**Special Rapporteur on the right to adequate housing**

**Special Rapporteur on extreme poverty and human rights**

Office of the United Nations High Commissioner for Human Rights

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Subject:

Reply to the Special Rapporteur on adequate housing and extreme poverty

To the attention of the Special Rapporteur on adequate housing

To the attention of the Special Rapporteur on extreme poverty

Pursuant to the official Call published on 30 August 2021, the Streetlawyer Association as a Hungarian civil society organization (in Hungarian: Utcajogász Egyesület, seat: 1061 Budapest, Paulay Ede utca 55., registered by court under No. 19-02-0003636, webpage: www.utcajogasz.hu) hereby submits a written input regarding the Hungarian legislation.

1. **Streetlawyer Association (SLA)**

SLA’s volunteer lawyers provide free legal aid on social rights and housing issues to people in poverty, mostly to homeless people or people living in bad or insecure housing in Hungary.

SLA has grown out of a Budapest-based (Hungary) grassroots housing activist group of homeless people and people in housing poverty and their allies called The City is for All, and was founded by two volunteer lawyers in 2010. SLA has been providing its weekly 2-hours of street-based free legal aid service for homeless people in Budapest ever since then. Such a low-threshold free legal aid is still unprecedented in Hungary and gap-filling. Although SLA’s initial main target group were homeless people, from the start others with housing problems have also taken advantage of the free legal services. Currently, SLA’s free legal aid services a wide group of clients, ranging from people living on the streets to low-income people struggling with housing debt or other housing or social rights-related problems.

The organization became an officially registered association in 2016, and its activities have gradually extended to include the following:

* Free legal aid service on the street, and also through email and phone hotline (twice a week), submission writing, and legal representation / litigation focusing on strategic legal and policy areas in housing and social rights.
* Free on call legal aid to prevent evictions or to provide support in case an eviction takes place.
* Freedom of information requests and litigation to ensure transparency and accountability of municipalities and state bodies with regard to housing and social care.
* Analysis, review, and advocacy with relation to legal and policy initiatives to achieve a more just, equitable, fair and transparent regulatory framework and practice in the field of housing and social support.
* Legal empowerment through producing easy-to-understand guidelines helping people to understand and effectively implement housing and social rights-related regulations, and holding awareness-raising, empowerment and training sessions for people in housing poverty, youth with disadvantaged backgrounds, social workers, caregivers, trade unions and lawyers. SLA also creates videos and infographics for educational reasons.

SLA currently works with 20 volunteer lawyers and two activists, and eight part-time staff. Seven of the staff working part time also contribute volunteer work to the organization.

SLA’s current projects include a project aimed at making the municipal public housing systems more just, equitable and accessible for people in need in cooperation with some Budapest municipalities, a legal and policy analysis focusing on making judicial enforcement (the execution of court decisions) more just, and a capacity-building for trade unions and social workers.

**1.1. SLA’s mission**

SLA is striving for a just and inclusive society, for a society where human rights, especially social rights are respected, where everyone’s opportunity for participation in social and political affairs is guaranteed, and access to adequate housing is secured for all by law and in practice.

**1.2. SLA’s involvement**

SLA was created in 2010 initially to provide free legal aid to homeless people, including those living on the streets. Already then there were many misdemeanours in effect, in relation to which homeless people were more frequently charged and punished, such as breaches of public health regulations, and the prohibition of drinking alcohol in public etc. Only because someone is sleeping rough should not mean that they commit certain offenses more often than the others, but in SLA’s experience these homeless people are more in the eyes of the authorities, who regrettably resort to frequently ID checking or fining them, often amounting to harassment with an intent to scare them away from where they stay.

SLA is a member of the Civil Working Group on Misdemeanours in addition to the Hungarian Civil Liberties Union and the Hungarian Helsinki Committee.[[1]](#footnote-0) The Working Group’s goal is to uncover the anomalies of the regulatory and policy framework and practice around misdemeanours in Hungary, and to achieve positive changes in this regard. SLA focuses mostly on misdemeanours affecting homeless people and people in poverty.

This year, SLA has also become a member of the OPCAT Civil Consultative Body of the Hungarian Commissioner for Fundamental Rights.[[2]](#footnote-1)

Through SLA’s weekly street-based free legal aid service, the email and phone hotlines, and through referrals, SLA’s lawyers have worked on many cases of misdemeanours. In its case load, SLA has come across several cases of disproportionately high fines for misdemeanours, which people in abject poverty often cannot even pay. Police gave one of SLA’s clients, a homeless man, the highest possible fine simply for throwing away a tissue on the street, regardless that when asked the man picked up the tissue and put it in the bin.[[3]](#footnote-2) In SLA’s experience, homeless people are often sanctioned for begging too, even though only the so-called harassing begging is considered a misdemeanour in Hungarian law (if someone stops and asks people for money in a public space, or goes door-to-door asking for money) and begging in the company of a minor,[[4]](#footnote-3) but silent begging should not be, nor the distribution of magazines for donation.

SLA has been advocating for years for addressing the deficiencies of the system of on the spot fines, among others at the Commissioner for Fundamental Rights. The main problem of the system is that in case someone accepts the fine on the spot, there is no remedy available afterwards. In theory, the fined person should be informed about the consequences. However, in practice usually a homeless person faces two policemen, who mostly fail to inform the person, and he or she feels pressured to accept the fine. Afterwards, in absence of any legal remedies, there is simply no way to show if the alleged offense did not take place or not in that manner, and there is neither possibility to request the amount of the fine to be lowered. In many cases, the fine, if not paid, can be changed to confinement, and this way people can be imprisoned for acts that are hardly or not at all harmful for the society.

Since the current government is in place, for 11 years, through regulations and in practice they have been aiming at “cleaning” the streets from homeless people, and “disappearing” them from the public eye by criminalizing them. The government does not approach homelessness as a social problem, and instead of providing support or a way out of the abject situation, they try to eradicate the problem through criminalization and penalization. The government was not satisfied with the intensive fining of homeless people for the already existing misdemeanours and made it a misdemeanour to simply live on the street or to sleep rough. This happened gradually, amidst the constant protest of civil society.[[5]](#footnote-4) Despite that, the government managed to push through a legal amendment of the Act on Misdemeanours, making sleeping rough punishable nationwide from 15 October 2018.[[6]](#footnote-5) In response, SLA released public statements and gave interviews to protest the amendment, developed an easy-to-understand summary of the law and its implementation for homeless people,[[7]](#footnote-6) and distributed the leaflet at shelters and on the streets. The organization also developed a legal background material for attorneys for possible cases and operated a phone hotline, where those affected or anyone who witnessed such a misdemeanour procedure could reach SLA lawyers. SLA attorneys also provided legal representation, in all but one such case from Budapest, and in one case SLA’s client was acquitted at the second instance court.[[8]](#footnote-7) Additionally, SLA made a submission to the Hungarian Constitutional Court, challenging the constitutionality of the legal amendment, and convinced other actors, including the then Special Rapporteur on Adequate Housing to do the same.[[9]](#footnote-8) Unfortunately, the Court decided not to strike down the law.[[10]](#footnote-9)

SLA has thus amassed a large body of knowledge and experience through its caseload, litigation and from engaging into advocacy regarding the matter.

