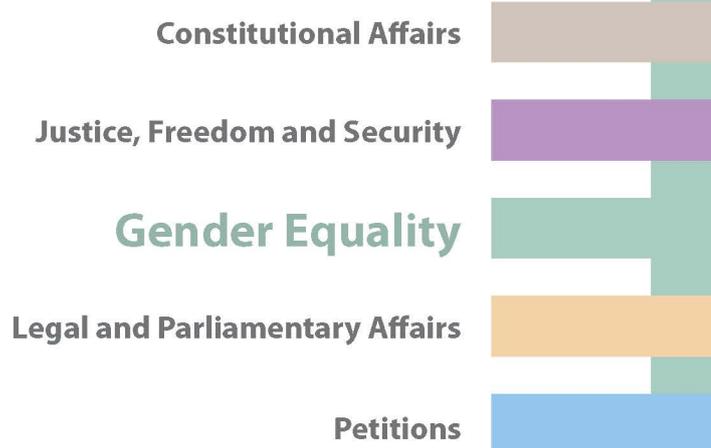


DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT **C**
CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS



**THE POLICY ON GENDER
EQUALITY IN HUNGARY
UPDATE 2013**

NOTE





DIRECTORATE GENERAL FOR INTERNAL POLICIES
POLICY DEPARTMENT C: CITIZENS' RIGHTS AND
CONSTITUTIONAL AFFAIRES

GENDER EQUALITY

THE POLICY ON GENDER EQUALITY
IN HUNGARY

UPDATE 2013

NOTE

Abstract

This note updates the overview of gender equality in Hungary from 2010. Apart from providing the history of institutional and political development in Hungary in this area, it illustrates in particular measures taken regarding women's economic independence, the reconciliation of work and family life, women in decision-making, policies against violence against women, and the fight against stereotypes. Moreover, the two controversial issues of sexual health and rights and prostitution are briefly addressed.

This document was requested by the European Parliament's Committee on Women's Rights and Gender Equality.

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BACKGROUND: THE HUNGARIAN POLICY MAKING CONTEXT

Hungary is a country of about 10 million inhabitants in Central Eastern Europe. Historians point out the importance of her geopolitical location at the crossroads of East and West: Hungary acted as the westernmost border of the Roman Empire, of Western Christianity and the eastern border of the Turkish invasion and the Communist rule. This border position, some argue, creates an interesting mixture of ideas, cultures and political ideologies in the region.

Hungary was a state socialist ("communist") country until 1989, when the regime collapsed and the first multi-party elections in the spring of 1990 ushered in a new, democratically elected government. The transition from communism entailed the privatisation of productive assets and the integration of Hungary into the global capitalist market. Hungary opened its borders to foreign investors and has one of the highest rates of foreign direct investment flow in the region.

The transition had a **complex impact on gender relations**. Women's position deteriorated in many respects. Many women **lost their jobs**, welfare state cutbacks meant **fewer childcare places**, and a **decline in the real value of subsidies** for families with children. However, new issues relevant for gender equality (such as violence against women, or same sex partnership) could become **subjects of political discussion after 1989**. While some researchers argue that women suffered disproportionately due to the marketisation process, others claim that this is not the case, since men also lost out to the same degree.

During the first years of the transition, little legislative attention was paid to gender equality issues. Indeed, since the communist government had explicit regulations concerning women's emancipation, the first democratic governments tended to ignore this subject and avoided regulation in this field altogether.

Hungary signed and ratified the Convention on the Elimination of All Forms of Discrimination against Women (**CEDAW**) in 1980 as well as the „Additional Protocol“ (Act LX 2001), **and submitted the 7th and 8th periodic reports, which were discussed in 2013**. The Hungarian government also adopted the **Beijing Declaration of the Fourth World Conference on Women in 1995** (govt resolution 2174/1997 VI.26). It was, however, preparations for EU membership in early 2000 which prompted renewed legislative efforts in the field of gender relations. Hungary adopted and implemented the *acquis communautaire* and joined the European Union in 2004.

