Hungary

1. Discriminatory family code

The Fundamental Law, Act IV on Marriage, Family and Guardianship (the Family Act), provides for the equality of women both in marriage and in family life and prohibits bigamy. However this law is due to be superseded by the new Civil Code (Act V of 2013), which will take effect after March 2014. At the time of writing the new Civil Code was not available in English and its impact is as yet unclear.

Under the Family Act the legal minimum age of marriage is 18. Persons under 16 may marry with the permission of the court, provided that they can demonstrate that the marriage is in the interests of the minors, that they have their parents’ or guardians’ permission, and that they enter into marriage of their own free will. Concerning early marriage, the United Nations reports that, based on 2010 data, 0.6% of girls between 15 and 19 years of age were married, divorced or widowed, compared to 0.1% of boys in the same age range. The federal law does not officially recognise any customary laws or personal laws. However, despite the legal prohibition, there have been reports of forced, arranged and underage marriages in Roma communities, where the average age at marriage is lower than in the general population. There is no specific provision criminalising forced marriage in Hungary, although marriage conducted without the free will and consent of the parties is deemed null and void.

The Family Act provides that married couples jointly share parental authority and legal responsibility for financially maintaining the family’s expenses.

The Civil Code provides women and men with equal inheritance rights, as widows and daughters. In fact, there is no distinction in the Hungarian language between widow and widower. Customary or religious laws have no role in the inheritance practices.

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1 Act IV of 1952 on Marriage, Family and Guardianship (as amended in 1986)
2 Act IV of 1952 on Marriage, Family and Guardianship (as amended in 1986), Chapter II
4 UN (2012)
5 ERRC (2011), p. 2
6 Act IV of 1952 on Marriage, Family and Guardianship (as amended in 1986), Chapter II: see also ERRC (2011), p. 2
7 CEDAW (2011), p. 29
8 Civil Code section 8.2
Pursuant to Article 18 (1) of the superseded Family Act, the court can grant a divorce at the request of either or both spouses if their marriage has completely and irretrievably broken down. Upon dissolution of marriage, property is equally divided by agreement, and the law provides for the valuation of non-monetary contributions made by either spouse during the marriage.\(^9\) It remains to be seen how this will be affected by the new Civil Code of 2014.

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Both men and women have the ability to obtain a passport and transfer citizenship to their children.\(^10\)

2. Restricted physical integrity

On 1 July 2013, amendments to the Criminal Code entered into force making domestic violence against both sexes a specific criminal offense.\(^11\) It applies to relationships of spouses, ex-spouses, cohabitants, ex-cohabitants, custodians, people living with guardians, as well as same sex relationships. The law defines domestic violence as simple battery (in section 164(2)), aggravated battery (in section 164 (3-4)), violating personal freedom (in section 194(1)), and an attack on human dignity (exemplified by slapping or spitting) (in section 227(2)). Maximum sentences range from three years for simple battery to five years for aggravated battery. Importantly, the law also places responsibility to take criminal action against the perpetrator on the prosecutor rather than the victim.\(^12\) Based on Act LXXII of 2009 police also now have the power to impose a restraining order for 72 hours for preventive purposes without violence having taken place and without the victim needing to request it.\(^13\) This law is supported by police guidelines on domestic violence and on the application of civil restraining orders.\(^14\) The Government of Hungary also reports that it has opened a secret shelter and established a Regional Crises Management Network, covering 14 locations around the country, as well as temporary housing for domestic violence victims and their families.\(^15\)

However, the domestic violence law also contains several weaknesses that hamper its effectiveness. NGOs have highlighted the fact that an assault against an intimate partner is only classified as an instance of domestic violence if there are at least two separate instances of abuse.\(^16\) And, while section 171 of the Act requires medical providers to report domestic violence to the police if injuries are deemed to take more than eight days to heal, NGOs have reported that medical staff are often reluctant to provide the necessary documentation.\(^17\)

\(^9\) Act IV of 1952 on Marriage, Family and Guardianship (as amended in 1986), Article 27
\(^10\) Act LV. of 1993 on Hungarian Citizenship, Article 4(2)
\(^11\) Hungarian Criminal Code, Act C (2012), Section 212/A
\(^12\) CEDAW (2011), p. 23
\(^13\) CEDAW (2011), p. 23
\(^15\) CEDAW (2011), p. 27
\(^16\) Human Rights Watch (2013), p. 15
\(^17\) Human Rights Watch (2013), p. 4
new legislation also fails to cover non-cohabiting partners, and the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) reported its concern in 2013 over the lack of specific provisions related to other forms of violence, such as economic and psychological violence and stalking. Moreover, Human Rights Watch has reported that there is no comprehensive national strategy or policy on how to combat domestic violence and that, although there are guidelines for police on domestic violence, there are no comparable guidelines for prosecutors, judges, and health and social workers.

