

<b>Country</b>	<b>Hungary</b>
<b>SIGI 2019 Category</b>	<b>Low</b>
<b>SIGI Value 2019</b>	<b>26%</b>

<b>Discrimination in the family</b>	<b>34%</b>	
	Legal framework on child marriage	50%
	Percentage of girls under 18 married	1%
	Legal framework on household responsibilities	50%
	Proportion of the population declaring that children will suffer if mothers are working outside home for a pay	51%
	Female to male ratio of time spent on unpaid care work	1.9
	Legal framework on inheritance	50%
	Legal framework on divorce	0%

<b>Restricted physical integrity</b>	<b>17%</b>	
	Legal framework on violence against women	75%
	Proportion of the female population justifying domestic violence	9%
	Prevalence of domestic violence against women (lifetime)	21%
	Sex ratio at birth (natural =105)	105.8
	Legal framework on reproductive rights	25%
	Female population with unmet needs for family planning	9%

<b>Restricted access to productive and financial resources</b>	<b>23%</b>	
<p>5</p> 	Legal framework on working rights	75%
	Proportion of the population declaring this is not acceptable for a woman in their family to work outside home for a pay	10%
	Share of managers (male)	61%
	Legal framework on access to non-land assets	25%
	Share of house owners (male)	-
	Legal framework on access to land assets	25%
	Share of agricultural land holders (male)	74%
	Legal framework on access to financial services	0%
	Share of account holders (male)	50%

<b>Restricted civil liberties</b>	<b>28%</b>	
	Legal framework on civil rights	0%
	Legal framework on freedom of movement	0%
	Percentage of women in the total number of persons not feeling safe walking alone at night	71%
	Legal framework on political participation	50%
	Share of the population that believes men are better political leaders than women	38%
	Percentage of male MP's	90%
	Legal framework on access to justice	0%
	Share of women declaring lack of confidence in the justice system	57%

Note: Higher values indicate higher inequality. Percentages range from 0 to 100, while legal variables are categorised as 0%, 25%, 50%, 75% or 100%. See data source [here](#).

Source: OECD (2019), Gender, Institutions and Development Database, <https://oe.cd/ds/GIDDB2019>.

## Hungary

### 1. Discrimination in the family

#### a) Overarching legal framework for marriage

Following the adoption of a new Constitution in 2011, the Act on the Protection of Families was passed in 2011, providing a framework for Government support for families in the fields of labour participation of parents, financial support, rights and responsibilities of family members, and inheritance (Government of Hungary, 2016). The Act defines the concept of the family as a system of relations that generates an emotional and economic community of natural persons, based on the marriage of a man and a woman, next of kinship or adoptive guardianship (Act CCXI on the Protection of Families, 2011). In 2012, this definition was found unconstitutional by the Constitutional Court which argued that the definition was too narrow and excluded long-term emotional and economic partnerships of persons living together from State protection (Constitutional Court of Hungary, 2012). Likewise, in 2013, the CEDAW Committee expressed concern that the definition of family only covers relationships based on a marriage, and recommended that Hungary amend its law in line with the Constitutional Court's ruling (CEDAW Committee, 2013). Notwithstanding the decision of the Constitutional Court and criticism from international human rights monitoring bodies, in 2013, Hungary affirmed the Act's definition of the concept of family through an amendment to the Constitution, which, as of 2013, states that Hungary shall protect the institution of marriage as the union of a man and a woman established by voluntary decision and affirms that family ties shall be based on marriage or the relationship between parents and children (Fourth Amendment to the Constitutional Law of Hungary, 2014).

The Civil Code, adopted in 2013 and in force as of 2014, is the principal law regulating marital matters (Act V of the Civil Code, 2013). Related case law has formed criteria based on which civil partnerships can be recognised in Hungary (PERFAR, 2014). While recent regulations, including relating to entitlement to maintenance, have afforded greater recognition of informal partnerships, protections for informal partnerships remain less comprehensive than for married couples (Hungarian LGBT Alliance, 2015; PERFAR, 2014).

Whereas same-sex partners have been allowed to register their partnerships since 2009 (Act XXIX on Registered Partnership, 2009), it has been observed that the amendment to the Constitution in 2013, defining family as the union between woman and man, and the removal of all references to registered partnerships in the Civil Code restrict the possibility of adopting further legislation that is supportive of same-sex marriages (PERFAR, 2014; Hungarian LGBT Alliance, 2015).

The Civil Code retains the possibility of placing people with intellectual and psycho-social disabilities under plenary or partial guardianship whereby they are restricted from making legally valid decisions (Act V of the Civil Code, 2013). Those whose legal capacity is fully restricted are deprived of the rights to marry, make a will and choose their place of residence (Act V of the Civil Code, 2013).

## **b) Early marriage**

The legal age for marriage for both women and men is 18 years (Act V of the Civil Code, 2013). However, persons under 18 years can get married upon obtaining authorization from the Court of Guardians (Act V of the Civil Code, 2013). In the absence of authorization by the Court, a marriage that has been entered into when one or both of the spouses are under 18 is considered void (Act V of the Civil Code, 2013).