1. GENERAL DISPOSITIONS

1.1. Key legislation

The main document which guides gender equality legislation in Hungary is the **Fundamental Law, which came into effect in 2011**. Article 15/3 of this document states that women and men have equal rights and article 15/2 prohibits discrimination against anyone on the basis of a number of characteristics, **including gender**. Unlike in the previous constitution, **no mention is made of the requirement of equal wages** for

men and women. Additional paragraphs prohibiting discrimination may be found in the new Penal Code and the new Labor Code.

In 2003, in preparation for European Union membership, the Hungarian Parliament passed **Act CXXV of 2003 on Equal Treatment and the Promotion of Equality of Opportunities**. The Equal Treatment Act establishes a framework for the fight against discrimination and specifies about 20 groups of people to be protected, among these, **women and mothers** (separately). It defines the concept of discrimination, names indirect discrimination as punishable and introduces the possibility of positive discrimination to right earlier disadvantages. In accordance with European Union Directives, it legislates the **reversal of the burden of proof in anti-discrimination cases**. The Act, also in accordance with EU Directives, established the Equal Treatment Authority (ETA), the main body to monitor the execution of the legislation.

1.2. Key institutional background

By the decree of the Equal Treatment Act, the **Equal Treatment Authority** came into existence in 2004. Its procedures are primarily set forth in government decree 362/2004 (with modifications in 2011). The Authority examines and decides in cases brought to its attention and has the right to fine companies or government agencies, which are found to have acted in a discriminatory manner. The Authority **makes exemplary cases public** and **contributes to legislative and educational efforts** to stop all forms of discrimination. In recent years the number of cases brought before the Authority has increased steadily. **In 2012, the ETA received 2738 complaints and queries**. Overall over 822 cases were initiated. **Violation of the Equal Treatment Act was determined in 31 cases, four of which involved discrimination on the basis of motherhood/fatherhood or gender**. Although sexual harassment is defined in the Equal Treatment Act, the Authority has not fined any company for this offense. In 2012 the **budget of the ETA was significantly cut** resulting in a decrease in the number of experts and staff members.

The conservative FIDESZ- KDNP government, which came into power in 2010, **virtually eliminated the national gender machinery** which existed under the previous government. The Department of Equal Opportunity, among many other issues, charged with promoting equal opportunities for men and women, was moved under the auspices of the Department of Social and Family Affairs of the Ministry of Human Resources and the number of staff members was significantly cut. The **tripartite Gender Equality Council** (established by government resolution 1089/2006 IX.25), a consultative body, which should advice on government decisions related to gender equality, **has not been convened at all**. A proposed law, which would have granted the inclusion of members of the established churches in the Council and which was considered by women's rights groups a good indication of the government's conservative gender ideology and policy making agenda, was withdrawn.

1.3. The National Strategy for the Promotion of Gender Equality- 2010-2021 (1004/2010 I.21) and the 2010/11 Action Plan

In 2010, the previous government adopted the document, which in this decade is expected to serve as the framework for action with respect to gender equality. The Strategy reflected priorities set by the European Union's Roadmap for Gender Equality 2006-2010, which are here translated into **concrete areas of action for the Hungarian context**. The Strategy also specified indicators to measure progress. The

financial background for the strategy was provided partially by the **national budget** and the European Union's **Structural Funds** through a variety of programs administered by the Hungarian Development Agency.

Government Resolution 1095/ 2010 IV. 21 created a **specific action plan** for the two years 2010-11 with close to thirty, clearly specified tasks, to be carried out by government agencies to promote gender equality in a wide range of areas including **paid work, care work, family and political life, health and education**. No evaluation of this action plan was published after it expired in 2011; **new action plans have not been proposed**; and no civic involvement was initiated to support a new strategy or action plan.

2. THEMATIC DISPOSITIONS

2.1. Equal economic independence for women and men

A **new Labor Code** (LXXXVI, 2012/ I.) has been in effect in Hungary since 1 July 2012. Article 12 of the document guarantees **equal treatment for all workers, especially in the real wage setting in the most general ways**. Unlike the previous Labour Code, the new one **does not require employers to prepare an equal opportunity plan**.

