take steps to establish a nation-wide early intervention network. At the same time, it should ensure that the parents or guardians of children with intellectual disabilities are informed about available early intervention services and made aware of the importance of children receiving these services from the earliest age.

Once children with intellectual disabilities reach school age, the diagnosis of intellectual disability made by the Professional Committees is used to determine the type of education they will subsequently receive. However, at present, the Committees are overloaded, and assessments are often too short to establish an accurate diagnosis. The Ministry of Education should take steps to ensure that the Committees have the necessary expertise, resources and time to carry out quality assessments of children with intellectual disabilities. These assessments should prioritise children's abilities, rather than their disabilities. The Ministry should also monitor the quality of assessments on a nation-wide basis, to ensure that all children have access to high quality diagnostic services and that a child's ethnicity does not influence the assessment results. As a priority, it should take steps to address the misdiagnosis of significant numbers of Roma children and their consequential overrepresentation in special schools. The



Government should ensure the integration of Roma children into mainstream education.

The transition from school to employment can be particularly difficult for children with intellectual disabilities. Follow-up and transitional support services are presently inadequate to cope with the needs of these children. Approximately 60 per cent of students with intellectual disabilities continue their studies at the secondary level, although this number is slowly increasing. Very few students with intellectual disabilities attend mainstream vocational secondary schools. Vocational schools for students with intellectual disabilities do not adequately prepare students for work on the open labour market. To ease the transition, the Government should, as a priority, take steps to ensure that the vocational training offered by special vocational schools and capacity-developing special vocational schools becomes more geared towards the development of skills valued on the open labour market. In particular, students should be enabled to gain work experience externally, in a non-segregated setting. The Government should also establish more programmes to assist in the transition from school to employment.

At present, the majority of people with intellectual disabilities in are financially dependent on social benefits or support from their family. Very few can access employment on the open market. Supported employment is the most important way in which people with intellectual disabilities can access employment on the open market. Although Hungary does not yet have legislation on supported employment, provision of supported employment services for people with intellectual disabilities is more advanced than in many other EU countries. The Salva Vita Foundation, an NGO, has lead the way in introducing the supported employment methodology in the country. The Government should now, as a priority, introduce the legislative and regulatory framework necessary to support the State funding of supported employment. It should also take steps to ensure that a network of supported employment service providers is established throughout the country. The Government should ensure better complementarity between supported employment services and the system of sheltered employment, as part of a comprehensive overall system designed to meet the various needs and abilities of people with intellectual disabilities. It should also ensure that people with intellectual disabilities are able to access employment through the quota system.

The assessments of altered working capacity carried out by OOSZI (the National Medical Expert Institute) are highly important, in that they determine entitlement to social benefits, eligibility for work in sheltered workplaces and employment through the quota system. To promote access to employment for people with intellectual disabilities, the Government should carry out a comprehensive reform of all assessment procedures, moving from a purely medical approach towards an interdisciplinary assessment, which takes into account the real potential of people with intellectual disabilities. Periodic reassessments should be carried out in practice.

Although the majority of people with intellectual disabilities are not employed, most are registered as economically inactive. Very few register as unemployed at the labour offices, so they cannot access available employment services or rehabilitation services. The Government should take steps to increase the awareness of people with intellectual disabilities of their rights and encourage them to register at labour offices. It should also ensure that the staff at labour offices has the necessary training and resources to provide people with intellectual disabilities the services they need to access employment, and it should ensure that available employment services are tailored to the special needs of people with intellectual disabilities.