**2. Hungarian Laws Criminalising People in Need**

**2. 1. Introduction**

Hungarian law threatens poor people with a punishment at two levels. While at the national level the Act on Misdemeanours serves as a legal basis for criminalisation, at local level, decrees of municipalities impose sanctions. The main difference between the two levels is that sanctions provided by the Act on Misdemeanours might be converted to confinement. This way, misdemeanours that SLA will demonstrate in this submission are clearly of the nature of criminal law. The sanctions set by decrees of municipalities only might constitute a debt without any deprivation of liberty.

**2. 2. Laws at national level**

**2. 2. 1. Criminalisation of homelessness**

As mentioned earlier, the criminalization of homelessness in Hungary has been ongoing to some extent since 2010.

The main milestones of the criminalization are the followings:

In 2010 the amendment of the Act on the Protection and Revision of the Built Environment (Building Act) authorized municipalities to pronounce the unorderly use of public spaces on their territories a misdemeanour. The Ombudsman launched an investigation into this, and its consequent report suggests that the regulation was unconstitutional. As the report had no consequence in practice, the Ombudsman made a submission to the Hungarian Constitutional Court in 2011, challenging the law’s constitutionality. In the meantime, the Act on Misdemeanours was amended to include as a misdemeanour “the habitual use of public space”. The ombudsman included that too in its constitutional submission.

The Hungarian Constitutional Court made its decision in November 2012,[[11]](#footnote-10) annulling the amendment of the Act on Misdemeanours that criminalized rough sleeping. The Court stated that the annulled provision of the Misdemeanour Act violates the principle of legal clarity and the right to human dignity. Additionally, the Court emphasized that homelessness is a social problem that cannot be solved with penalising it as a misdemeanour.

In response, the Government initiated the fourth amendment of the Fundamental Law and the parliament adopted it on 11 March 2013 (and it took effect on 25 March), and another amendment of the Act on Misdemeanours, enabling municipalities to criminalize the habitual use of public spaces on areas designated by them and automatically criminalizing it on world heritage sites. Most municipalities did not take advantage of this opportunity, but in Budapest the world heritage sites, and the spaces designated by municipalities for the prohibition took up large areas. The Commissioner for Fundamental Rights (who took over the position of the Ombudsman from 2012) initiated the review of these local decrees at the Curia’s[[12]](#footnote-11) council on municipalities. While the Curia seemingly did all it could to narrow the range of criminalization and aligned its decision with the prior (2012) arguments of the Hungarian Constitutional Court, it could only act in its legal supervisory role of the municipalities, since by this time the Fundamental Law sanctioned the prohibition of the habitual use of public spaces. Most of the local decrees designating areas for criminalization brought by the Budapest Municipality and the local municipalities were struck down by the Curia, which stated that the local bodies overreached their legal authorization. The Court further stated that, as a moral principle homeless people cannot be expelled from the urban areas. As a consequence of this decision, the provisions of the Misdemeanour Act in relation to the criminalization of sleeping rough became meaningless, and only its parts pertaining to the world heritage sites were still applicable.

In June 2018, on the government’s initiative the Fundamental Law was amended for the seventh time, and its provisions regarding housing were extended with the following: “The habitual use of public space is prohibited”. This meant that a general criminalization of sleeping rough became part of the constitution. In the same month the parliament again amended the Act on Misdemeanours, making the “habitual use of public space” a misdemeanour all over the country, punishable even by confinement.

The legal amendment took effect on 15 October 2018. Already in the initial phase of implementation many courts have suspended their procedures and turned to the Constitutional Court to question the constitutionality of the legal amendment. The Hungarian Constitutional Court made its decision in June 2019, according to which the legal amendment was in accordance with the Fundamental Law.[[13]](#footnote-12) At the same time the Court stated that the penalization should be in line with the objectives of the law, meaning that they should serve the channeling of homeless people towards shelters and the social service system.

It is remarkable that prior to 2018, the Commissioner for Fundamental Rights (Ombudsman before 2012) challenged the legal norms criminalizing sleeping rough every time such a legal amendment was adopted. The decision of the Hungarian Constitutional Court in 2012 and that of the Curia in 2013 both protected human rights and the basic principles of the rule of law, which in SLA’s view cannot be said about the 2019 decision of the Constitutional Court. The Commissioner for Fundamental Rights also failed to challenge the legal amendment in 2018, despite that SLA requested the Commissioner to turn to the Constitutional Court.[[14]](#footnote-13)

It is important to also draw attention to the tactic of the governing party, Fidesz. Every time when a public body challenged the legality of the criminalization of sleeping rough in the name of rule of law and human rights and referred to its unconstitutionality, in 2013 and 2018, the government owning supermajority amended the Fundamental Law in response. This is how provisions on the orderly use of public space became part of the highest law of Hungary, even though in SLA’s stance that it is not the suitable place in the legal hierarchy for such regulations.

The main elements of the misdemeanour regulations currently in place

According to the current legislation, if the police detect that a person is habitually using a public space, first they need to call on the person to leave that public space. If the person complies with the call, or cooperates with authority and the homeless service providers and agrees to go to a shelter, there is no need to initiate a misdemeanour procedure, only to issue a caution notice. In case someone is cautioned three times within 90 days, the fourth time the misdemeanour procedure and mandatory pre-trial detention have to be launched automatically.

According to the law, a behavior can be considered a habitual use of the public space when the use of public space is carried out to stay in that public space for a prolonged period of time without the intention to return to one’s residence, home, or any other accommodation. Additionally, it can also be interpreted as a habitual use of the public space if the person repeatedly, within a short period of time engages in acts normally carried out at home, such as sleeping, washing oneself, eating, clothing, keepings pets.[[15]](#footnote-14)

In case of a misdemeanour procedure for breaching the ‘prohibition of the habitual use of public space’ is initiated, the person must be taken to the police station, be interviewed there, and has to be taken to court within 72 hours, all the while he or she remains in police custody. Taking into custody is compulsory, so the police do not have discretion to decide otherwise. This procedure is the only one in Hungarian criminal law where no discretion is granted for the authorities to consider the circumstances of the suspect. During the time of police custody, the police are responsible for feeding, providing the necessary hygiene circumstances and clean clothing to the person charged with the misdemeanor.

A peculiarity of the court procedures is that it was the first time in the legislative history of Hungarian law on misdemeanours that suspects can be interviewed by the court through remote connection.

When the person is taken into custody, the police place their movable properties into storage for 6 months. However, if those include anything that cannot be stored or decomposed, they are demolished. The pets are taken to pounds.

The sanctions the court can mete out include admonition, public work, or confinement. If the person is convicted for the third time for the same misdemeanour within 6 months, caution or public work cannot be the sanction, only confinement.

