

HUNGARIAN GOVERNMENTAL MEASURES REGARDING ROMA INCLUSION

Legal Background

- The Hungarian Parliament unanimously adopted its decision on Decade of Roma Inclusion Strategic Plan on June 2007. For implementing this Strategic Plan in the period of 2008-2009 the Government adopted an action plan. In the frame of action plan we enforced several measures on improving education, housing, labour market position and health of Roma, furthermore fighting against discrimination.
 - 68/2007 (VI.28.) parliamentary resolution on the Decade of Roma Inclusion Programme Strategic Plan
 - 1105/2007. governmental decision on the Government Action Plan for 2008–2009 related to the Decade of the Roma Integration Programme Strategic Plan (The action plan for the period of 2010-2011 is under way.)

Housing

- **Housing and social integration program of people living in Roma settlements**
 - Between 2005 and 2009, 39 villages were supported totally by 3095 million HUF.
 - The main goal of the program is to improve the living conditions of those living in Roma settlements or settlement-like environment (ghettos). In order to accomplish this, the Ministry of Social Affairs and Labour has initiated the construction of social housing, infrastructural development, as well as renewal works of residential buildings, within the context of the housing subprogram. In the context of the social welfare subprogram, the Ministry supported the initiation of employment and training programs; the easing of the conditions necessary for the utilisation of social services; and the establishment of the conditions necessary for the integrated education of children.

Employment

- The participation of Roma was a determining factor in the national public utility and public employment programs. In 2008, the national budget ensured 3.5 billion HUF for the implementation of the public employment programs, which involved the employment of 13,500 persons during the year. The activity of Roma in labour market training programs and adult training programs is gradually increasing.
- The number of Roma participating in vocational training within the central program called “One Step Forward!” aiming at the improvement of the labour market chances of those with a low level of education was considerable. In 2007-2008, the national budget ensured HUF 10.6 billion for the implementation of the “One Step Forward!” program.
 - Numerous employment promotion programs are being implemented with the support of the European Union, within the frame of the Social Renewal Operational Programme (SROP) of the New Hungary Development Plan.

- The central program named “Decentralised Programs for the Employment of the Disadvantaged” has been initiated within the SROP and is being implemented by the regional labour centres and their local offices, with extensive social partnership.
- The START programs, which have been going on for years, are aimed at giving incentives to employers to employ those who are marginalized in terms of their labour market situation. Building on the favourable results of the START programs in promoting the employment of the younger generation, the programs START-PLUS and START-EXTRA have also been elaborated. The implementation of the program makes it possible to support more than 22,000 adults. There was altogether HUF 2.66 billion available in 2008 within the context of job creating tenders supporting enterprises in two programs, which made it possible to support around 160-170 enterprises.
- The main goal of the program called “The Road to Work” is to give incentives to those assisted by social aid while being long-term unemployed so that they seek work and to improve the terms of their employment. According to plans, the program beginning on 1 April 2009 will achieve the temporary employment in 6 hours of about 60-66 thousand persons yearly.

Equal opportunity funding policy

- Basic idea: about 650.000 Roma people live in Hungary and most of them live in extreme-poverty brought about by the fact that they have low school qualification, they are long-term unemployed and they live inhuman environment in Roma settlements or ghettos. The segregation, which manifests itself primarily in Roma people’s separation and social exclusion based on their social and ethnical status, causes serious problems as well. The segregation hinders equal access to basic services as health care, social services, educational system etc. or provides access to services with lower quality only.
- The equal access to (EU and national) funds of Roma is essential for their social integration.
- The unequal access to funds, to development resources by Roma is influenced by the following reasons:
 - Regional deprivation – the Roma are living in the most disadvantaged regions and in segregated neighbourhood.
 - Roma have low capacity for showing the interest in resource-allocation.
 - Direct exclusion (discrimination) from EU support.
- Taking into account these conditions, there is an essential need for new principles in allocation of funds, particularly EU funds. The Hungarian Government has developed the so called Equal Opportunity Funding Policy (EOFP) in 2007, which were introduced first in the field of public education and urban-rehabilitation. The EOFP is used in the so-called Function Extension and the Integrated Social Urban Rehabilitation tenders announced in 2008 and 2009 in the frame of the Regional Operative Program of the New Hungary Development Plan (NHDP). Besides a guide was also elaborated concerning equal opportunities within the context of the project aimed at the complex development of the most disadvantaged 33 micro-regions.