2.1.1. Access to paid work

While during the communist era most Hungarian women worked full time all through their adult lives, by 2012 the **employment rate of Hungarian women is one of the lowest** in the EU. **A little over 56% of Hungarian working age women were employed in 2012** and this represents a small growth compared to previous years (Eurostat 2012). **Achieving a higher participation of women in paid work** is one of the foremost goals set out by the National Strategy for the Promotion of Gender Equality and it is **one of the stated priorities of the new government** as well. **Programs** to this end are **funded by Ministries** as well as by the National Development Agency using resources allocated through the **European Union's Structural Funds**.

Mothers with small children are especially unlikely to be in paid employment, the **gap between mothers' and non-mothers' participation in paid work is the second largest** in the EU¹. The government has passed **some measures encouraging new mothers to go back to work**. For example, employers, according to the new Labour Code, are required to allow parents of small children to **work part time** up to the age of 3 of their youngest child. A number of small projects, encouraging family friendly workplace environments, have also been initiated.

An important reason for the low rates of women's labour force participation is the **unavailability of part-time employment** options in Hungary. While 36% of women worked part-time in the Eurozone 17 countries in 2012, only 9.7% did in Hungary (Eurostat 2012). This represents an increase, albeit a rather small one compared to previous years.

¹ Frey, Maria. 2009. Nők és férfiak a munkaerőpiacon – a Lisszaboni Növekedési és Foglalkoztatási Stratégia céljainak a tükrében [Women and men in the labor market in light of the Lisbon Strategy] in Nagy Ildikó and Pongrácz Tiborné (eds). Szerepváltozások: Jelentés a nők és férfiak helyzetéről 2009 [Changing Roles: Report on Women's and Men's Situation 2009].

Another reason why women's employment level is low in Hungary is the **low proportion of women over 55 active in the labour market**. This number declined slightly between 2011 and 2012 and further decrease is expected as the austerity packages mandate public employers to reduce the workforce. In this situation, as in the early 1990s, companies tend to ask older workers to retire (those over 62 years of age) or to agree on pre-pension regimes instead of laying off active age workers. In 2012, on average 42% of women between 55 and 64 were employed in the 28 European Union member states, but only about 32% in Hungary (Eurostat 2012). It should be noted that men's employment rate in the same age group is similarly low.

2.1.2. Segregation of the labour market, pay gap

The **gender pay gap in Hungary was 18% overall in 2011**, somewhat higher than the European Union average of about 16.2%.² More problematically, this number represents a slight but steady **increase over the past 5 years**: the gender gap in wages has grown. The main reason for the wage gap is job segregation: indices show that men and women tend to do different work and work in different sectors and both **occupational and sectoral segregation** are higher in Hungary than the EU average (Frey 2009, Bettio et al 2012). **No government program exists that focuses on this problem.**

The Department for Equal Opportunities has dismissed and has not restructured the expert groups whose task had been to advise and monitor the implementation of the priority areas targeted in the Roadmap for Gender Equality 2006-10. Instead, in April 2012, a **special Deputy was appointed to oversee programs targeting women's labour market position**. She is working within the Labour Department of the Ministry of the National Economy.

2.2. Equal participation in decision making

The representation of women in high levels of political decision making has been quite low in Hungary since 1989. After the most recent elections in 2010, 35 members of the Hungarian Parliament are women, i.e., **9% of all MP's**. This is the **lowest proportion in the EU**. The proportion of women political leaders is somewhat higher at the local level (Koncz 2008) and in the European Parliament (Levai 2009).

After a **failed quota bill** proposed in 2007, another one was introduced by two MP's in 2011, but it had a similar fate. Currently, the Hungarian Socialist Party has a 20% quota for those listed on its national party list and the tiny liberal-green LMP requires women and men to alternate on their list.