While the Civil Code prescribes that the marriage of minors is invalid without the permission of the guardianship authority, it also establishes that the marriage which was concluded without the permission of the guardianship authority or under the age of 16 will become valid retroactively after six months from reaching the age of majority, if the respective spouse does not contest the marriage by this deadline or if by his/her request the court terminates such a procedure initiated by other eligible persons (Act V of the Civil Code, 2013; Hungarian Women's Lobby, 2014).

While there is no specific provision criminalizing forced marriage in Hungary, marriage conducted without the free will and consent of one of the parties is deemed null and void (Act V of the Civil Code, 2013). Forced and early marriage has been reported to be practiced among Roma communities in Hungary and the existing legal framework has been met with criticism for not providing adequate protection against this phenomenon (European Roma Rights Centre, 2011). According to civil society organizations, there have been reports that human traffickers have withdrawn minors from the framework of the child protection system through marriage (Hungarian Women's Lobby and European Roma Rights Centre, 2013). In 2012, a proposal aiming to simplify the process of giving permission to minors to marry was also introduced in Parliament. There is no information to indicate that harmful practices against widows is an issue in Hungary.

## **c) Household responsibilities**

Under the Civil Code spouses have equal rights and obligations in family life and family affairs (Act V of the Civil Code, 2013). With regard to parental obligations and rights, the Act on the Protection of the Family of 2011 also affirms that mothers and fathers have the same obligations and rights on the grounds of their parental responsibility (Act CCXI on the Protection of Families, 2011). Parental obligations and responsibilities for couples in informal unions are not regulated by law.

Women have the same rights as men to choose their place of residence (Fundamental Law of Hungary, 2011; Act V of the Civil Code, 2013).

In 2013, the Committee on the Elimination of Discrimination against Women was concerned about the persistence of stereotyped division of gender roles in family and society and the support of such roles throughout the State's policies and priorities (CEDAW Committee, 2013). It called on Hungary to implement a comprehensive programme to overcome those stereotypical attitudes (CEDAW Committee, 2013).

Childcare is predominantly carried out by mothers in Hungary, in large degree due to an insufficient number of childcare facilities, which has resulted in women not being available for the labor market for several years because of family duties (European Commission, 2012).

A 2008 survey on gender stereotypes noted that 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, quoted by European Parliament FEMM Committee, 2013; UN Working Group 2016). Women's rights NGOs have indicated that traditional, restrictive gender roles can be discerned in the attitudes of both adults and children (Hungarian Women's Lobby, 2014).

In 2016, the UN Working Group on the Issue of Discrimination against Women in Law and in Practiced noted that as regards the impact of Government policy, both rhetoric and the maternity and parental leave measures adopted impart mixed messages, on one hand, projecting the idealised role for women to be in the home with ideally three children and, on the other hand, recognising the economic necessity for women to work (UN Working Group, 2016). It noted that the shift to conservative family values was particularly evident in education, highlighting that new school books contain numerous gender stereotypes, depicting women almost exclusively as wives and mothers and, in some cases, demeaning mothers as less intelligent than fathers (UN Working Group, 2016).

Reports indicate that Romani women face particular challenges to assume the head of household role, with only 24 % of Romani women being recognized as such in Hungary in 2011 (European Parliament Policy Department, 2013).

#### **d) Divorce**

Following a breakdown of the marriage, a divorce court can be asked to dissolve the marriage upon the request of either of the spouses (Act V of the Civil Code, 2013). Divorce may also be granted by mutual consent of the spouses, which does not specify which party was at fault (Act V of the Civil Code, 2013). If the spouses have children in common, matters relating to custody, access and alimony can be dealt with by the court unless the parents have been able to reach an agreement (Act V of the Civil Code, 2013).

According to the Civil Code, when making a child custody order the court weighs how the physical, mental and moral development of the child can be best ensured (Act V of the Civil Code, 2013).

A spouse may demand alimony from the other spouse following legal separation or, in the case of divorce, a former spouse may demand such alimony from the other former spouse if in need of it through no fault of his or her own, unless the (former) spouse requesting alimony did not become unworthy of it due to his or her conduct during the marriage (European Judicial Network in Civil and Commercial Matters, 2016).

There is no information to indicate that there are customary, traditional or religious laws or practices that discriminate against women's parental rights or responsibilities with regards to their children after divorce.

#### **e) Inheritance**

The Fundamental Law of Hungary provides women with equal inheritance rights to men, as widows and as daughters (Fundamental Law of Hungary, 2011).

Under the Civil Code, at the death of one spouse, the surviving spouse is entitled to his or her share of the matrimonial property, the share of which is established based on the status and value of the common property or based on the marital agreement (Act V of the Civil Code, 2013).