The implementation of the law

To SLA’s knowledge the first arrest after the amendment went into force on 15 October 2018 took place on 17 October in the suburb of Budapest.[[16]](#footnote-15) A day later, SLA represented another person at a Budapest court. SLA’s client received an admonition on the first instance, then the person was acquitted by the second instance court. Afterwards there were sporadically very few procedures initiated in October-November 2018, then in SLA’s experience the police stopped with implementing the law in practice.

There was another “wave of implementation” during the summer of 2019 when again a few people were charged. According to hearsay, the reason for this resurgence of in practice implementation was that in that summer Budapest hosted an international sport event, the Maccabi Games, and the authorities again tried to make homeless people disappear from the streets of the city. In the cases of SLA’s clients, the procedure ended with termination (equaling to acquittal), or the police released them from custody because they were in such bad health condition that they could not be held there (which circumstance also meant that their misdemeanour procedure had to be terminated). In one of our clients’ cases the court turned to the Hungarian Constitutional Court to challenge the law’s constitutionality, but our client sadly died before the end of the procedure. His case will be presented in detail among the Case studies.

All in all, it can be concluded that the law is not enforced in practice currently, though it is still in effect. According to data published by the Ministry of Interior there were 14 such misdemeanour procedures initiated in 2018, 12 in 2019, 5 in 2020 and 4 in 2021.

In SLA’s opinion the reason for this is if the police were to implement the law by the book that would create a possibly unmanageable caseload for the police and the courts too. At the same time, by not repealing it, the existence of the legal provision creates a constant threat to homeless people and leaves a tool in the authorities’ hands with which they can keep homeless persons on edge. Authorities do not seem to implement it, however, they resort to it when they want a homeless person to leave a certain place. This type of misuse of a law is not acceptable in a functioning rule of law in SLA’s stance. It must be noted that the police are under the strong supervision of the Ministry of Interior, therefore, the non-enforcement of the law is up to the instructions of the Government.

Beyond the above situation, it would anyhow be difficult to appropriately interpret the provisions set by the Act on Misdemeanours because of the lack of norm clarity, which was brought up as a problem by all submissions to the Hungarian Constitutional Court. The police implementing the law needs to apply the complex and ambiguous definition of what constitutes a habitual use of public space that was outlined earlier. Therefore, it comes down to the subjective perception of the attending police personnel to decide whether the misdemeanour is committed or not. In all court procedures SLA knows of, this led to the judge not being able to ascertain whether the misdemeanour in fact took place, and terminated the procedure.

**2. 2. 2. Criminalisation of Begging**

According to the Act II of 2012 on Misdemeanours, both the act of ‘begging with children’ and intrusive or ‘aggressive’ begging is illegal and constitutes a misdemeanour. The wording suggests that the so-called ‘silent begging’ is not a misdemeanour. As of 2012, not only the police but also municipal authorities are entitled to impose on-the-spot fines.[[17]](#footnote-16)

According to the public data of the Ministry of Interior, the majority of the procedures involved begging amounting to harassment. In 2021 (until October included) 4430 procedures were started in this matter, while in 2020 the number was 4625. This number has increased compared to the previous years. Begging with children however resulted in much fewer procedures, with 272 cases in 2019, 196 in 2020 and 143 cases in 2021 until october. The form of begging, which includes going door-to-door asking for money, is the least frequently penalized. In 2021 there were 21 procedures in this matter, and in 2020 only 16 - a decreasing trend compared to previous years. In most cases an on-the-spot fine was issued. The average amount of the fines in 2021 was 26 520 HUF for begging amounting to harassment, 29 473 for door-to-door begging and 29 545 HUF in case of begging with children. Over the last two years both the number of fines imposed and the amount of money to be paid have increased significantly.[[18]](#footnote-17)

At the same time, the statistics show that the number of the people actually paying the fines is considerably low due to the fact that the legislation penalises vulnerable people in poor economic situations. From the low number of the fines paid it can be concluded that in the case of most people the fine is converted to confinement, which means the execution of this law is expensive and burdensome for the state.[[19]](#footnote-18)

It should be noted that apart from legislation with general effect, local municipalities also adopt regulations to penalise certain begging behaviours. They often ban ‘silent begging’ (which is unregulated by the Act of Misdemeanour) in their regulations of community guidelines or the utilization of public premises. Unlike misdemeanours these articles can not lead to imprisonment, only financial penalty.

In 2019, SLA examined the local laws of Budapest municipalities. In District XI it is prohibited to beg on the periphery of public roads or highways and the District XXI regulations ban every activity that constitutes begging. The SLA observed that numerous cities and villages attempt to control begging to some extent. Pécs, Kapocsvár, Bálványos, Balatonföldvár, Balatonboglár and Harkány all found the act of begging to infringe the community regulations.

In these cases, SLA lodged complaints in public interest to the competent authorities in order to request the supervision of the legislation of the municipalities to eliminate parallel regulations or infringement of higher-ranking law.

**2. 2. 3. Criminalisation of Urinating on Public Premises**

The Act on Misdemeanours criminalises offences against public hygiene. According to the Act, to defile public spaces, public buildings serving public transportation purposes, or means of public transport or the failure to remove the waste of pets constitute misdemeanours. Disposal of waste, merely throwing garbage onto the street or next to waste bins was removed from under the scope of the Act on Misdemeanours on 1 March 2021.

Individuals with disabilities are exempted from the above provisions, together with those, whose concerned pets are guide-dogs or aid-dogs serving as assistance of the disabled persons.

As a penalty measure for these misdemeanors, various public officers might impose fines to be paid on the spot; such as guards supervising public areas, guards of protected natural premises or rangers on municipal land areas. Proceedings related to these offences belong under the police’s remit since 1 March 2021

According to data published by the Ministry of Interior, the number of such misdemeanour proceedings started in 2016 was 25.925, 26.400 in 2017, 24.141 in 2018, 19.713 in 2019, 21.262 in 2020, and 6.843 have started until October 2021.

According to a study, conducted by the Budapest Institute on the societal costs of misdemeanour proceedings,[[20]](#footnote-19) the majority of the misdemeanours against public hygiene impact homeless people.

Under these offences, the law is supposed to protect values such as public order, public health and public hygiene. The aim of these provisions is to maintain the cleanliness of public spaces and to maintain public cleanliness in general. SLA did not argue that urinating and defecating at public spaces would not, in most cases, endanger public hygiene. Nevertheless, SLA did highlight that under current laws, at the same time as the mentioned forms of conduct are criminalised az offenses, the law does not oblige local municipalities to establish free of charge public lavatories.