- The main goal of the EOFP is to introduce a new, Equal Opportunity Plan for allocation of EU funds. The Equal Opportunity Plan is an obligatory part of all tender proposals in the field of public education and urban-rehabilitation, submitted by municipalities, schools, etc.
- The main purpose of the Equal Opportunity Plan:
 - the introduction of Equal Opportunity Plan will contribute to equal access to EU funds by the Roma. In the allocation of sources with considering horizontally the principle of equal opportunity, the equal access to EU and national funds of people living in extreme poverty – among them a great number of the Roma – could be ensured.
 - professional planning sources for solving equal opportunity/exclusion problems.
- Besides, further goals ensuring the sustainability and efficiency of developments:
 - abolish segregation in the field of housing and education.
 - facilitate participation of disadvantaged persons in labour market as well as adult training programs.
 - ensure equal access to public services, health and social services.
- The amendment of the Act on Equal treatment and promotion of equal opportunity was adopted by the Parliament in the beginning of this November. The main points of the modification:
 - preparation of an Equal Opportunity Program will be obligatory for local governments in every 5 years and it has to be reviewed in every two years.
 - the Equal Opportunity Program consists of an analytical report and an action plan.
 - the Equal Opportunity Program is an obligatory attachment of tenders financed by EU and national funds.
 - equal opportunity experts will help the local governments in preparation and implementation of Equal Opportunity Programs.

The new package of governmental measures concerning Roma inclusion

The Prime Minister Mr Gordon Bajnai announced the new governmental measures in the end of September which consists of the following actions.

- **Job for graduate Roma people in the public sector programme**
 - This programme gives opportunity for Roma people who have qualification to work in public sector.
 - It ensures professional and financial help in the participation of necessary exams for more than 250 persons and jobs for 200 persons from 1 January 2011.
 - The programme is financed by the New Hungarian Development Plan.
- **Complex programme in order to abolishment of Roma settlements**
 - The main goal of this programme is to improve the living conditions of people living in ghettos. The programme has four main elements: housing, education, employment and health care.
 - In the period of 2009-2013 totally 8400 million HUF (51% EU-fund, 49% national budget) will be used for the implementation of this program.
 - In the frame of this programme about 100 Roma settlements will be abolished.

- **“Afternoon school” programme (Tanoda program)**
 - In Hungary the “Afternoon schools” (“Tanoda”) function for about 15 years.
 - The support of “Afternoon school” programmes started in 2003 in the frame of Phare.
 - In the first National Development Plan 67 organizations were supported totally by 1,150 billion HUF.
 - In the frame of the New Hungary Development Plan the application was published in March 2009 for supporting the programme.
 - The duration of the project: 20-24 months.
 - 60 projects were supported totally by 1,51 billion HUF.
 - Resource: in the period of 2007-2013: 5,188 billion HUF.
 - The goal of this programme is to improve the further educational, labour market and social inclusion chances of disadvantaged groups, especially the Roma, through providing services after regular school hours in the study halls. The specific objectives of the “Afternoon school” Programme are:
 - to decrease and prevent dropping out among disadvantaged pupils;
 - to increase the proportion of disadvantaged students who continue their studies in secondary schools giving maturity certificate (A-level);
 - to promote the success in the school of the students participating in the Programme; and
 - to broaden the competences of participating teachers needed to deal with disadvantaged students.
 - The Programme achieved its objectives through the development of the necessary infrastructural environment; through individual development plans, operating individual, sometimes micro-group developmental units; and through consultation with parents on a more direct level compared to schools.