The Act on the Protection of Families of 2011 establishes that in intestate succession, succession is primarily the right of spouses and persons related to each other by next of kinship or lineal relation (Act CCXI on the Protection of Families, 2011). The same Act provides that the spouse of the testator will be entitled to dower and a legal share of the inheritance (Act CCXI on the Protection of Families, 2011). The Act limits these protective measures in the context of inheritance to spouses or next of kin only, prompting close observers to express concerns about the exclusion of long-term emotional and economic partnerships of persons living together from the same protections and a declaration by the Constitutional Court that the inheritance provisions of the Act on the Protection of Families unconstitutional (Hungarian LGBTI alliance, 2015).

*More*

## 2. Restricted Physical integrity

### a) Violence against women

Hungary signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) in 2014 but has not yet ratified it. A 2015 parliamentary motion seeking to fast-track ratification of the Convention did not manage to obtain the majority votes needed for ratification (Deputy Commissioner for Fundamental Rights, 2015). At the national level, there is no legislation or measures that specifically address violence against Domestic violence

As of 2013, domestic violence is a criminal offence in Hungary (Act C of the Criminal Code, 2012). Prior to July 1, 2013, the Criminal Code's provision on battery applied to cases of domestic violence (Human Rights Watch, 2013). Under the previous legislation, an injury that heals within eight days was classified as simple battery and requires the victim to pursue a private prosecution (Human Rights Watch, 2013).

The Criminal Code defines domestic violence as any act that may severely injure the victim's human dignity and covers, in a separate article, economic violence – defined as the misappropriation or concealing of any assets from conjugal or common property causing serious deprivation (Act C of the Criminal Code, 2012). The law also penalizes humiliation, causing severe deprivation to, or grave violation of, the dignity of a relative or a dependent with up to two years' imprisonment (Act C of the Criminal Code, 2012; US Department of State, 2017). Stalking and psychological violence are not covered by the provisions on domestic violence.

The Criminal Code extends the group of victims to former spouses or life-partners, custodians, persons under custody, guardians and persons under guardianship, but requires that the victim and the perpetrator have lived or live together in the same dwelling for the act to be considered domestic violence (Act C of the Criminal Code, 2012). For an act to be considered domestic violence and punishable under the criminal code as such, it must be committed on a regular basis and therefore

does not cover single events of domestic abuse (Act C of the Criminal Code, 2012; Government of Hungary, 2015). Compulsory mediation for domestic violence cases is reported to be broadly applied in civil lawsuits concerning domestic violence (Hungarian Women's Lobby, 2016).

Current regulations on restraining orders have been reported to provide insufficient protection to victims of domestic violence as restraining orders can be issued by the police only for 72 hours and be extended by the court for a maximum of 60 days without the possibility to extend it further (Act LXXII, 2009; Hungarian Women's Lobby, 2016). In addition, as noted by the CEDAW Committee, the Act does not cover relationships between unmarried partners (CEDAW Committee, 2013).

The application of the Act on Restraining Orders has been reported to be particularly patchy, and was the subject of legal proceedings against Hungary at European Court (Human Rights Watch, 2013). In 2012, the European Court ruled that the inability of the victim to obtain an order which would exclude her abuser from her home, was a violation of the state's obligation to ensure protection of her private and home life (European Court, 2012).

According to civil society organizations, courts and child protection authorities do not sufficiently take into account domestic violence in custody and visitation cases, with the result that so called forced visitation is a widespread practice applied in the cases of children with abusive parents (Hungarian Women's Lobby, 2016). Women who do not allow the visitation of an abusive father face fines and, ultimately, prison sentences for the criminal offence termed as "barring visitation" (Hungarian Women's Lobby, 2016).

There is no comprehensive national strategy or policy on combating domestic violence. Guidelines have been developed for the police on how to engage with victims however there are no comparable guidance for prosecutors and judges or for health and social workers (Human Rights watch, 2013). Civil society organizations have expressed concern that a comprehensive prevention, protection, and prosecution approach is missing from the state's response to violence against women (US Department of State, 2017; Hungarian Women's Lobby, 2016). They have also criticized an improper application of existing laws and regulations, the lack of systematic training and protocols for professionals, and the limited availability of proper victim support services (US Department of State, 2017).

The Ministry of Human Capacities operates shelters with 98 beds at 15 locations for survivors of domestic violence, providing immediate accommodation and complex care for abused individuals and families for up to 90 days (US Department of State, 2017). The government also sponsored a secret shelter house with 29 beds for severely abused women whose lives were in danger, allowing a maximum stay of six months (US Department of State, 2017). The ministry also operated six halfway houses, providing long-term housing opportunities (maximum five years) and professional reintegration assistance for families graduated from shelters and assistance to prevent secondary victimization (US Department of State, 2017). According to women's rights NGOs, services for survivors of violence against women were not transparent, and either operated with limited capacity or did not meet international standards of good practice (US Department of State, 2017). They have noted that 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 (European Parliament, 2013).

The Ministry of Human Capacities also operates a 24-hour toll-free hotline for victims of domestic violence and trafficking in persons to provide information and if necessary to coordinate the immediate placement of victims in shelters (US Department of State, 2017).