SLA has helped in several cases when homeless people were held liable for committing offences against public hygiene, for urinating or defecating in public spaces. SLA lodged a submission to the Commissioner of Fundamental Rights emphasising that „day by day, thousands of homeless people use public spaces for living, or stay there for longer periods and become potential perpetrators of offences, considering that the majority of shelters are not available during daytime. By being forced to live on the streets, people do need to satisfy exactly the same needs as those people who are not forced to spend long hours outside. The former, however, must satisfy their basic needs with the burden of an absolute lack of privacy: they eat, and, as per their human biological functioning, also urinate and defecate in public, if needed.[[21]](#footnote-20)

Claims of SLA corresponded to the Decision no. 38/2012 (IX. 14.) of the Hungarian Constitutional Court regarding criminalisation of homelessness,[[22]](#footnote-21) according to which: „The fact that homeless people live on the street means a grave crisis for them, which is a result of multiple external forces and is, only in rare cases, a consequence of conscious personal choice. Homeless people have lost their homes, and have no opportunity to resolve their housing issues. Consequently, they are forced, without any real alternatives, to live at the only available place, that is on public grounds.”

In a report published in 2017, the Commissioner for Fundamental Rights established that while legally sound sanctions are in place against those who satisfy their biological needs in public spaces, currently there are no sufficient amounts of usable public toilets available in the capital of Hungary. The report also states that it is not clear which public body shall be responsible for opening and operating public sanitary units, which raises concerns of legal certainty. Furthermore, the report also points out that it is adverse and contradictory, if the law prohibits certain behaviours while not providing even the minimal conditions of satisfying the requirements of compliant conduct.

The Commissioner has called on the Minister of Interior to review the background of the mentioned legislation and its deficiencies, and consider its modification - in order to establish which level of municipal governance, which authority should hold responsibility for operating public sanitary units. Moreover, the Commissioner requested the Mayor of Budapest to prepare motions to establish public toilets as part of voluntary municipality competence until the situation is resolved nationally by law.[[23]](#footnote-22)

Despite the requests of the Commissioner's report, no change has been made in parliamentary or local governmental legislations, and nor in practice.

According to case law, in a case of an offense against public hygiene the Szekszárd District Court imposed a fine of HUF 30.000, but it was also considered as a mitigating circumstance that in the area where the offense was committed no free public toilets were available for use.[[24]](#footnote-23)

**2. 2. 4. Criminalisation of Squatting**

The Act on Misdemeanours considers the offence of squatting as punishable by confinement.

According to the current wording of the legislation, *"Any person who occupies or arbitrarily moves into a vacant dwelling or a vacant non-residential premise that is subject to the law on tenancy or management of premises, without having been authorised to do so by the body or person entitled to establish the tenancy or by a declaration or a measure of the body entitled to accommodate the tenant, commits an offence."[[25]](#footnote-24)*

It is clear from the wording of the provision that the lawmaker saw the need to criminalise squatting to underline the importance of protecting private property, as in the case of the offence of illegal entry into private property.

Various Roma rights organisations had previously objected to the new legislation, but the Hungarian Constitutional Court, in its ex-post review procedure, ruled that the criminalisation did not violate the Constitution.[[26]](#footnote-25)

In addition, the Hungarian Constitutional Court also rejected the petitioners' invocation of the right to social security.

The offence is therefore still punishable by confinement, which is the most severe sanction available for misdemeanours.

In SLA’s experience, there are many civil law proceedings for the eviction of squatters, but the number of misdemeanor procedures is much lower, and the SLA has not seen the courts applying the sanction of confinement. According to data published by the Ministry of the Interior, there are on average 200-300 such proceedings a year.

SLA sees a significant problem in that the state and municipalities often initiate the misdemeanour procedure instead of the traditional eviction procedure provided by civil law. Thus, if the police detain the occupants under the misdemeanour procedure, the owner of the dwelling informally evicts them instead of requesting for this in a civil court. Furthermore, in courts these cases are heard by court clerks who usually have little experience, instead of judges. In SLA’s observation, many municipalities are engaging in illegal practices by using this method to force out former tenants with expired, terminated contracts, who could not otherwise be considered as squatters.

Another phenomenon is also worth noting that municipalities are excluding persons who, in their view, are considered to be arbitrary occupants (i.e. squatters) from applications for tenders for public social housing. Unfortunately the Hungarian Constitutional Court has not annulled such local decrees on public housing. The SLA considers that it is discriminatory to exclude people from social housing tenders who are poor, since the purpose of public housing should be precisely to improve the social situation of the poorest and most deprived people. The protection of property can be ensured by other means, and that should not be the primary consideration in social housing tenders, since in such cases the aim of property management is not to make a profit, but to provide affordable housing opportunities. SLA acknowledges that prior personal breaches can be taken into account when municipalities make housing management decisions, but any general prohibition will exclude many people in need from applying.

**2. 2. 5. Criminalisation of Prostitution**

According to a country report on Hungary by ECPAT,[[27]](#footnote-26) an international organization fighting to end sexual exploitation of children globally, it is reasonable to assume that in Hungary, the main driving factors for the exploitation of children for prostitution are the extreme poverty and the existence of a history of abuse. Therefore, the issue of criminalisation or the decriminalisation of child prostitution is not only a priority and an issue to be examined from a child protection perspective, but also a specific problem of people living in deep poverty in Hungary.

Under current Hungarian legislation, prostitution is legal, but it is subject to many strict rules.[[28]](#footnote-27) Acts that promote or profit from prostitution are punishable under the Hungarian Criminal Code. Such offences include sexual exploitation of children, living on earnings of prostitution, procuring for prostitution or facilitating prostitution.[[29]](#footnote-28) Failure to comply with the strict rules on prostitution is punishable under the Act on Misdemeanours.

Previous legislations on misdemeanours have also dealt with the issue of prostitution from a different perspective.

In line with the decriminalisation of prostitution, the previous Act on Misdemeanours, only prohibited such acts that do not comply with the specific legislation on prostitution. Almost the same provision entered into force on 15 April 2012, but as of 1 July 2013, the jargon of illegal lechery was changed to the current wording of illegal prostitution, due to the entry into force of the new Criminal Code. However, the change of wording did not affect the content. Thus, according to the legislation, anyone who violated a restriction or prohibition on sexual services imposed by a separate law or by local laws (adopted on the basis of an Act), was punishable by confinement or a fine, regardless of whether the offender was over 18 years of age or not. This total disregard for the best interests of a child was highlighted by the Commissioner for Fundamental Rights in the past (in the Reports of 2011 and 2018), and several NGOs also raised the issue of the inadequacy of this legislation.[[30]](#footnote-29) In 2017, a 16-year-old client of SLA was fined for HUF 50 000 for committing the offence of illegal prostitution. In 2018, SLA appealed to the Hungarian Constitutional Court, which, after 2 years of surprisingly long deliberation, ruled that the Act on Misdemeanours - that was in force until 30 June 2020 - provided for the prosecution of persons under the age of eighteen, is unconstitutional.[[31]](#footnote-30) The Hungarian Constitutional Court stated in its detailed reasoning that the proper moral and intellectual development of the child is adversely affected by direct contact with prostitution and therefore, in order to protect the child's constitutional rights, it considers that the State must intervene.