Opinion polls show that **public support for women's political participation is low** and Hungary has **no effective institutional mechanism** which would promote women into political positions. The new electoral system, introduced by the current government and set to be used in the upcoming elections in spring 2014, further reduces the probability of equal representation. The new system will give more weight to candidates elected through direct voting in constituencies and overall reduces the number of MP's. **No special**

² This is what is called the unadjusted wage gap, the percentage difference in the gross hourly earnings of men and women. The unadjusted wage gap is one of the basic indicators used by EUROSTAT. The measure does not take into account individual differences between men and women which may also account for a difference in earnings, this is what it is called « unadjusted ».

legislation or measures promoting gender equality in political participation have been proposed.

Presently, the government has 10 members, of whom only one is a woman. She is responsible for national development programs.

2.3. The eradication of all forms of gender based violence

2.3.1. Trafficking in Human Beings

Hungary signed and is party to the "New York Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others" (New York, 21 March 1950).

Trafficking is a growing problem in Hungary. Hungary is **primarily a transit country**, although it **serves as a source and destination as well**. In line with EU regulations, the new Penal Code (Article 192) explicitly prohibits trafficking and any form thereof. Hungary has recently **ratified the Council of Europe Convention** on Action against Trafficking in Human Beings (CETS No.:197), which came into force in August 2013. EU **Directive 2004/81** on providing temporary visas for victims of trafficking from third countries as well as Directive 2011/36 on preventing and combating trafficking in human beings and protecting its victims" were also transposed. In addition, a **working group** coordinated by a government representative operates within the Ministry of the Interior whose task is to oversee the fight against human trafficking.

In 2008, a **National Strategy** was designed and accepted by the previous government to combat trafficking in persons (1018/2008. (III. 26) but the **implementation has been very slow**. Most recently, a **new action plan** was produced and accepted by the Parliament in May 2013.

The Hungarian government provides **limited protection to victims of trafficking**. A **small shelter** operates – in recent years **without significant financial support** from the state - to support victims. Although **Act CXXXV of 2005 regulates the services that must be made available to victims of crime**, including victims of violence and trafficking, NGO's regularly report the **mistreatment of trafficking victims by authorities** and a **lack of attention and expertise on the part of professionals** dealing with these cases. In addition, reports show that the Hungarian Courts tend to give more lenient sentences to trafficking offenders than mandated by the Penal Code, which suggests that **judges lack expertise in this field**³.

Government agencies recently started to organize **training sessions and the dissemination of informational material to judges and the police**. The Ministry of the Interior operates a **help line** and a **website** with information on anti-trafficking measures. These are positive developments but a systematic and better funded assistance program as well as much more training and development for professionals working in this field are needed.

³ <http://www.state.gov/documents/organization/192595.pdf>

2.3.2. Domestic violence

The existence of domestic violence was not acknowledged openly under the communist regime. After 1989, several measures were passed to amend this situation but **Hungary still lacks a systematic approach to the issue.**

In 2003, prior to EU accession and following a handful of much publicized cases, the head of the Hungarian Police Force issued a document specifying a **set of practices and procedures to deal with cases of domestic violence within the Police Force** (13/2003) and the **Parliament decreed that a strategy** should be developed to stop domestic violence and to disseminate information about it (Parliament decree 45 and 115/2003). **Marital rape** (sexual violence in marriage) **has been criminalised** in the Penal Code since 1997, although **very few cases** have been prosecuted so far.

The new Penal Code (in effect since July 2013, article 212/2) finally defines **domestic violence as a punishable legal category**. Until very recently, prosecution had to draw on a number of different articles in the old Penal Code, such as those addressing battery or assault. The new legislation mandates **heavier sentences** to offenders. It also includes new regulations on restraining orders, meant to **support victims of violence**.

Hungary has **not yet signed or ratified the Council of Europe Convention** on preventing and combating violence against women and domestic violence (CETS No.:210) but state officials have declared a willingness to do so (see Hungarian response to CEDAW report on Hungary, 2013).

Notwithstanding the regulatory framework, combating violence against women and helping victims of domestic violence are **typically left to NGOs and charitable organizations**. A small number of crises help lines are operated in Hungary by NGOs and a state funded National Crisis and Information Hotline was established in 2005. While the help lines receive calls from all over the country, the **availability of actual help is uneven**: in rural areas shelters and access to other types of resources are limited and information on the issue of domestic violence – even among experts, such as police officers - is insufficient.