According to Human Rights Watch, the treatment of violence in Hungary as a family matter adversely affects how law enforcement, courts and medical professionals deal with instances of domestic violence (Human Rights Watch, 2013). Authorities have been reported to be reluctant to interfere in cases of domestic violence unless the victim wants to pursue the matter (Human Rights Watch, 2013). In light of pervasive societal attitudes about violence as an inevitable family matter, victims of domestic violence, victims have been reportedly reluctant to report domestic abuse to authorities (Human Rights Watch, 2013). Women's rights organizations have indicated that such fears appear to be further compounded by fear of losing custody over their children on the grounds of "child endangerment" as several cases in which police and child welfare services have threatened women with loss of custody have been documented (Human Rights Watch, 2013).

Violence against Romani women has been reported to be particularly pervasive and takes place within and outside the Roma community (European Parliament Policy Department, 2013). Violent attacks on property has been noted as a major concern European Parliament Policy Department, 2013). Research suggests that there is a lack of mutual trust between Romani women and the police (European Parliament Policy Department, 2013). Romani women have reported being the targets of police surveillance and harassment, which results in a lack of reporting of violent incidents by Romani women (European Parliament Policy Department, 2013).

In this regard, the CEDAW Committee remained concerned that that there were no specific measures in place to prevent violence against Roma women (CEDAW Committee, 2013).

## **b) Rape**

Sexual violence is a criminal offence that is punishable by imprisonment of two to eight years (Act C of the Criminal Code, 2012).

The Criminal Code of 2012 defines rape and sexual assault as an act of sexual coercion (Act C of the Criminal Code, 2012).

Marital rape is prohibited by law, and the punishment for acts of sexual violence increases to five to ten years if the perpetrator is a relative (a definition which covers spouses, siblings, parents and custodians) of the victim (Act C of the Criminal Code, 2012). It has, however, been noted that very few cases relating to marital rape have been prosecuted in Hungary (European Parliament, 2013). Under the law, the definition of rape is based on the use of force or coercion and not on the lack of consent (Act C of the Criminal Code, 2012). The definition of rape also includes the exploitation of a person who is incapable of self-defence or unable to express his/her will ((Act C of the Criminal Code, 2012). There are no legal provisions that reduce criminal penalties if the perpetrator marries the victim.

Under Hungarian law, rape and sexual violence are not subject to public prosecution, except in cases where the violence accompanying them amounts to serious bodily harm or in cases where they are accompanied by another offense subject to public prosecution (Human Rights Watch, 2013). Criminal

proceedings against sexual violence require the victim's active involvement, including a request for a private motion in the form of a statement from the victim within 30 days since the offense requiring the punishment of the perpetrator (Human Rights Watch, 2013).

There is no action plan or policy in place to support the implementation of the provisions on sexual violence. The law does not provide for guidelines or protocols for professionals who may deal with rape, nor does it mandate specialized training for such professionals or foresee awareness-raising campaigns to combat sexual violence. Medical support and legal assistance to victims is expressly covered by the provisions on sexual violence in the Criminal Code.

There are no specialized tribunals to address sexual violence. There is no publicly available information on any budgetary commitments to support the implementation of the legislation on sexual violence.

According to reports, public attitudes hold that marital rape is acceptable and often consider the women to be guilty of provoking rape (Amnesty International, 2007; UN Working Group, 2016). They have noted that widespread prejudices about rape and about women who make accusations of rape within the police and the criminal justice system result in serious under-reporting of sexual crimes and highlighted the need for specialized training for law enforcement professionals (Amnesty International, 2007). Victims have also been reported to be discouraged by the police from reporting sexual crimes (Amnesty International, 2007).

According to figures cited by the UN Expert Working on the issue of Discrimination against Women in Law and in Practice, an overwhelming majority of cases of sexual abuse go un-reported in Hungary (UN Working Group, 2016).

### **c) Sexual harassment**

Harassment is a criminal offence under the Equal Treatment Act (Act CXXV on Equal Treatment and Promotion of Equal Opportunities, 2003). Sexual harassment is not, however, specifically designated as an offense under this law.

Civil society organizations have contended that the lack of a clear definition of sexual harassment and its prohibition under the law have let victims with a lack of legal awareness or incentive to file a complaint (US Department of State, 2011). According to NGOs, sexual harassment remained widespread (US Department of State, 2017).