In practice, this relatively strong legal framework is not always effectively implemented, and domestic violence continues to be a challenge for Hungarian society. In a 2013 report, Human Rights Watch documented that the police response to domestic violence was generally inadequate, negligent or downright hostile. According to victim interviews, police held the view that they cannot or will not intervene “unless blood flows”, and they usually required the victim to make a formal complaint before they were willing to issue a restraining order unless the injuries were very serious. The report also found that lack of guidelines for prosecutors and judges also contribute to the problem, as did the inadequate emergency shelter system: only 122 beds are available throughout the country, and only 28 of those are located in a shelter with a secret address.

Lack of confidence in the legal system also impedes reporting for women from the Roma community, which is already subject to widespread discrimination. According to the European Roma Rights Centre, factors that influence the high vulnerability to domestic violence among Roma women and girls, as well as the low reporting rates, include: child marriage and the resulting lack of education and hindered employment opportunities, social acceptance, fear of further victimisation on the part of the police, lack of alternative housing, and inadequate economic means to survive on their own.

Following an amendment in 2013, section 197 of the Hungarian Criminal Code now criminalises sexual violence and rape, including spousal rape, punishable by imprisonment between two to eight years. However, although the new law introduces some positive steps regarding sexual violence, NGOs have criticised it for failing to define rape by the lack of consent; instead it defines it by the use of violence, threats and coercion. In addition, 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.

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18 Human Rights Watch (2013), p. 15
19 CEDAW (2013), p. 5
20 Human Rights Watch (2013), p. 2
21 Human Rights Watch (2013), p. 3
22 Human Rights Watch (2013), p. 3
23 Human Rights Watch (2013), p. 4
24 Human Rights Watch (2013), p. 3
26 Hungarian Women’s Lobby and the European Roma Rights Centre (2013), p. 9; CEDAW (2012), p. 5
27 Hungarian Criminal Code, Act C (2012), Section 207
Despite the new law, violence against women, including sexual violence, remains a serious problem in Hungary, although it is significantly underreported.\(^{28}\) The risk of violence and sexual assault increases for minority Roma women and children, who are highly vulnerable to violence by state and non-state actors.\(^{29}\) Official police data shows 192 cases of violent sexual intercourse in 2012, a decrease from 196 in 2011 and from 246 in 2010.\(^{30}\) The US Department of State reports that in 2012 prosecutors pressed rape charges in 98 of these cases.\(^{31}\)

There is no available reliable data on the prevalence of rape in Hungary. In 2012, the European Union Agency for Fundamental Rights reported that 21% of women had experienced sexual and/or sexual violence by an intimate partner in their lifetime.\(^{32}\) There is evidence that underreporting may be linked to a lack of trust in the justice system. In 2010, there was a highly publicised case involving a woman being raped by five policemen, all of whom were later acquitted. According to civil society groups working on the issue, this case contributed to the widely held view that the radical drop in reporting of cases of violent sexual intercourse between 2010 and 2011 is in fact due to the way cases are handled by the police, the court and the media.\(^{33}\)

The equality opportunities law prohibits harassment based on sex as a form of discrimination,\(^{34}\) and section 195 of the Criminal Code makes sexual harassment a criminal offense, although there is no specific law or legal definition of sexual harassment. In practice however, the US Department of State reports that sexual harassment remains widespread, which NGOs have attributed to the absence of a clear legal definition of sexual harassment or of legal awareness of when and how to file a complaint.\(^{35}\) The European Parliament reports that, although sexual harassment has been defined in the Equal Treatment Act since 2004, the Equal Treatment Authority, an independent authority set up by the government to monitor enforcement of antidiscrimination laws, has not fined any company for this offence.\(^{36}\)

There is no evidence that female genital mutilation is practiced in Hungary.