2.4. The reconciliation of private and professional life

2.4.1. Childcare institutions

In Hungary, **most children under 3 years of age are cared for at home primarily by their mothers**. Fewer than 10% of children in this age group are in public day care, thus **Hungary falls far short of the “Barcelona targets”** of 33%.

The situation is **significantly better for preschool children**: 79% of the 3-6 year old group in 2010 attended preschool and according to a new regulation (National Education Act, CXC of 2011), **attendance will be mandatory after the age of 3 in the academic year 2013/14**.

Access to **good quality childcare** is uneven: rural areas are less likely to have functioning day care facilities and even though settlements with a population larger than 10,000 are required to have a nursery school, this is not always the case. Given the deficiency compared to EU norms, the current government uses **EU funds to promote the**

development of public day care facilities and to make the establishment of private family nurseries and company-run childcare facilities easier.

2.4.2. Parental leave and career breaks

Hungary provides **very generous parental leave options** for new parents. These regulations, with some modifications, have been in effect for several decades. The system has two tracks, one for **insured mothers** (called "GYED") and another for those **without social security insurance** ("GYES" and "GYET"). New mothers, who can prove that they were insured in the year prior to the pregnancy, can claim 24 weeks of maternity leave at 70% of their previous wages and then up to 1.5 additional years of parental leave (until their child reaches 2 years of age) at 70% of their wages up to a cap, which is about 450 Euros per month in 2013 ("GYED"). **Fathers may also utilise all or some of the parental leave period.** Paid work is not allowed while receiving this benefit but the period counts towards pension and parents' jobs are legally protected.

Uninsured parents and insured parents at the end of the second year of parental leave can claim a different type of benefit ("GYES") up to the age of 3 of the child. This is a universal right, parents - mother or father or even a grandparent - receive a **flat fee equal to the minimum pension** (about 95 Euros per month). Parents are allowed to work at a maximum of 30 hours per week after the child reaches 1 year of age. Given the general unavailability of part time work in Hungary (described above) as well as the length of the leave, **this option is unlikely to encourage women to enter waged employment and to reduce discrimination against mothers and women of child-bearing age on the labour market.**

Parents of multiples and of disabled children receive more generous and longer benefits. Those with three children can extend their leave until the youngest child is 8 years old ("GYET"). Since 2002, fathers are allowed 5 working days to take care of children during their first few years of life (government resolution 305/2002). No other period is set aside specially for fathers to do so.

2.4.3. Atypical working hours, family friendly workplaces

One of the reasons why women's labour force participation is low is the unavailability of atypical, "family-friendly" working hours and work arrangements in Hungary. As mentioned above, very few people work part-time, partially because such work is unavailable, even though the existing regulations have eliminated the financial disincentives for employers.

Only a **handful of specific programs** exist to address this problem. The most important one among them, is the regulation, already mentioned above, which requires employers to guarantee part time employment for mothers of children up to age 3 upon their request. In addition, an **annual national prize** is awarded by the Ministry responsible for Family and Social Affairs, to the „most family friendly workplaces" in Hungary. This prize, which entails financial rewards as well as the title, was awarded to 23 companies in 2012.

2.5. Breaking down gender stereotypes

Hungarians tend to hold more conservative views on women's role in society than most other nations in the European Union. In a **survey on gender stereotypes**, Hungarians were more likely than people from other EU countries to support the notion that men

should have priority when jobs are scarce and that women should be prepared to do less paid work in order to care for their families (Takacs 2008).

The current government has a conservative stance on women's role in society and thus has done little to break down gender stereotypes, in fact, rather reinforces them. A prime example is the modification of the national curriculum for preschools (Government Resolution 221/2010) by eliminating a sentence that called for a fight against gender stereotypes and replacing it with the **more modest goal of avoiding prejudice of any sort in preschools**. This way, the new curriculum does not actively fight against the elimination of gender stereotypes from the education of young children. Similarly, the new curriculum for primary school children emphasizes **moral and religious education and preparation for "family life"** but barely mentions the need to support gender equality or the dismantling of gender stereotypes.