### **d) Female genital mutilation**

There is no specific criminal law provision on female genital mutilation (FGM), although FGM can be charged under general criminal law, including the Criminal Code of 2012 (European Institute for Gender Equality, 2012). The principle of extraterritoriality is applicable, making FGM punishable even if it is committed outside the country (European Institute for Gender Equality, 2012). A 2012 prevalence study on FGM in Hungary estimated that the number of female immigrants and asylum seekers affected by FGM is between 170 and 350 (European Institute for Gender Equality, 2012)

Under the Act on the Protection of Foetal Life, abortion is only allowed if the mother's health is in severe danger; if medical examinations suggest that the foetus is likely to suffer from severe disabilities or impairments; when the pregnancy is the result of a criminal act; or if the mother is in "a situation that causes bodily or psychological disarray or renders the woman's social existence impossible" (Act LXXIX on the protection of fetal life, 1992). The Act requires medical practitioners to provide non-medical counselling to women seeking an abortion, including by providing information on adoption, the availability of state and non-state financial support for raising a child and the possible adverse medical consequences of having an abortion (Act LXXIX on the protection of fetal life, 1992). Should the woman still decide to terminate the pregnancy, she is required to participate in a second family protection counselling no earlier than three days after she has seen the doctor (Act LXXIX on the protection of fetal life, 1992).

Following a national ban on the distribution of the EU-wide registered drug Medabon and the closing of the only private clinic providing medical abortion in August 2012, medical abortion is currently not available in Hungary (Hungarian Women's Lobby, 2016).

In 2013, the CEDAW Committee expressed concern about State-supported campaigns that stigmatized abortion and the limited access to emergency contraceptives (CEDAW Committee, 2013). It urged Hungary to cease all negative interference with women's sexual and reproductive rights and to provide adequate access to family planning services and affordable contraceptives, including emergency contraception, to all women (CEDAW Committee, 2013).

### *More*

Hungary is a source, transit, and, to a lesser extent, destination country for men, women, and children subjected to forced labor and sex trafficking (US Department of State, 2016). Hungarian women and children are subjected to sex trafficking within the country and abroad, mostly within Europe, with particularly high numbers in the Netherlands, Belgium, Germany, Austria, Switzerland, and the United Kingdom (US Department of State, 2016). Hungarians, particularly Romani women and girls from eastern Hungary and from state care institutions, are exploited in sex trafficking in large numbers in Belgium by Hungarians also of Romani origin (US Department of State, 2016). Hungarian women lured into fake marriages to third-country nationals within Europe are also reported to be subjected to forced prostitution (US Department of State, 2016). Despite increased Government efforts to curb trafficking in persons, including funding for NGOs providing services for victims, increased funding for shelters, and new victim protection legislation, government protection efforts were considered insufficient (US Department of State, 2016). Specialized services for child victims do not exist; instead, law enforcement has arrested children exploited in prostitution, including sentencing nine children to imprisonment despite their being subjected to trafficking (US Department of State, 2016). Shortcomings in security and services at state care institutions for children were also reported to remain widespread, resulting in high vulnerability of children under state protection during and after their time in these facilities to trafficking (US Department of State, 2016).

### 3. Restricted Access to productive and financial resources

#### a) Secure access to land and assets

Unmarried and married women have the same rights as men to own, use, make decisions about land- and non-land assets and to use it as collateral (Fundamental Law of Hungary, 2011).

The default marital property regime is one of common property, although the Civil Code provides that spouses may freely arrange their property otherwise by means of marital agreement (Act C of the Criminal Code, 2012). During the matrimonial property regime, collective agreement or spousal consent is required for any disposition of joint property (Act C of the Criminal Code, 2012). Provisions of the Civil Code also require the consent of the other spouse even after the marriage is dissolved until tenancy rights are settled (Act C of the Criminal Code, 2012).

There is no specific legal provision or policy providing for the joint land titling for land used or acquired by married couples or couples in informal unions. There is no information to suggest that women's rights are challenged in the context of land titling in Hungary.

There are no public measures to protect women's property rights, including in the context of inheritance. There are no legal or policy requirement to promote women's legal literacy so that they can understand their land- and other property rights.

In 2016, the UN Working Group on the issue of Discrimination in Law and in Practice noted that in the agricultural sector, while a high number of family farm workers are women, few are managers (UN Working Group, 2016) It recommended the increase of the number of women on corporate boards, public and private, through a quota system and to provide special financial assistance or Government procurement contracts to women-owned businesses (UN Working Group, 2016).

According to a 2011 report on the housing situation of Roma communities, in all the countries in Central East Europe (Hungary included), "the ownership of housing is largely in the hands of men. A vast majority of Roma women do not own housing or land and cannot afford purchasing them either due to the presence of poverty in Roma communities as well as the patriarchal traditions within segments of the population" (UNDP, 2011).

#### b) Secure access to formal financial resources

Women have the same rights as men to formal financial resources, both as daughters and wives. There are no restrictions for women to open bank accounts or to obtain credit.

Women are not required to obtain the signature or and authority of her husband or legal guardian to open a bank account at a formal financial institution.

There is no information to suggest that the Government promotes gender-sensitive measures to expand women's access to formal financial services, including credit. There does not appear to be any customary, traditional or religious laws or practices that discriminate against women's right to access formal financial services on equal terms and conditions as men. Workplace rights

### c) Workplace rights

Hungary has ratified ILO Conventions 100 (equal remuneration), 111 (discrimination in employment and occupation) and 183 (revision of the maternity protection convention), but has not acceded to Conventions 156 (workers with family responsibilities) and 189 (domestic workers).