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**Trafficking** is a growing problem in Hungary.\(^{37}\) The country has been identified as a source, transit and destination country for women and girls subjected to sex trafficking and forced labour.\(^{38}\) In order to combat the practice, Hungary amended the Criminal Code in 2013 to bring the definition of trafficking closer to international norms.\(^{39}\) However, these efforts do not meet

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\(^{28}\) US Department of State (2013a)

\(^{29}\) Hungarian Women’s Lobby and the European Roma Rights Centre (2013), p. 9

\(^{30}\) Cited in WAVE (2013), p. 55

\(^{31}\) US Department of State (2013a)


\(^{33}\) WAVE (2013), p. 55

\(^{34}\) Act CXXV of 22 December 2003 on equal treatment and promotion of equal opportunities, Article 10

\(^{35}\) US Department of State

\(^{36}\) European Parliament (2013b), p. 5


\(^{38}\) US Department of State (2013b)

\(^{39}\) Hungarian Women’s Lobby and the European Roma Rights Centre (2013), p. 3
the minimum international standards for action according to the US Department of State’s Trafficking in Persons Report. The European Roma Rights Center has also found that human trafficking affects Roma women disproportionately in Hungary. Although relevant official data still does not exist, interviews conducted by the European Roma Rights Center with a range of law enforcement officials, service providers and NGOs in 2010 indicates that Roma represent a significant portion of victims of trafficking in Hungary.

The European Parliament reports that access to contraceptives is limited in Hungary and that women must pay for them; contraceptives cost about 3,000 HUF (10 euros) per month. United Nations figures from 1993 indicate that 71.3% of women used some form of modern contraceptives, however more recent data is not available.

Act LXXIX of 1992 on the Protection of Fetal Life permits abortion, although it mandates two counselling sessions with a three-day waiting period between the sessions before a woman can obtain an abortion. There is also state subsidisation of abortions for poor women and girls. However, NGOs have criticised these provisions as causing unnecessary delay and have identified a rise in the conscientious objection of medical professionals in preforming the procedure. Additionally in 2013 the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) urged the government to cease all negative interference with women’s sexual and reproductive rights and to provide adequate access to family planning services and affordable contraceptives. The Committee also expressed concern about the limited access to and inadequate quality of sexual and reproductive health services for women with disabilities, women with low income, Romani women, women living in rural areas and women living with HIV. In 2004, the CEDAW Committee also filed an Optional Protocol case against Hungary, on the basis that the involuntary sterilisation of a Romani woman by the government constituted discrimination and a violation of international law. In response, the Government of Hungary announced that it would provide financial compensation to the complainant, and in 2008 the Public Health Act was amended to improve the provision of information and procedures to obtain consent in these cases.

There is no mention of the changes in the Hungarian Constitution (“Fundamental Law”) which threatens to lead to a prohibition of women’s access to abortion. The new Hungarian Constitution which came into effect in 2012 states in the preamble that life should be protected from the moment of conception. There is no other explicit reference to a restriction of

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40 US Department of State (2013a), p. 78
41 Hungarian Women’s Lobby and the European Roma Rights Centre (2013), p. 3
42 European Parliament (2013b), p. 11
43 UN (2012b)
44 Act LXXIX of 1992 on the Protection of Fetal Life, Article 9; CRR (2013), p. 3
45 CRR (2013), p. 9
46 CRR (2013), p. 4
47 CEDAW (2013), p. 8
49 ERRC (2009)
reproductive rights in the document, but women’s organisations and reproductive rights groups have called attention to the potential problems this change may bring.

3. Son bias

Hungary currently has a male/female sex ratio for the working age population (15-64) of 0.98 and a male/female sex ratio at birth of 1.06.\textsuperscript{50} There is no evidence to suggest that Hungary is a country of concern in relation to missing women.

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Data on infant mortality in Hungary does not suggest a son bias. Roughly equal numbers of girls enrol in both primary and secondary schooling.\textsuperscript{51} However, anecdotal evidence from NGOs indicates that Roma girls may be less likely to attend school, due to factors including early marriage and social expectations.\textsuperscript{52}

4. Restricted resources and assets

There is limited data available in terms of women’s access to land and non-land assets in the society in general. Pursuant to Article 27 (1) of the Family Act, all matrimonial property is held jointly by both spouses, although the new Civil Code is expected to overhaul this framework, as well as the law governing inheritance. However there is evidence that some gender disparities continue to exist in minority Roma communities. According to one report on the housing situation of Roma communities, the ownership of housing is largely in the hands of men, due to the presence of poverty in Roma communities as well as the patriarchal traditions within segments of the population.\textsuperscript{53} Moreover, the spread of forced evictions as well as attacks against Romani dwellings increase the concern that Romani women have about their housing conditions.\textsuperscript{54}