2. 6. Controversial issues

2.6.1. Prostitution

The regulation of prostitution is somewhat **ambiguous** in Hungary: researchers call the system "**limited abolitionist**" (Feher 2009). Until 1993, prostitution was considered a punishable offense in the (old) Penal Code. This was changed in 1993, when the relevant paragraph was modified and **prostitution was legalized, while pimping, running brothels, etc. were outlawed**. Similar regulations were kept in the new Penal Code which came into effect in July 2013.

In addition, the law **requires local authorities to designate specific zones for prostitution**. Besides, prostitutes must be adults and can work only on the condition of obtaining a health certificate (see Act LXXV of 1999 on the Modification of the Rules of Intervention Against Organized Crime regulates prostitution). **Health screening of prostitutes became mandatory every three months** (Order 41/1999 of the Ministry of Health) and regulations encouraged them to become **private entrepreneurs and pay taxes on their income**. The greatest problem with the law has been its application. Most importantly, local authorities have been reluctant to designate prostitution zones, even though this became mandatory for settlements over a certain size or in case prostitution became a public problem. In the meantime, **prostitutes complain of ongoing police harassment** and ad hoc charges brought against them.

2.6.2. Sexual health and rights

Access to contraceptives is limited in Hungary. First, women must pay for the cost of contraceptives which cost about 3,000 HUF (10 Euros) per months. This is not a negligible sum, especially for vulnerable groups of women. Contrary to international practice, emergency contraceptives are available by prescription only which delays most women's access and makes emergency contraceptives altogether unattainable for some groups.

A mandatory counselling session is required of women before they undergo an abortion. Reports show that during these sessions counsellors may actively try to dissuade women from having an abortion and provide biased information on reproductive health. In addition, women's rights groups take the view that discussions regarding the issue of abortion are replete with patriarchal gender stereotypes, including politicians insistence on bearing children as women's "natural" duty. The mandatory counselling and the requirement of a prescription for emergency contraceptives are perceived by many women as an assumption about their incompetence to take such a decision in a responsible way.

Access to abortion has been legal in Hungary since 1956. Recently, however, women's rights groups have noted that this right is put into question⁴ by the preamble of the new Fundamental Law of the country, in force since 2011. It states that a fetus must be protected from the moment of conception. This provision has led to concerns among professionals about the fate of legal abortions in Hungary.

In addition to the potential ambiguity of the legal framework, access to abortion is limited and uneven across the country. Only surgical methods of abortion are publicly available, the Hungarian government, ignoring the recommendation of local experts and professional associations, refuses to allow the use of medication to terminate pregnancies. Those who are able to afford it, visit neighboring countries to obtain a medical abortion, this however represents an unaffordable cost for the majority of women.

In the meantime, the government initiated two anti-abortion media campaigns in recent years and the new national curriculum focuses on sexual education in schools regarding healthy pregnancies, breast feeding, and family life, defining families in the most restricted sense of the term.

In sum, women's reproductive freedom is being actively threatened in Hungary both at the level of law and on the level of actual everyday practice.

3. CONCLUSION

Over the past few years, Hungary has taken some **important steps backwards** with respect to the promotion of gender equality. The current conservative government has tied gender equality issues to their rather conservative family and demographic policies. The government has **threatened women's reproductive freedom and health**. **Media** and political announcements pay little attention to issues related to gender equality and **depict women primarily as mothers and wives**.

Hungary has a **long way to go to guarantee equal opportunities**, economic independence, security, and freedom from violence for women. Certain groups of women, mothers of young children, Roma women, or the elderly are at a particular disadvantage. While the **legislative framework is, with some exceptions, in place**, it is the task of current and future governments to realize *de facto* gender equality and to refine the legislative building blocks necessary for this process.

⁴ See the shadow report submitted to CEDAW by several women's rights groups.
http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/CRR_PATENT_HungaryForTheSession54.pdf

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