DESEGREGATION MEASURES IN PUBLIC EDUCATION

I. Support policy governed by the principle of equal opportunities: Mainstreaming equal opportunities criteria into the distribution of funds

Background

The Government of the Republic of Hungary attaches key importance to the promotion of education indispensable for the advancement of disadvantaged social groups, including a large number of young Roma people. This endeavour is maintained even despite the current involuntary frugality called for by the financial crisis. The National Development Plan (NDP) as well as a set of related or unrelated measures provided the best opportunity to achieve this goal. Among these, it is important to highlight the introduction of integration support and the associated support facilities, the various scholarship programmes (in particular the so-called Útravaló programme), and the series of legislative amendments needed for their implementation, to be presented in Chapter II.

For example, some HUF 7.7 billion has been earmarked under the Human Resources Development Operational Programme to *ensure that disadvantaged students have equal opportunities in the education system*. As part of the successor of the NDP, the New Hungary Development Plan

(NHDP), programmes demanding significant funding (nearly HUF 40 billion) have been launched to reduce segregation, to expand enrolment in kindergartens, to curtail the high rate of Roma children reaching school-age labelled as students disabilities, to improve access to quality education, to cut back on dropouts, and to improve the educational situation of students with special educational needs. However, the multiplying effect expected as a result of the implementation of these programmes, which has been made possible by the introduction of the ***equal opportunities-based support policy*** detailed hereunder, transcends in importance the associated respectable amount of funds.

Formerly, in the planning and implementation phases alike, the Hungarian education governance anticipated to achieve a breakthrough by means of the so-called incentive programmes, for example by announcing calls for applications, which allowed schools to have a stake in the introduction of inclusive education.

However, this more or less traditional tool failed to produce the expected results in the elimination of school segregation.

The validity of the above claim is well-demonstrated by the fact that not even the tender specifically announced to eliminate segregation between schools and the relatively high total amount available under it seemed to be sufficient to inspire an adequate number of applications. It became apparent that the traditional tendering logic would not, or at least does not always, work towards such goals as desegregation, since desegregation may not necessarily coincide with the concerns of school maintainers.

Equal opportunities-based support policy, in turn, considers the issue of desegregation and equal opportunities as one of the decision-making competences of applicants only to a certain extent. However, under this policy facing and handling problems related to equal opportunities are construed as a precondition for accessing the various funds.

What is equal opportunities-based support policy?

The EU Structural and Cohesion Funds include targeted funds for the resolution of specific problems with regard to equal opportunities. In the case of general development funds, which at first sight seem less relevant in terms of equal opportunities, equal opportunity issues can prevail more indirectly as horizontal criteria. Yet, as practice shows, targeted funds *per se* will not suffice and general development funds may well increase inequalities in the course of distribution.

An equal opportunities-based support policy merges the above-described two types of logic:

- on the one hand, it assigns earmarked funds to the resolution of specific problems related to equal opportunities, and
- on the other hand, it gives effect to horizontal, equal opportunities criteria also in the case of general development funds by stipulating situation analysis and the planning of concrete, accountable interventions as a requirement.

Actual operation

The main point of equal opportunities-based support policy is that the local governments applying the policy may only be granted public education funds if they have a plan for equal opportunities in public education in place. When preparing an equal opportunities plan, it is especially important to examine whether the non-discrimination, non-segregation and the educational and social integration of multiple disadvantaged students are promoted in the given municipality and association. **Apart from a situation analysis, local governments in their action plan must undertake to consistently observe equal opportunities criteria in their**

development projects, and to fulfil the obligations they have assumed in an accountable manner in order to eliminate the different forms of segregation.

In municipalities where preliminary data reveal a greater proportion of disadvantaged students or where there are segregation-struck areas, the quality assurance of the plans is performed by independent experts appointed by the competent ministries. Without their countersignature, the plan is invalid.

With regard to the public education development projects under the NHDP, equal opportunities and segregation-free education thus appear as accountable and, so to speak, monitorable criteria for each project that concerns education.

For certain priority calls, the applications submitted undergo a special assessment for the determination of their relevance in terms of equal opportunities. This relevance assessment examines whether the projects facilitate the achievement of the goals contained in the equal opportunities and anti-segregation plan of the municipality, or if they actually work against these goals.