The Equal Treatment Act provides the overall legal framework for combating discrimination, and lists twenty grounds of discrimination that are prohibited, including those based on sex and motherhood (Act CXXV on Equal Treatment and Promotion of Equal Opportunities, 2003). The law prohibits both direct and indirect discrimination and provides for the enforcement of equal treatment in specific areas, including in the workplace (Act CXXV on Equal Treatment and Promotion of Equal Opportunities, 2003).

In addition, the Labour Code of 2012 provides for the principle of equal treatment and the right to equal pay for equal work (Act I on the Labour Code, 2012.). Notwithstanding the reference to equal value of work, the Labour Code does not explicitly provide for an obligation to pay men and women equal remuneration for work of equal value but refers only to the principle of equal treatment in remuneration (ILO CEACR, 2013). In addition, the Labour Code does not explicitly prohibit discrimination nor does it enumerate any prohibited grounds of discrimination or refer to the numerous prohibited grounds enumerated in the Equal Treatment Act (ILO CEACR, 2013).

Claims arising from gender equality cases may be adjudicated by the Equal Treatment Authority and/or by the civil and labor courts, depending on the merits of the case (European Commission, 2016). The most dissuasive sanction that the Equal Treatment Authority can apply is a fine. For a claimant to receive financial compensation or reinstatement in the original job, they must proceed in the court system (European Commission, 2016). Civil society organizations in Hungary have reported that enforcement of the equal treatment legislation is weak in Hungary and that the sanctions which can be applied by the Equal Treatment Authority are not effective, proportionate and dissuasive as it cannot order civil compensation or reinstatement in the original job (European Commission, 2016). Hungarian case law also suggests that there are considerable gaps in the legal practice to ensure equal treatment (European Commission, 2016).

A dismissal with notice is prohibited during pregnancy, maternity leave and parental leave (Act I on the Labour Code, 2012). Female executive employees are protected during pregnancy and maternity leave, but this protection does not extend to parental leave which individuals in executive positions, a broadly defined category of workers under the Labour Code, are not eligible to take (Act I on the Labour Code, 2012; European Commission, 2016).

A dismissal with immediate effect is allowed as an exception during the pregnancy and maternity and parental leave (Act I on the Labour Code, 2012). Unlike its predecessor, the 2012 Labour Code does not guarantee the right to return to the original job or to an equivalent job at the end of maternity/parental leave and reports suggest that many women are unable to return to their original employment at the end of their maternity leave (European Commission, 2016).

Under the Labour Code, women have the right to 24 weeks of maternity leave, while men are entitled to take five days of paternity leave (Act I on the Labour Code, 2012). Following an amendment to the Law on Executive Employees in 2013, as of March 2014 female executives became entitled to the four

months of maternity leave. If the executive is male, he is entitled to the same five days of paternity leave as men in non-executive positions (European Commission, 2016).

Parental leave can be taken until the child reaches the age of three, or the age of ten for a child with a serious medical condition (Act I on the Labour Code, 2012). Both parents have an individual right to take parental leave, although only one of them is entitled to social security payments and only mothers are entitled to job protection if both parents choose to take parental leave (Act I on the Labour Code, 2012).

Maternity leave is paid for by the Government through the National Health Insurance Fund and amounts to 70 % of average daily earnings, with no ceiling on payments (Act No. 83 of 1997; Korintus and Gábos, 2016). Similarly, the five days of leave that fathers may take is funded by the Government although in contrast to maternity leave, paternity leave benefits amount to 100 % of average daily earnings (Korintus and Gábos, 2016). Monetary parental leave entitlements ranged from 90 euros per month in 2016 (funded by the Treasury) to 70% of daily earnings (funded by the Government) depending on the insurance arrangements of the parent taking out leave (Korintus and Gábos, 2016).

In 2013, the CEDAW Committee expressed concern about the lack of a gender perspective in its legislation and policies related to the labour market and noted that the participation of women in the labour market remains low and that only a few steps have been taken to entitle women to reconcile work and family life (CEDAW Committee, 2013). The Committee also noted the increased gender pay gap, and that Roma women and migrant women continued to be almost entirely excluded from the labour market (CEDAW Committee, 2013). It recommended that

In 2016, the UN Working Group on the issue of discrimination against women in law and in practice expressed concern that discrimination against women in employment is usually not pursued as an independent cause of action in the court system and there is little visibility and awareness of women's right to enforce their right to equal treatment and opportunity, in all aspects of the employment relationship (UN Working Group, 2016). It recommended awareness-raising amongst employees, lawyers and judges as regards the legal right not to be discriminated against in employment and to incentivize women to take actions against discrimination in employment, by improving the remedies for this offence, for instance by giving the Equal Treatment Authority the power to issue enforcement orders against the employer (UN Working Group, 2016). It also recommended that both the courts and the Equal Treatment Authority be given the power to award exemplary damages in cases of discrimination in employment (UN Working Group, 2016).