## ANNEX 1. List of Hungarian legislation referred to in the report

### Acts

- Act XI of 2004 on the Amendment of Act XCIII of 1993 on *Labour Safety*, Gazette 2004/38, 20 March 2004.
- Act CXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities (Act on Equal Treatment), Gazette 2003/157, 28 December 2003.
- Act CIX of 2003 on the Amendment of Act XX of 1949 *The Constitution of the Republic of Hungary*, Gazette 2003/144, 13 December 2003.
- Act LXI of 2003 on the Amendment of Act LXXIX of 1993 on *Public Education*, Gazette 2003/85, 16 July 2003. Last Amended by Act CXVI of 2003 on *the 2004 Budget of the Republic of Hungary, and on the Three Year Plan on the Budget Framework*, Gazette 2003/152, 22 December 2003.
- Act XXIX of 2003 on the Amendment of Act LXXVI of 1993 on *Vocational Education*, Gazette 2003/56, 23 May 2003. Last amended by Act LXXXVI of 2003 on *the Vocational Training Contribution and the Support for the Development of Training*, Gazette 2003/131, 14 November 2003.
- ACT XXII of 1992 on the *Labour Code*, Gazette 1992/45, 5 April 1992. Last amended by Act CXXV of 2003 on *Equal Treatment and Promotion of Equal Opportunities*, Gazette 2003/157, 28 December 2003.
- Act LXXXVI of 1998 on the *Amendment of Certain Acts*, which Amendment was made necessary by the changes in the tasks and areas of responsibility of the Cabinet Ministers, and also by the establishment of the Ministry of Youth Affairs and Sports, Gazette 1998/117, 24 December 1998. Last Amended by Act XXIX of 2003 on the Amendment of Act LXXVI of 1993 on *Vocational Education*, Gazette 2003/56, 23 May 2003. (Note: This act amends the Unemployment Act, the Public Education Act, and the Higher Education Act, among others.)
- Act XXVI of 1998 on the Rights and Ensuring the Equal Opportunities of People with Disabilities, Gazette 1998/28, 1 April 1998. Last amended by Act XXVI of 2004 on the Amendments of Certain Social and Health Care Acts, Gazette 2004/56, 26 April 2004.
- Act LXVIII of 1998 on the Amendment of Act LXXXIII of 1997 on *Services to be Provided by the Obligatory Health Insurance Scheme*, Gazette 1998/103, 14 November 1998.
- Act CLIV of 1997 on *Health Care*, Gazette 1997/119, 23 December 1997. Last amended by Act XXVI of 2004 on the *Amendments of Certain Social and Health Care Acts*, Gazette 2004/56, 26 April 2004.

Act LXXVI of 1993 on *Vocational Education*, Gazette 1993/99, 21 July 1993. Last amended by Act LX of 2004 on the *Amendment of Certain Acts on Education that Promote the Enforcement of Educational Rights, and Certain Acts on Education that serve the development of Higher Education System and its Institutions*, Gazette 2004/91, 28 June 2004.

Act LXIV of 1991 on *Accession to the Convention on the Rights of the Child*, Gazette 1991/129, 22 November 1991.

Civil Code, last amended by Act XV of 2001 on the *Amendment of Certain Acts Regarding Legal Capacity and Guardianship (including the Civil Code)*, Gazette 2001/51, 4 May 2001.

Act LXX of 2004 on the Amendment of Act IV of 1991 on *Job Assistance and Unemployment Benefits*, Gazette 2004/94, 2 July 2004.

## Decrees

Government Decree 212/2004 (VII.13) on the Amendment of Government Decree 43/1999. (III.3.) on the *Detailed Rules of Financing Health Care Services from the Health Insurance Fund*, Gazette 2004/100, 13 July 2004.

Government Decree 1218/2002 (XII. 29) on the *Acceptance of the National Development Plan and the Operative Programs, the further schedule of the planning work, and the timely tasks related to the institutional system of the execution*, Gazette 2002/166, 29 December 2002. Repealed and replaced by Government Decree 1/2004 (I.5) on the *Institutions Responsible for the Domestic Use of subventions from the EU structural funds and Cohesion Fund*, Gazette 2004/1, 5 January 2004.

Government Decree 85/2004 (IV.19) on *Procedures Related to Government Subventions in accordance with paragraph (1) of Section 87 of the Treaty on European Union*, Gazette 2004/49, 19 April 2004.

Governmental Decree 18/2001 (VI.30) on Manpower Loaning, on *the Registration Procedure of Private Manpower Mediation and Conditions of Their Functioning*.

Government Decree 9/1999 (I.27) on the Amendment of Government Decree 89/1995 (VII. 14) on the *Employment-Health Service*, Gazette 1999/5, 27 January 1999.

Government Decree 14/1994 (VI.24) on *Training Obligations and Special Educational Services*.

Ministry of Economy Decree 30/2000 (IX.15) on *Labour Market Services and Related Incentives*

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