Results

Owing to the above-described equal opportunities-based support policy, over the past two years 1,200 municipalities drew up a plan for equal opportunities in public education. Municipality leaders assumed an exactly defined number of concrete and accountable commitments for solving the equal opportunities problems revealed.

The implementation of the measure yielded results also in other sectors, first with regard to development projects aimed at urban rehabilitation. As part these development efforts the so-called **anti-segregation plan** guarantees that mandatory actions to ease the housing difficulties of the social groups concerned are undertaken.

Following the announcement of the Government in October, in addition to the areas of education and housing, henceforward an equal opportunities plan will emerge as a compulsory element also with regard to every EU development project, the implementation of which will also be verified. Thus, if a municipality wishes to apply for EU funds, it must also enclose an action plan for the elimination of inequality. Where a municipality taking part in the programme fails to execute the action plan within five years, it must repay the support.

Within the framework of the Progress Programme, which is overseen by the portfolio for social affairs and is financed from EU sources, Hungary initiated a joint declaration issued in June 2009 by the government representatives of Bulgaria, the Czech Republic, Slovakia, Spain and Hungary, according to which declaration the criterion of equal opportunities should be considered as a precondition when distributing EU funds, and that **no projects increasing segregation should be financed from the Funds of the EU**. This Hungarian practice was met with both international and national approval, and several EU states expressed their intention to adopt this equal opportunities-based support policy.

II. Equal opportunities measures in education – broken down by levels of education

1. Kindergarten

1.1. Support for the organisation of kindergarten development programmes

Since the 2007/2008 school year, kindergartens admitting multiple disadvantaged children can apply for support if the institution educates multiple disadvantaged children in accordance with the programme issued by the Minister of Education^[1] in an inclusive environment. Such support covers the expenses associated with the kindergarten education and development of multiple disadvantaged children. In order to qualify for the support, at least seventy percent of the three-year-old, multiple disadvantaged children living in the district of the kindergarten must participate in kindergarten education, plus the ratio of multiple disadvantaged children should reach fifteen percent in the kindergarten. **The aim of the support is to encourage the earliest possible kindergarten enrolment of as many multiple disadvantaged children as possible.**

In the 2009/2010 school year, the per capita support amount equalled to HUF 68,500, and the support applied for covered 17,200 multiple disadvantaged children. 676 member institutions joined the programme.

1.2. Support for the kindergarten education of multiple disadvantaged children

Kindergarten education support seeks to relieve the burdens of families raising multiple disadvantaged small children and to facilitate the earliest possible admission of these children into kindergarten. Families may receive this support twice a year, on the basis of neediness, for their three or four-year-old children enrolled in kindergarten. The support is conditional on the child's regular kindergarten attendance.

The basic objective of kindergarten admission support is to integrate the neediest children currently not attending kindergarten in kindergarten education. This way they have better chances of subsequently realising a more successful school career than anticipated without regular, continuous and possibly longer-term participation of such children in kindergarten education.

The amount of support for kindergarten education is HUF 20,000 upon the first occasion, and equals HUF 10,000 thereafter. Kindergarten support has been available since 1 January 2009.

2. Institutions of primary and secondary public education

2.1. School district boundaries

The provisions serving the prevention of school segregation and governing the establishment of school district boundaries entered into force on 1 January 2007. One of the most important requirements related to equal opportunities for students is that schools providing compulsory admission should not segregate students based on their origin or social status. Within the meaning of the statutory provisions, the ratios of multiple disadvantaged students in the specific admission districts may not differ from one another to a degree higher than stipulated.

2.2. Preparation for inclusiveness and ability development

From September 2003 onwards, institutions of public education may apply for extra support for the inclusive education of multiple disadvantaged students^[2].

The introduction of educational inclusion gave rise to a large-scale pedagogical renewal in the course of which basic and in-service teacher training programmes were developed in 11 pedagogical methodological areas. So far some ten thousand teachers of those working in inclusive educational establishments have learned how to apply these modern pedagogical methods.