Consequently, with the effect of 1 July 2020, the Parliament amended the Article 172 of Act on Misdemeanour, and the following paragraph was added to the Article: *“The offender shall not be punished for violating the prohibition of offering sexual services if he/she was under the age of 18 at the time of committing the offence. If it is established beyond reasonable doubt on the spot that the person who has committed the offence of providing sexual services is under the age of eighteen, no misdemeanour proceedings may be initiated against him or her."[[32]](#footnote-31)*

The justification of the amendment states that persons under the age of eighteen who offer sexual services are not criminals but victims of prostitution. Therefore, the amendment introduces a general prohibition on offering sexual services to this category of persons but does not provide for any sanctions in case of violation of this prohibition.

SLA notes that the amendment specifically decriminalizes minor offenders ony with regard to the "prohibition of offering sexual services", leaving many prostitution-related offences to be criminally punishable, even if the offender is a 14-year-old. Examples include prostitution of a child on a private property without a medical certificate, "harassment", offering or advertising the "sexual services" of another by a minor. The Constitutional Court has not addressed these aspects with regard to decriminalization.

The amended Article 172 of the Act on Misdemenour further provides in paragraph (4) that if it is established that the person who violated the prohibition on offering sexual services has not reached the age of eighteen, the police shall - pursuant to the Act on the Protection of Children - take immediately enforceable protection measures for the protection of the minor offender, notify the guardianship authority of its decision and arrange for the child’s placement or transportation.[[33]](#footnote-32)

There is no publicly available data by the Ministry of the Interior in a breakdown from which the criminalisation of persons under 18 years of age for prostitution could be retrieved.

“The Civil Working Group on Misdemeanours (mentioned above) expressed the view that the decision of the Hungarian Constitutional Court was necessary but not sufficient to protect children, as the government's amendment to the law still allows the punishment of children forced into prostitution for certain offences. Moreover, even after the amendment, there is no effective institutional response to change the circumstances leading to prostitution. Placing the child in a special children's home is only a symptomatic treatment that provides a temporary solution to their situation.”[[34]](#footnote-33)

**2. 2. 6. Criminalisation of Scavenging**

Until 14 March 2013, the former Act on Misdemeanours did not contain provisions in relation to the conduct of scavenging. On the basis of authorisation by the former Act, it was within the authority of a government decree to establish laws regarding offences against public hygiene. This government decree itself did not provide measures about scavenging.

However, according to the provisions of the former Act on Misdemeanours, statutory elements of misdemeanours were determined not only by acts and government decrees, but also by local municipal decrees. The former Act on Municipalities provided generic authorisation to local governments and municipalities to establish decrees within their own legislative powers, to regulate those societal relations which in this respect are not governed by law.

It is within the framework of municipal decrees where the sanctioning of scavenging has been primarily established, as it is the case in the example of the town of Kaposvár. The respective decree of Kaposvár has been subject to the review of conformity with the Fundamental Law by the Hungarian Constitutional Court, based on the motion of the Commissioner for Fundamental Rights. The Hungarian Constitutional Court found that it was not acceptable to make reference to the protection of property with relation to scavenging: given that it is not possible to determine, solely at the level of abstraction, whether an object placed in the garbage can be considered derelict, whether the prior owner willingly renounced his or her property rights[[35]](#footnote-34). Such a decision shall be made on a case by case basis. If, based on the facts of the case, it can be established that the object placed in garbage stayed within the owner’s property, the conduct would result in the commission of theft; as a criminal offence or as misdemeanour, depending on the material value of the object in concern. The Hungarian Constitutional Court also stated that the type of scavenging, sanctioned by the municipality, is mainly caused by existential need. As such, this is a conduct which is aimed at acquiring goods essential to sustain one’s living and it cannot be considered as an act of danger to society. Moreover, the Court argued that the criminalisation of scavenging results in discrimination, as it openly targets a certain group of individuals living under particular circumstances. For these reasons, the Court ruled that the relevant sections of government decree were unconstitutional and therefore annulled them.

The first version of the current Act on Misdemeanours established the act of taking away waste from waste collecting bin (scavenging) as the statutory elements of misdemeanor, within the group of misdemeanors against public hygiene. The fine range for scavenging was determined between 5000 and 150 thousand HUF. If the fine is not paid, the court can convert the penalty to confinement, calculating with 5000 HUF conversion per day. Therefore the penalty of scavenging could result in a confinement lasting between 1 to 30 days, if equal-value public work was not performed, or if the individual failed to pay the penalty. This provision, criminalising scavenging, never came into effect, as it has been annulled by a modification prior to the date it could have entered into force on 15 April, 2012.

The Act on Waste came into effect on 1 January 2013. In its first version, the act determined that the waste, placed into public waste collecting bins along with the objects left in public spaces during municipal clean-up periods, were the property of public service providers responsible for the collection of waste. Consequently, if anyone picked up and took away piece of garbage from a public bin or from a municipal clean-up pile, the person could have been charged with the commission of theft, according to the material value of the object in concern, as a criminal offence[[36]](#footnote-35) or as a misdemeanour[[37]](#footnote-36). The appropriation of a piece of waste, with a material value under 50 thousand HUF fulfilled the statutory elements of the misdemeanor of theft, that was sanctionable with a fine or confinement. Above a material value of 50 thousand HUF, the statutory elements of the criminal offence were fulfilled, which were punishable by two years of imprisonment.

According to the legislation in effect since 2013, scavenging can be penalised as criminal offence or as misdemeanour, because based on the Act on Waste, waste cannot be considered as a derelict object (res derelicta) but shall be considered as the property of the public service provider responsible for the transport of the waste. Accordingly, the prior ruling of the Hungarian Constitutional Court and the findings of the Commissioner for Fundamental Rights, establishing that the criminalisation of scavenging was unconstitutional, no longer have effect. Scavenging, as a misdemeanour, has merged into the statutory framework of misdemeanour against private property.

Based on data publicly available from the Ministry of Interior, the number of criminal proceedings started in relation to appropriation of waste is currently unknown.

**2. 3. Laws at the local level**

According to Article 32 (2) of the Fundamental Law of Hungary, municipalities shall adopt decrees to regulate local social relations not regulated by an Act or on the basis of authorisation by an act, i.e., based on their original or derived legislative powers.

Under the ‘old’ Act on Misdemeanours, municipalities had their original legislative power to determine in their own decrees what type of conduct constituted misdemeanours, but these were additionally defined in laws or government decrees. With the entry into force of the Act on Misdemeanours in 2013, this possibility was abolished. Municipal representative bodies are currently empowered by the Act on Municipalities to determine by decree "the basic rules of self-sustainability and contribution to the fulfilment of community tasks and living together in a community as well as the legal consequences of omission thereof.”