### *More*

According to Government reporting, women are present in relatively few professions, meaning that they are employed in much fewer occupations than men (Government of Hungary, 2011). Furthermore, the presence of women and men in the world of work remains disproportionate (Government of Hungary, 2011). According to the Government, it is much more probable that a man is appointed to a leading position implying a high wage, even in so-called "female" professions (Government of Hungary, 2011).

In 2016, the UN Working Group on the issue of discrimination against women in law and in practice noted that women's participation in economic and social life in Hungary was shadowed by a stereotypical and patronizing approach to women, which pervades attitudes and speech, such as referring to women as "the weaker sex" (UN Working Group, 2016). The low representation of women in some media programmes rendered them almost invisible (UN Working Group, 2016).

In 2013, the CEDAW Committee noted with concern that women and households headed by women were disproportionately affected by poverty and that women's pensions and social benefits are, on average, lower than those received by men (CEDAW Committee, 2013).

#### 4) Restricted Civil liberties

National legislation, including the Hungarian Fundamental Law of 2011, prohibits discrimination based on gender and marital status, but does not recognize or address multiple- or intersectional discrimination (European Commission, 2016).

##### a) Citizenship rights

Women have the same rights as men to acquire, change and retain their citizenship (Act LV of 1993 on Hungarian Citizenship, as amended). Women also have the same rights as men to confer nationality to their children and, if married, to their spouse (Act LV of 1993 on Hungarian Citizenship, as amended). There are no laws or regulations that require the promotion of awareness of legal and policy developments granting women the same rights as men to acquire, change, retain and confer their nationality.

There are no laws that specifically refer to the individual's right to register their children, and there is no information that suggests that birth registration is an issue in the country. There are no specific legal or policy measures to increase access to birth registration in rural areas, or to otherwise allow for the delayed registration of births for unregistered adults or children. According to the US Department of State's overview of human rights practices in 2016, births were registered immediately in Hungary (US Department of State, 2017).

There is no information to suggest that there are customary, traditional or religious laws or practices that discriminate against women's legal rights in regard to nationality or registering the birth of their child.

Under the Hungarian Constitution, women and men have the same right to freedom of movement and to freely choose their residence (Fundamental Law of Hungary, 2011). The Fundamental Law guarantees all citizens, men and women, the fundamental right to leave and return to the country, and there is no information to suggest that this right is challenged for women.

The Constitution does not recognize or address multiple- or intersectional discrimination.

There are no restrictions for women to apply for passports and ID cards for themselves or for their minor children. No reports indicate that there are customary, religious or traditional laws or practices that discriminate against women's right to apply for ID cards or passports for themselves or for their minor children.

Women and men have equal rights to vote and to run for elections in Hungary and for elections to the European Parliament (Fundamental Law of Hungary, 2011). Similarly, women have the same right as men to be appointed to the executive and to the judiciary (Fundamental Law of Hungary, 2011).

Current provisions in Hungarian legislation, however, allow for the deprivation of the right to vote on the basis of disability or if convicted of a crime or subject to an additional punishment of continued disenfranchisement (OSCE/ODIHR, 2014). While Hungarian legislation requires a court decision in each of these cases, current court practice has resulted in the disenfranchisement of a significant number of citizens, at odds with Hungary's international human rights obligations, including under the UN Convention on the Rights of Persons with Disabilities and the International Covenant on Civil and Political Rights (OSCE/ODIHR, 2015).

The law does not provide for any specific measures to ensure that women understand the right to vote and how to exercise it. There are no reports indicating that women's legal right to vote is challenged by customary, traditional or religious practices.

### c) Political voice

The Fundamental Law of Hungary guarantees the right of all citizens to stand for and hold political and public office (Fundamental Law of Hungary, 2011).

There is no gender parity system for elected and appointed political bodies in Hungary. While two political parties in Hungary have adopted voluntary quotas for women's participation, none of the attempts to introduce legislated special measures to ensure women's political representation have been successful (OSCE/ODIHR, 2013).

In 2013, the CEDAW Committee expressed concern about that the proposed Quota Act had been rejected by Parliament and that women continued to be underrepresented in senior positions in the Government and Parliament (CEDAW Committee, 2013).

In its election observation report on the Hungarian Parliamentary elections in 2014, the Organization for Security and Co-operation in Europe (OSCE) reported that most contestants did not specifically address issues of gender equality in their programmes, emphasis remained on traditional gender roles and that women were hardly visible in the media in the run-up for the elections (OSCE/ODIHR, 2014).

In 2016, following a country visit to Hungary, the UN Working Group on the issue of discrimination against women in law and in practice observed pervasive and severe gender stereotyping of women which, as noted, contributes to their low level of political participation (UN Working Group, 2016). In this regard, the Group was alarmed by the discourse of some public officials who legitimise and justify the low representation of women in politics (UN Working Group, 2016). The Working Group noted with concern that when Hungarian women do enter the political arena, they face a strong sexist institutional culture (UN Working Group, 2016).