^[1] Pursuant to Decree No 11/1994 MKM on the operation of educational and teaching establishments

^[2] So-called inclusive and ability development preparation

In the 2009/2010 school year, nearly 1000 schools applied for inclusive and ability development support, which benefited almost 59,500 multiple disadvantaged students. The highest amount of the support is HUF 61,500 per student.

By now, as many as one quarter of the primary schools have joined this methodology-based programme.

As regards the effect of inclusive education on the school achievements of children, based on a research^[3] it can be concluded that **inclusive education improves the school achievement of Roma students, does not worsen other students' results and, furthermore, the modern pedagogical methods applied may better students' self-esteem regardless of their ethnic origin. Another increment of integration is that it enhances the social acceptance of the Roma among the school-age population.**

2.3. Útravaló Scholarship Programme

The Ministry of Education launched the Útravaló Scholarship Programme in September 2005.

The overall goal of this scholarship programme is to facilitate equal opportunities for disadvantaged students, to improve young people's chances of participating in further education and to facilitate learning a profession, obtaining a secondary school-leaving certificate and an academic degree, and to provide for the talent management of students with an interest in sciences. The three equal opportunities sub-programmes operated under this scholarship programme await joint applications from students and their mentors, both of whom are eligible for a scholarship.

Students and mentors have shown and continue to show great interest in the programme, which is also confirmed by the large number of applications submitted. Since the start of the programme, applications tended to be 2 to 2.5 times in excess of the available funds. The original objectives of the programme appear to have been fulfilled: as a result of the initiative, 80 percent of the scholarship holders in the primary school sub-programme continued their studies in secondary school, 95 percent of the students in the secondary school sub-programme acquired a secondary-school leaving certificate, and 70 percent of the scholarship recipients in the vocational education sub-programme have been enrolled to learn a niche profession.

There are some 20,000 students participating in the programme per year.

2.4. Arany János Talent Management Programme for Disadvantaged Students, Arany János College Programme for Disadvantaged Students, Arany János College/Apprenticeship School Programme for Multiple Disadvantaged Students

The Arany János Talent Management and the Arany János College Programmes help disadvantaged students to continue their studies in secondary school. The aim of the Programmes is to significantly increase the number of the children of the most impoverished and least educated parents in full-time vocational secondary and secondary grammar schools granting a secondary school-leaving certificate. Having completed the eighth grade, students admitted to the programme attend a one-year preparatory class and then can continue their studies in one of the certificate-awarding secondary schools participating in the programme. As of 2007, the Arany János programme has been extended to vocational training schools as well.

3. Higher education

^[3] Kézdi Gábor-Surányi Éva: Egy sikeres iskolai integrációs program tapasztalatai (Experiences of a Successful School Inclusion Programme)

3.1. Programme to support the academic studies of the socially disadvantaged youth (Mentor Programme)

The aim of this programme is to facilitate the admission of the socially disadvantaged youth into institutions of higher education and to help their academic progress. The programme consists of two elements:

- to ensure that the socially disadvantaged youth are admitted to higher education institutions by granting them preferential conditions as part of the admission procedure;
- to facilitate the adaptation of those concerned with the help of the Mentor Programme, and to decrease the dropout rate.

3.2. Support for young Roma enrolled in fee-paying training

This programme seeks to provide scholarship for Roma students who pursue their first or second academic degree or their first scientific degree (PhD) in fee-paying courses.

4. Support for teachers

Supplementary honoraria for teachers employed in institutions participating in the integration system

Teachers employed in establishments that are granted kindergarten and school integration support are, as of 2009, eligible for supplementary honoraria. Teachers receiving supplementary honoraria are required to contribute to the performance of at least three of the activities listed in a separate piece of legislation.

The head of the institution may specify a monthly gross amount of HUF 5,000 to 60,000 per teacher. There were 475 maintainers applying for such support covering 10,921 teachers (in 587 schools and 444 kindergartens).