The Commissioner for Fundamental Rights has brought an action for annulment of the above provision before the Hungarian Constitutional Court, arguing that it is contrary to the principle of the rule of law enshrined in the Fundamental Law, because it lacks the substantive guarantees provided for by law. The Curia[[38]](#footnote-37) also referred the matter to the Hungarian Constitutional Court, considering that the power to define the rules of living together in a community and the possible legal consequences of non-compliance with them rendered the constitutional framework of the delegated legislative power unclear. The Hungarian Constitutional Court considered the two petitions jointly and rejected both, thus this provision for legal delegation to the municipalities remained in force and is now the basis of the legislative competence of the municipalities.[[39]](#footnote-38)

According to the decision of the Curia - that was made following the Constitutional Court’s decision described above - [[40]](#footnote-39) in the context of the rules of living together in a community, the framework and limitation of local government decrees are set forth in the Fundamental Law (Article I (3)). The Hungarian Constitutional Court concluded that "in order to reinforce the traditionally strong self-governance as the achievement of historical constitutionalism, Article I (3) of the Fundamental Law will in the future be the limit of legality for municipality regulations made on the basis of their derived legislative powers (i.e., regulations of an executive nature)”.[[41]](#footnote-40)

Empirical research by SLA on local regulations of ‘living together in a community’ shows that the majority of municipalities do not respect the above outlined framework of legal powers, and often use the regulations to crack down on visible forms of poverty. Examples include the penalization of "silent begging" or the punishment of storing one’s belongings in public spaces.[[42]](#footnote-41)

In SLA’s experience it is common for local laws to conflict with higher level legislation or with the principle of *ne bis in idem*. In case the local government decree is in conflict with a legislative act, a citizen's effective remedies are limited. Municipal decisions can be challenged in administrative lawsuits, but a local municipal decree is also a piece of legislation that is applied by the courts. A conflict of law at a higher level cannot be declared by a court, only by the Curia, and a court may, but is not obliged to, initiate such proceedings. Complaints may also be lodged with the Government Offices, which are responsible for overseeing the legality of municipalities, and have the power to make a referral to the Curia, so that it can declare that the contested provisions are contrary to the law. Both appeal procedures are limited to the examination and possible annulment of the local regulation in question only, while up to several thousand similar regulations in other municipalities may continue to apply.

**2. 4. Special Laws in the Covid-19 Crisis**

Based on the Fundamental Law the government introduced the state of danger on 11 March 2020 with reference to the need to address the pandemic situation endangering lives and livelihoods.[[43]](#footnote-42) The Fundamental Law stipulates that in the state of danger the government is authorized to make decrees that overwrite or suspend laws and can also bring other special measures as part of the so-called “special legal order”. These decrees and measures are in effect until the state of danger is in place. At first, the state of danger was in place for the legally sanctioned 15 days until 25 March 2020, then the government authorized itself to regularly review and if deemed needed, extend the state of danger. On 17 June 2020, the state of danger was revoked,[[44]](#footnote-43) and at the same time an act on provisional measures was introduced[[45]](#footnote-44) that had kept in effect special measures brought under the pandemic. The state of danger was reintroduced on 3 November 2020,[[46]](#footnote-45) when the pandemic situation again became severe.

As part of this special legal order, government decrees (first on 27 March 2020, then in a different form again on 3 November 2020) introduced restrictions on the freedom of movement in the form of a curfew. The first such decree[[47]](#footnote-46) put in place a round-the-clock restriction on outside movement until its expiry on 11 April 2020. According to that one could only leave their registered address, place of residence, or private housing for a compelling reason, which are among others working, office duties, farming, foresting activities and acquiring equipment for those, accessing health care services, engaging in leisure or sport activities, buying daily consumer goods, going to the manicure or hairdresser, to practice religion or to carry out duties as a parent or grandparent etc. If anyone was found in breach of the restrictions it was considered a misdemeanour punishable by minimum 5 thousand to maximum 500 thousand forints.

Another decree was introduced on 3 November 2020[[48]](#footnote-47) that was amended a week later.[[49]](#footnote-48) This first introduced a curfew every night from midnight till 5am, then it was extended to start from 8pm till 5am. This time it was a stricter restriction only permitting people to leave their registered address, or place of residence or their private homes in case they need to go to work (and they have a certification to prove that), to access medical care, in case of emergency and to walk their dogs, but the latter only maximum 500 meters from their homes.

In SLA’s view[[50]](#footnote-49) the provisions led to uncertainty for people without a registered address, or for those whose address is registered to a different location from where they reside, and for those who rented their homes without a proper contract. In many instances landlords are not willing to allow their tenants to register their address to the rentals or do not provide a contract about the rental. It was not clear from the texts of the decrees how the police (that was designated to be responsible for guaranteeing its implementation) would check if people on the streets are near their registered address, place of residence or private housing if they do not have any documentation to prove their housing situation. It was equally unclear how people can prove that they were out on the street for the reasons listed in the decree, such as going to the hairdresser or to buy farm equipment.

The regulations were the most problematic from the perspective of homeless people living on the streets. According to a public health regulation, they could only be accommodated by the night shelters, which have restricted capacities. Those who cannot or are not willing to go to night shelters risked committing two offences at the same time. One was the breach of the curfew punishable by an up to 500 thousand forints fine, while the other the violation of the habitual use of public space that has been punishable by confinement since 2018. At the same time there were capacity shortages in the homeless shelters, and many shelters were in very substandard condition. This put homeless people in a very vulnerable situation, as they were more exposed to the risks of the virus, and to criminalization.

SLA provided legal aid in several cases when homeless people were fined for breaching the curfew (see details below at the case studies).

**Disturbance of the orderly operation of a public institution**

As part of the pandemic-related special legal order, the government introduced in its decree[[51]](#footnote-50) a new type of misdemeanour, the disturbance of the orderly operation of public institutions and the obstruction of the enjoyment of rights of or the carrying out its obligations of the staff of public institutions, their beneficiaries or that of anyone rightfully present in public institutions. According to the regulation, all public bodies in the field of health care, social support, culture and education are considered to be public institutions, meaning among others doctors’ offices, hospitals, universities, concert halls and schools.

SLA finds[[52]](#footnote-51) this regulation to be superfluous, as acts of disturbances, vandalism and alike are already punishable under the laws on misdemeanour and in the Criminal Code. Less severe disturbing behaviour or smaller breaches of norms are usually sanctioned by the house rules of these institutions. For instance, if a person obstructs the activities of social workers at a shelter, that person can be expelled from the institution for a period of time based on the house rules of the shelter. By making these less serious norm-breaking behaviours misdemeanours means that police can be called, and police intervention and the threat of confinement can undermine the delicate atmosphere that should be based on mutual trust in institutions like a hospital or a homeless shelter.

SLA finds this provision to be problematic also because of its vague wording. The “disturbance of orderly functioning” and the “obstruction” are concepts known to the court and in the criminal system, but they are not easily interpreted by the staff of public institutions. The regulation leaves too wide room for interpretation and discretion not only for the police, but also for the staff of public institutions, who initiate these proceedings. This again leads to a high risk of arbitrarily criminalizing homeless people.