With regard to female judges, the UN Working Group noted that women are very well represented including in leading positions, and constitute almost 50% of judges of the National Supreme Court and

69% of the judges of all courts (UN Working Group, 2016). Out of 15 members of the Constitutional Court, who are appointed by Parliament, there is only one woman. (UN Working Group, 2016).

#### **d) Access to justice**

Under the Fundamental Law of Hungary, women and men are equal before the law and have the same legal capacity (Fundamental Law of Hungary, 2011). Women's testimony carries the same evidentiary weight as a man's in all types of court cases.

There is no legislation or measures in place to protect women from violence in political or public life.

There is no law addressing the situation of human rights defenders. In recent years, the situation of human rights defenders in Hungary has been the subject of concern for international human rights monitoring mechanisms. In 2015, following his visit to Hungary, the Commissioner for Human Rights of the Council of Europe – in a letter to the Hungarian Government, raised concerns over the increasingly stigmatizing rhetoric used in Hungary against non-governmental organisations active in the field of promoting human rights and democratic values, with politicians questioning the legitimacy of their work (Council of Europe Commissioner for Human Rights, 2015). Along similar lines, in 2016, the UN Special Rapporteur on the situation of human rights defenders criticized attempts to delegitimize defenders and undermine their legitimate activities, and called on Hungary to refrain from stigmatizing and intimidating human rights defenders and ensure that they can conduct their work in an enabling legal and administrative environment (UN Special Rapporteur, 2016).

The law does not include elements to ensure that women are able to exercise their capacity to sue.

Procedural rules in civil, criminal and family courts/tribunals do not take into account the particular interests of women and girls.

The legal framework does not provide for the establishment of courts or tribunals to facilitate women's and girls' access to justice.

The Equal Treatment Act establishes the Equal Treatment Authority to deal with individual cases at the request of the injured party or ex officio (Act CXXV on Equal Treatment and Promotion of Equal Opportunities, 2003; Decree 362/2004 on the Equal Treatment Authority and the Detailed Rules of its Procedure). The Authority also issues general information, launches training and research programmes in order to promote equal treatment, including gender equality, in all aspects of public life (Act CXXV on Equal Treatment and Promotion of Equal Opportunities, 2003; Decree 362/2004 on the Equal Treatment Authority and the Detailed Rules of its Procedure). In 2013, the CEDAW Committee was concerned about the insufficient provision of resources for the Equal Treatment Authority and the lack of effective remedies in cases of discrimination (CEDAW Committee, 2013). It recommended that Hungary allocate adequate resources to the Authority, facilitate access to its complaint mechanisms by all women and introduce follow-up mechanisms with regard to its decisions on specific petitions (CEDAW Committee, 2013).

In addition to the Equal Treatment Authority, a Women's Policy Unit operates has been established under the Department for Family Policy and Demography at the Ministry of Human Capacities, although this unit is reportedly constrained by its low number of staff (a total of three in 2015) and its

marginalized location in the overall governmental structure (Hungarian Women's Lobby, 2016). A Council for Gender Equality also monitors gender equality in its capacity as a tripartite consultative body, although according to reports from civil society in Hungary the council has not convened since 2010 (Hungarian Women's Lobby, 2016).

Since 2001, the Hungarian Central Statistical Office (KSH) has issued a comprehensive publication for decision-makers, which presents the available data broken down into thematic units (Government of Hungary, 2012). The charts and illustrations that are issued by the KSH organize gender-sensitive indicators by topic (Government of Hungary, 2012).

There is no information to suggest that there are customary, traditional or religious laws or practices that discriminate against women's legal right to sue, be sued, provide testimony, or be judges, advocates or other court officers.

### *More*

The alien policing legislation does not set forth differentiated rules for women in immigration detention, except for the opportunity of prolonged medical treatment in a healthcare institution for pregnant women and asylum seeking women who are not detained are placed in an open refugee reception center where there is no specific screening process in place to identify victims of gender-based violence and no state-funded psycho-social assistance or rehabilitation is provided for them (Helsinki Committee, 2016). In this regard, the CEDAW Committee has urged Hungary to ensure that migrant and asylum-seeking women receive adequate assistance and are not subjected to prolonged administrative detention (CEDAW Committee, 2013).

There is no comprehensive state policy on gender equality in the field of education (Hungarian Women's Lobby, 2016). While women's level of education is generally high in Hungary, women and girls continue to choose traditionally female-dominated fields of education, such as social sciences and humanities, and are underrepresented in technical and vocational training (CEDAW Committee, 2013). Educational programmes aimed at strengthening family life skills have been reported to reinforce traditional gender stereotypes (CEDAW Committee, 2013).

The CEDAW Committee has expressed concern over the widespread privatization of health, education and other social services, noting that this may hinder the enjoyment of rights under the Convention (CEDAW Committee, 2013). Addressing barriers to education, the same Committee also recommended that Hungary eliminate segregation of Roma girls in the educational system and provide them with equal access to quality education at all levels (CEDAW Committee, 2013).

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