PROTOCOL No. 12 TO THE EUROPEAN CONVENTION ON HUMAN RIGHTS

1.) Protocol No. 12 entered into force on 1 April 2005, upon the expiry of the period prescribed to elapse following the deposit of the required 10 instruments of ratification. So far 17 states (Albania, Andorra, Armenia, Bosnia and Herzegovina, Croatia, Cyprus, Finland, Georgia, Luxembourg, Montenegro, the Netherlands, Romania, San Marino, Spain, Serbia, Macedonia and Ukraine) out of the 47 Council of Europe member states, have ratified the Protocol. We note that states with significant democratic traditions like the United Kingdom, France, Switzerland, Sweden or Denmark have not only not ratified but have not even signed the Protocol as they have concerns about its feasibility.

Hungary – similarly to the overall majority of the EU member states – have taken the position that ratification should only take place well-preparedly, when sufficient information is available. By the time the Convention was ratified in 1992 by Hungary the Court had already developed a well-established case law on most human rights, thus the Articles concerned were filled with fairly precisely formulated content. The scope of application of the protection against discrimination will, however, become much broader than previously, due to Protocol No. 12. Therefore it is justified first to learn how, in what sphere and to what scope, with what concrete content the document is going to be applied by the Court. The majority of EU member states seem to have adopted a wait-and-see attitude for similar reasons.

It is also expedient to wait and see how the entry into force of Protocol No. 14bis, substantially reforming the Strasbourg procedure, will affect the workload of the significantly overloaded Court. The aim of this Protocol was precisely to ease the Court's almost unbearable workload. The application of Protocol No. 12, however, will probably significantly increase the Court's caseload. Vast majority of applications enshrined by the Convention launched against the Contracting States are unacceptable. With the application of the new discrimination clause enshrined in Protocol No. 12. the number of unaccepted application, partly due to the broad definition of the new provision will further increase the burden of the Court. Even if domestic legislation is in conformity with the Convention and its case law hundreds, if not thousands of ill-founded complaints could be sent to Strasbourg with a simple reference to discrimination. The Court should be saved from this wave of unacceptable applications.

A further aspect to be taken into consideration is that Act No. CXXV of 2003 on Equal Treatment and the Promotion of Equal Chances set up, from 1 January 2005, the Equal Treatment Authority with powers to investigate domestic complaints about discrimination. It is expedient to wait until sufficient information is gained about the activity and practice of the Authority, thereby we can become satisfied whether there exist in our legal system an efficient legal remedy and institutional system for complaints about discrimination.

Therefore it is expedient to raise the question of ratification anew when sufficient information is available to conclude that the domestic law is prepared in all respects and ensures adequate legal solutions to the efficient treatment of discrimination complaints. For the foregoing reasons, in the near future we do not plan to prepare the ratification of Protocol No. 12.

REGULATION OF FREEDOM OF EXPRESSION

2.) The freedom of opinion has a distinguished role among the fundamental rights. In the nineteen years since the democratic transition the Hungarian law intensively protected the freedom of opinion and left very little scope for the limitation of the freedom of speech and actions against spiteful statements, exceeding and extremely violating the freedom of opinion. It is important to stress that the fundamental rights may be exercised not only in compliance with the provisions of the Constitution and the provisions of the laws on the right of assembly and the right of association, but the interpretation of the Constitution by the Constitutional Court and the requirements for Constitution-conform fundamental right limitations are also extremely important. Consequently, the scope of movement of the legislator is necessarily influenced by the practice of the Constitutional Court developed in relation to the specific fundamental right. As a result of this the legislator may only adopt legal regulations subordinated to the Constitution which comply with the interpretation of the Constitution developed by the Constitutional Court.

In its 30/1992. (V. 26.) CC resolution annulling some of the provisions of the Criminal Code on incitement against the community, requiring punishment also for 'abuse', the Constitutional Court theoretically stated the general criteria of limitation of the freedom of opinion and has consistently applied the test of this fundamental right expressed in this resolution ever since.