By introducing this new type of misdemeanour, the state again took another step in the direction of sanctioning and criminalization instead of providing support to the people who are most vulnerable during the pandemic.

**3. Case Studies from the Practice of SLA**

To highlight the realities of Hungarian laws criminalising people in need, SLA describes different cases from its practice.

**3. 1. Criminalisation of Child Prostitutes - The case of ‘Anna’**

Anna’s father died young, her disabled mother raised her alone with her siblings. After losing their home, Anna and her siblings were taken to an orphanage in Budapest. Anna came got involved in prostitution there. Anna was convicted in 2017 for illegal prostitution because she offered sexual services on a freqented square of the capital. The court ordered the juvenile Anna to pay a fine of HUF 50,000 for violating the rules prohibiting prostitution.[[53]](#footnote-52) Upon appeal by SLA, the fine was upheld by the second instance court.[[54]](#footnote-53) In case she would not have been able to pay the fine, Anna would have had to go to an adult penitentiary at the age of 16. SLA crowdfunded the fine for her and in the spring of 2018 it turned to the Hungarian Constitutional Court. For more than two years, the Constitutional Court has heard the case in an unusually large number of six sessions. Finally, in its decision released in 2020, ruled that several parts of the Act on Misdemeanours are unconstitutional.[[55]](#footnote-54)

**3. 2. Criminalisation of Homelessness - Case of B. Cs.**

B. Cs. was a homeless man living on a public premise of Budapest. In the second wave of criminalisation in 2019 a misdemeanour procedure was initiated against him as previously, he had been admonited three times by the police. Pursuant to the law upheld by the Hungarian Constitutional Court, he was taken to a pre-trial detention in the detention centre of the Budapest Police. He spent almost three days waiting for his court hearing. During the hearing he was not allowed to enter the courtroom but could only follow it through a video channel from a room next to the courtroom. Even though he was physically separated from the court and he has never shown any sign of resistance, he was kept handcuffed for the entire duration of the trial. The first instance court found that he committed the misdemeanour of habitual living in a public space, therefore, the court issued a written admonition as the mildest sanction provided by the Act on Misdemeanours.[[56]](#footnote-55) The hearing was broadcasted live in the Hungarian media.[[57]](#footnote-56) Upon the appeal of SLA, the second instance court ordered the court to retrial the case.[[58]](#footnote-57) Pursuant to the instructions given by the second instance court, the court discontinued the procedure as it did not find enough evidence for committing the offense.[[59]](#footnote-58)

After the procedure, SLA filed a complaint against the police for unlawful handcuffing as B. Cs. had shown a cooperative attitude during the procedure. In addition, the public handcuffing before the court was not only contrary to the principle of presumption of innocence but it was humiliating too. The police rejected the complaint in two instances.[[60]](#footnote-59) The decisions could have been challenged before administrative court but SLA has not been able to do so since B. Cs. died due to an unknown cause on the streets of Budapest before the lawsuit could have been filed.

**3. 3. Criminalisation of Begging - Case of L. B.**

L. B. is a homeless man living in a shelter in Budapest. As he had lost his job during the COVID-19 crisis, he used to beg silently in the downtown of Budapest. He reached out to SLA’s legal aid service after he was fined HUF 50.000 by the police for committing the misdemeanour of begging close to the official ceremonies of the International Eucharistic Congress that took place in Budapest in the fall of 2021.[[61]](#footnote-60) The police took him in handcuffs to the police station for interrogation. SLA filed an appeal against the decision, referring to necessity since L. B. fought for his survival when begging. Currently, L. B. is waiting for his court hearing, which is scheduled for December, 2021.

In another case, SLA submitted a constitutional complaint arguing that the minimum level of existence is not provided by the Hungarian welfare system as the social transfers have not been indexed since 2008. The submission invoking the violation of human dignity is still pending before the Hungarian Constitutional Court.[[62]](#footnote-61)

**3. 4. Criminalisation of squatting - Lánc street Case**

People in need, mostly Roma families, squatted in an empty house owned by the Municipality of Pécs a few years ago. Days after moving in, the families contacted the municipality in person to legalise their status as tenants. The municipality did not sign a tenancy contract with them but made an official protocol in which it acknowledged their stay. Based on the document, invoices of the rent and of the utility costs have been issued by the municipality and paid by the families. In 2021, instead of initiating normal eviction proceedings against the occupants and offering social assistance, the municipality filed a report at the police. Without holding a hearing, the city court fined the occupants for HUF 20.000 for committing the offense of squatting. The SLA filed a request for a hearing. Based on facts presented in the hearing, the city court quashed the fine. In its reasoning, the city court highlighted the inconsistencies of the municipality’s housing policy.[[63]](#footnote-62)

**3. 5. Curfew breach - Case of A. L.**

A. L. is a homeless man living in a shelter in Budapest. During the COVID-19 crisis, he was not allowed to enter the shelter, therefore he tried to sleep at a railway station during the cold nights of December 2020. For this, A. L. was fined on the spot for HUF 25.000 by a police officer and a soldier patrolling the station at night. As A. L signed the fine sheet in fear of being taken into detention, the decision became final immediately. SLA filed a request at the police to review the case. The police quashed the fine by acknowledging that A. L. could not comply with the curfew rules, as he had nowhere to go home.[[64]](#footnote-63)

In case you need further information, SLA is happy to answer your questions.

Yours faithfully,

Ágnes Kalota

Chair

Streetlawyer Association

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2. See the homepage of the Office of the Commissioner for Fundamental Rights in English at: ​​<https://www.ajbh.hu/web/ajbh-en/opcat-ccb> [↑](#footnote-ref-1)
3. Said person threw away a piece of trash, [https://utcajogasz.hu/en/2016/06/23/said-person-threw-away-a-piece-of-trash-the-latest-success-story-of-SLA/](https://utcajogasz.hu/en/2016/06/23/said-person-threw-away-a-piece-of-trash-the-latest-success-story-of-SA/) [↑](#footnote-ref-2)
4. Article 185 of Act on Misdemeanours [↑](#footnote-ref-3)
5. Hungary’s homeless told to move along, from everywhere, Deutsche Welle report, <https://www.dw.com/en/hungarys-homeless-told-to-move-along-from-everywhere/a-17133045> [↑](#footnote-ref-4)
6. SLA: The criminalization of homelessness in Hungary, <https://utcajogasz.hu/en/resources/information-materials/the-criminalisation-of-homelessness-in-hungary/> [↑](#footnote-ref-5)
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9. Special Rapporteur on the Right to Adequate Housing, Amicus curiae submitted to the Hungarian Constitutional Court, 2018,