There do not appear to be any formal restrictions on Hungarian women’s access to financial services. The European Parliament has reported that the National Social Inclusion Strategy – Extreme Poverty, Child Poverty, the Roma (2011-2020) plans to introduce specific sub-programmes targeting Romani women in the “way out programme” providing micro-credits; although as of 2014 no actions have been implemented in this regard.\textsuperscript{55} The government reported in 2011 that women are underrepresented among entrepreneurs as well: their rate is only 30%, of whom only 15% have some entrepreneurial bank credit and 30% have personal or household credit. According to 2011 World Bank data, women were more likely to have obtained a loan from a financial institution in the previous year (10.2% versus 8.4% of men);

\textsuperscript{50} CIA (2014)
\textsuperscript{51} UNICEF (n.d.)
\textsuperscript{52} ERRC (2011), p. 5
\textsuperscript{53} UNDP (2011), pp. 43-44
\textsuperscript{54} European Parliament (2013a), p. 35
\textsuperscript{55} European Parliament (2014), p. 8
while they were less likely to have obtained a loan from family or friends (7.7% of women, compared with 11.8% of men) in the previous year.  

5. Restricted civil liberties

Women are granted the equal right to freedom of movement and residence under the new Fundamental Law.  

The Government of Hungary has not adopted quotas or targets to increase the number of women in political and public life or to ensure the equal representation of women in all publicly appointed bodies, and several proposed bills to establish a quota system have been rejected by Parliament. However, currently, two parliamentary parties have a quota within the party itself; and only one party explicitly promotes women’s political participation. Nevertheless, women continue to be underrepresented in political life. Following the 2010 elections, women make up only 9.4% of elected members of the Parliament, although the proportion of female political leaders is somewhat higher at the local level. This is one of the lowest percentages in the European Union. According to the European Parliament, opinion polls show that public support for women’s political participation is low. Roma women are even more significantly underrepresented, with only one Roma woman among the members of Parliament as of 2013. Following the 2014 elections, none of the newly elected cabinet members are women.

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With respect to women’s workplace rights, Act CXXV of 22 December 2003 on Equal Treatment and Promotion of Equal Opportunities prohibits discrimination in employment on the grounds of gender. Hungary’s new Labour Code removed women-specific restrictions in employment, instead providing employment protections for all workers. However, NGOs have reported that neither the new Fundamental Law nor the new Labour Code explicitly contains the principle of equal pay for equal work. Moreover, the new Labour Code does not recommend that employers introduce equal opportunity plans. A little over 56% of Hungarian working-age women were employed in 2012. 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

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56 World Bank (2011)
57 The Fundamental Law of Hungary (2011), Article XXVII
58 CEDAW (2012), p. 6
59 Hungarian Women’s Lobby and the European Roma Rights Centre (2013), p. 4
60 IPU (2014)
64 Hungarian Women’s Lobby and the European Roma Rights Centre (2013), p. 4
66 European Parliament (2013b), p. 6
67 European Parliament (2013b), p. 6
years of parental leave at 70% of their wages up to a cap.\textsuperscript{68} Fathers may also utilise all or some of the \textbf{parental leave} period. Uninsured and insured parents receive a flat fee equal to the minimum pension (about 95 euros per month) for the third year of their child’s life.\textsuperscript{69}

However, this support has not necessarily translated into women’s increased participation in the workforce. The European Parliament reporting that 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 European Union.\textsuperscript{70}

In 2014, the Hungarian government introduced a new parental leave regulation that provides more benefits for the birth of a second child and allows women on parental leave to work for wages yet receive the parental leave allowance at the same time. Given that childcare institutions are scarce, this measure is unlikely to increase women’s economic independence in the near future.\textsuperscript{71}

\textsuperscript{69} Act 83 of 1997 on Compulsory Health Insurance, Articles 42 and 48; Act 84 of 1998 on Family Support, Articles 20, 20/A, 23; European Parliament (2013b), p. 10
\textsuperscript{70} European Parliament (2013b), p. 6
\textsuperscript{71} http://csaladitudakozo.kormany.hu/gyed-extra [in Hungarian]
Sources


Committee on the Elimination of Discrimination against Women (CEDAW) (2013), Concluding observations on the combined seventh and eighth periodic reports of Hungary, adopted by the Committee at its fifty-fourth session, 26 March 2013, CEDAW/C/HUN/CO/7-8.