This was the first resolution in which the CC first expressed the principle whereby although the fundamental right of opinion may not be limited, the right of the freedom of speech 'must make concession only towards very few rights'. The Constitutional Court applied this statement when it derived the measure according to which: '[a] any restrictive act to be considered against the freedom of opinion has a greater weight if it directly serves the enforcement and protection of another subjective fundamental right, while it has a smaller weight if it protects such rights only

as an underlying measure, through the mediation of any 'institution', and it has the smallest weight if its object is only some abstract value (e.g., public calm)'. The CC's concept was completed with the principle of value-neutral protection of the right of free opinion irrespective of its content of truth. The Constitutional Court applied this principle when it stated that the 'freedom of opinion had only external limits' and the same principle was used to draw the conclusion whereby 'as long as any communication is within the external limit drawn by the Constitution, the possibility of and the actual declaration of views and opinion is protected, regardless its contents'.

There is no doubt that in Hungary there has been an increase in the more louder and more aggressive, extreme statements in the recent years that are unacceptable in a civil democracy and are aimed at, and result in, hatred among the members of the society, or provoke aggression against people belonging to a specific group of citizens or the society, dissemination of despotic concepts which question human rights and the basis of the rules of democratic co-existence in a state of law, and exercise pressure by way of violent or threatening actions.

In reaction to the social phenomena indicated above, the Government of the Republic of Hungary made several attempts to increase the efficiency of the available legal instruments against the rapidly spreading and increasingly aggressive and extremely inciting actions.

In this context, Parliament modified the definition of the crime of incitement against community in the Criminal Code in 2003 and 2008. In 2007, Parliament approved a draft bill on the amendment of the Civil Code, in which the legislator intended to apply civil law instruments to protect the personal rights of members of certain minority groups against actions which violate the human dignity of the group. However, the Constitutional Court annulled the already passed, but not yet promulgated acts on all three occasions, therefore they did not enter into force. [See: 12/1999. (V. 21.) CC Resolution– modification of the Civil Code related to incitement against community; 18/2004. (V. 25.) CC Resolution – modification of the Criminal Code related to incitement against community; 95/2008. (VII. 3.) CC Resolution – modification of the Criminal Code on the penalization of abuse; 96/2008. (VII. 3.) CC resolution – modification of the Civil Code on the protection of a member of a group against any action affecting the group and violating human dignity.]

These facts made it clear that the Constitution must be modified before the legislator, intending to change the existing legal instruments, can act against the actions arousing hatred.

Then the Government submitted the applicable proposal for the modification of the Constitution to Parliament on 2 March 2009.

The purpose of the T/9045 draft bill amending Act XX of 1949 on the Constitution of the Republic of Hungary was to lay down even clearer boundaries between any insulting or shocking, yet constitutionally permitted statements and any other expressed views arousing hatred, which are extremely harmful and therefore may not be tolerated.

On 4 May 2009, socialist MPs also submitted a bill for the purpose of laying down the constitutional foundation of actions against hate speech. The T/9584 draft bill amending Act XX of 1949 on the Constitution of the Republic of Hungary also intended to lay down the constitutional rules required for more effective criminal law provisions against hate speech and also intended to modify the constitutional limitations applicable to the right of assembly and the right of association. In addition, the draft bill also covered the prohibition of the negation of genocide committed by certain despotic systems. However, on 29 June 2009, Parliament did not have two-third majority, which would have been required for the approval of the draft bill.

The Government is fully committed to putting in place more effective legal instruments against any phenomena generating hatred and imposing a threat on the basis of co-existence in the society. Such phenomena and actions have a clearly severe impact on minorities, including also

the Roma people. However, based on the circumstances outlined above and the legal amendments requiring qualified majority, no legal actions can be developed without the consensus of the parties represented in Parliament. Unfortunately, this political consensus has not yet been achieved.

On the other hand, recently there have been several results in combating extreme actions generating fear in certain groups of the society. Despite the failure of the Constitution and legal amendments proposed by the Government, numerous actions arousing hatred were successfully controlled. Thus in July 2009 a Hungarian court dissolved the Hungarian Guard Association, which organised a number of activities in public areas which led to an outcry and intimidated the Hungarian Roma people. Ever since the police have acted strongly against similar actions. Another example is the events planned in Budapest this year to commemorate Rudolf Hess, the Nazi war criminal, which were banned by the police. In addition, we also successfully protected the people participating in the demonstration on the Hungarian Gay Pride Day from attack which were observed in the previous years.