   <https://www.ohchr.org/Documents/Issues/Housing/AmicusConstitutionalCourtHungary_1.pdf>, <https://www.ohchr.org/Documents/Issues/Housing/AmicusConstitutionalCourtHungary_2.pdf>, <https://www.ohchr.org/Documents/Issues/Housing/AmicusConstitutionalCourtHungary_3.pdf> [↑](#footnote-ref-8)
10. SLA: The Constitutional Court has made an inhumane decision on the confinement of homeless people, <https://utcajogasz.hu/en/resources/misdemeanour-cases/the-constitutional-court-has-made-an-inhumane-decision-on-the-confinement-of-homeless-people/> [↑](#footnote-ref-9)
11. Decision No. 38/2012. (XI. 14.) AB határozat, See the official summary on the webpage of the court: <http://public.mkab.hu/dev/dontesek.nsf/0/1C19F4D0CFDE32FBC1257ADA00524FF1?OpenDocument> [↑](#footnote-ref-10)
12. Curia is the highest court in Hungary [↑](#footnote-ref-11)
13. Decision No. 19/2019. (VI. 18.) [↑](#footnote-ref-12)
14. SLA’s opinion on the unconstitutionality of the criminalization of the habitual use of public space, available in Hungarian here: <http://utcajogasz.hu/szakmai-anyagok/szabalysertes/az-eletvitelszeru-kozteruleti-tartozkodas-szabalysertesi-tenyallas-alaptorveny-ellenessege/> [↑](#footnote-ref-13)
15. Article 178/B(5) of Act on Misdemeanors. Available in Hungarian here as no official translation has been made by the Government:

    <https://njt.hu/jogszabaly/2012-2-00-00> [↑](#footnote-ref-14)
16. See the report of 444 in Hungarian:

    <https://444.hu/2018/10/17/godollon-iteltek-el-az-elso-hajlektalant-az-uj-torveny-alapjan> [↑](#footnote-ref-15)
17. Article 185 of Act on Misdemeanours, Available in Hungarian here as no official translation has been made by the Government: <https://njt.hu/jogszabaly/2012-2-00-00> [↑](#footnote-ref-16)
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22. Hungarian Constitutional Court, Decision no. 38/2012 (IX. 14.), <https://hunconcourt.hu/dontes/decision-38-2012-on-criminalising-people-living-at-public-areas-permanently> [↑](#footnote-ref-21)
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24. Szekszárdi Járásbíróság’s decision No. Sze.59/2021/4. [↑](#footnote-ref-23)
25. Article 169 of Act on Misdemeanours [↑](#footnote-ref-24)
26. Decision No. 71/2002. (XII. 17.) AB [↑](#footnote-ref-25)
27. Country Report of ECAPT - Report on the forms, characteristics and extent of sexual exploitation of children (February 2021), hereinafter: ‘ECAPT Report’, <https://ecpat.org/wp-content/uploads/2021/05/ECO_HUNGARY_Final-version-ENG_22January2021.pdf> [↑](#footnote-ref-26)
28. EACPT Report [↑](#footnote-ref-27)
29. Articles 200-203 of the Criminal Code [↑](#footnote-ref-28)
30. ECAPT Report [↑](#footnote-ref-29)
31. Decision No. 18/2020 (VII.21.) [↑](#footnote-ref-30)
32. Article 172 (2) - (3) of Act on Misdemeanour [↑](#footnote-ref-31)
33. Article 172 (5) of Act on Misdemeanour [↑](#footnote-ref-32)
34. See in Hungarian:

    <http://utcajogasz.hu/2020/07/14/prostituciora-kenyszeritett-gyerekek-bortonbe-alaptorveny-ellenes-a-szabalysertesi-torveny/> [↑](#footnote-ref-33)
35. Decision No. 33/2005 (VI. 27.) [↑](#footnote-ref-34)
36. Article 370(3) lit. (a) of Act on Criminal Code [↑](#footnote-ref-35)
37. Article 117(1) of Act on Misdemeanours [↑](#footnote-ref-36)
38. Decision No. Köf.5052/2015/2, The Curia suspended the procedure for the supervision of the legality of the Municipal Decree no. 57/2012 (XII. 21.) of the Belváros-Lipótváros Municipality of Budapest Capital City District V on the basic rules of living together in community and the legal consequences of failure to comply with them in order to initiate proceedings before the Constitutional Court. The petition also requested a declaration that Article 8 (2) of the Act on Local Governments is unconstitutional and should be prohibited from being applied, in addition to Article 143 (4) (d) of the enabling provision, since it also allows the representative bodies of the municipalities to lay down obligations and the legal consequences of failure to fulfil them in a decree. [↑](#footnote-ref-37)
39. Decision No. 29/2015 (X. 2.) [↑](#footnote-ref-38)
40. Decision No. Köf.5052/2015/2.,see in Hungarian: <https://kuria-birosag.hu/hu/onkugy/kof505220152-szamu-hatarozat> [↑](#footnote-ref-39)
41. Para 11 [↑](#footnote-ref-40)
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    <http://utcajogasz.hu/wp-content/uploads/2019/10/KIADV%C3%81NY_2019_10_01.pdf> [↑](#footnote-ref-41)
43. Government decree No. 40/2020 (III. 11.) [↑](#footnote-ref-42)
44. Act No. LVII of 2020 about the termination of the state of danger [↑](#footnote-ref-43)
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46. Government decree No. 478/2020 (XI. 3.) [↑](#footnote-ref-45)
47. Government decree No. 71/2020 (III. 27.) [↑](#footnote-ref-46)
48. Government decree No. 479/2020 (XI. 3.) [↑](#footnote-ref-47)
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51. Government decree No. 553/2020 (XII. 2.) [↑](#footnote-ref-50)
52. SLA’s stance in Hungarian: <http://utcajogasz.hu/2020/12/15/uj-szabalysertes-decembertol-kozintezmenyi-szabalysertes/> [↑](#footnote-ref-51)
53. Pesti Központi Kerületi Bíróság’s Decision No. 1.Sze.22.930/2017/3. [↑](#footnote-ref-52)
54. Fővárosi Törvényszék’s Decision No. 32.Szef.66/2017/2. [↑](#footnote-ref-53)
55. Decision No. 18/2020. (VII. 21.) [↑](#footnote-ref-54)
56. Pesti Központi Kerületi Bíróság’s Decision No. 6.Sze.13.566/2019/2. [↑](#footnote-ref-55)
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58. Fővárosi Törvényszék’s Decision No. 21.Szef.35/2019/3. [↑](#footnote-ref-57)
59. Pesti Központi Kerületi Bíróság’s Decision No. 6.Sze.14.944/2019/10. [↑](#footnote-ref-58)
60. Case Nos. 01090-105/2-1/2020.RP and 01000-105/1227/2019.RP [↑](#footnote-ref-59)
61. Case No. 01806/1308-3/2021.szabs. [↑](#footnote-ref-60)
62. Case No. IV/02800/2021

    <http://public.mkab.hu/dev/dontesek.nsf/0/CF8E6293F610D01DC12587640033D546?OpenDocument> [↑](#footnote-ref-61)
63. Pécsi Járásbíróság’s Decision No. 19.Sze.8128/2021/12. [↑](#footnote-ref-62)
64. Case No. 03070/139/1-1/2021.HBF [↑](#footnote-ref-63)