**RESPONSE OF HUNGARY**

to Leilani Farha, Special Rapporteur

on the right to adequate housing

1. The right to housing in Hungarian legislation and measures

The Hungarian Government treats the issue of housing, and especially the housing of persons with disabilities as a matter of priority. Article XXII of the Fundamental Law of Hungary establishes that Hungary shall strive to ensure decent housing conditions and access to public services for everyone; it also states that the State and local governments shall also contribute to creating decent housing conditions by striving to ensure accommodation for all persons without a dwelling. (The Fundamental Law is available in English at: <http://www.kormany.hu/download/e/02/00000/The%20New%20Fundamental%20Law%20of%20Hungary.pdf>)

Pursuant to Section 26 (1) of Act XXVI of 1998 on the rights and equal opportunities of people with disabilities (hereinafter: Disability Act) the Hungarian Parliament shall determine a National Disability Program (hereinafter: Program) to provide a basis for the measures required to secure equal opportunities for people with disabilities. As the Program is the most important strategic document for national disability policy, the relevant specialist areas and the members of the National Council on Disability, in particular national disability rights organisations, have been involved in the process of formulating the strategic guidelines and proposals. The Program also contains the objectives determined on the basis of the comments and proposals made by social partners.

The Hungarian Parliament adopted the Program for 2015-2025 with its Parliamentary (OGY) Decree 15/2015. (IV. 7.) in April 2015, following a preparatory period of almost one and a half years. On the basis of the evaluation of recent years, the new strategy defines the major trends of development of disability policy for the next 11 years, for a longer period and in a new structure. Taking into consideration the experience obtained in recent years, the Program focuses, inter alia, on the families of people with disabilities, and in a separate chapter it also gives priority to the issue of housing. It states that the capacities of social institutions offering nursing and care for people with disabilities should continually be replaced on the basis of the relevant government strategy, therein laying emphasis on preparing, informing and supporting the persons and institutions subjected to this replacement, by way of, among others, expanding the mentor network supporting the replacement.

Pursuant to Section 26 (4) of the Disability Act and Section 2 c) of Parliamentary (OGY) Decree 15/2015. (IV. 7.), the Government shall prepare an Action Plan in order to ensure the scheduled implementation of the objectives defined in the Program. Accordingly, in 2015 a key task in the field of rehabilitation policy was to prepare the Action Plan for 2015-2018. The Action Plan defines measures that contribute to a growing active social participation of people with disabilities for the first four years of the Program.

1. Statistical data on housing conditions

We have no data on the number of homeless people with disabilities. The table below contains data on all homeless people in 2016.

|  |  |
| --- | --- |
| **Number of different persons using services on at least one day in 2016** |   |
| **Subtype of service** | **users (persons)** |
| Temporary home for families | 8,650 |
| Night shelter | 12,524 |
| Temporary accommodation for homeless people | 8,834 |
| Day care for homeless people | 27,656 |
| Rehabilitation facility for homeless people | 385 |
| Home for homeless people | 555 |
| Total\* | 40,993 |
| Total\* (not including temporary home for families) | 32,616 |
| Total number of services providing accommodation (not including temporary home for families) | 19,031 |
|  |  |
| \* Different persons using any service (excluding duplicities) |

1. Data of residential institutions

|  |  |
| --- | --- |
| **Form of service**  | **number of persons admitted on licence** |
| care home for people with disabilities | 299 |
| home for people with disabilities (providing nursing and caring services) | 13,205 |
| rehabilitation facility for people with disabilities | 872 |
| residential rehabilitation home for people with disabilities | 375 |
| residential home for disabled people providing nursing and caring services | 1,213 |
| subsidised housing | 965 |

**Number of** community-based alternatives**:**

During the process of “de-institutionalisation”, in the framework of the Social Infrastructure Operational Programme – transition from institutional care to community-based service – social institutions component, 672 supported housing capacities were created from a total amount of aid of HUF 5.8 billion. The tender aimed at the replacement of the capacities at residential social institutions having more than 50 capacities offering care and nursing to persons with disabilities, psychiatric diseases and addictions around principles defined by the strategy.

|  |  |
| --- | --- |
|   | **Number of supported housing capacities created** |
| Szakoly (disabilities) | 150 |
| Berzence (psychosocial disabilities) | 120 |
| Bélapátfalva (disabilities) | 150 |
| Kalocsa (disabilities) | 60 |
| Mérk (disabilities) | 102 |
| Szentes (psychosocial disabilities) | 90 |
| **Total** | **672** |

1. Deinstitutionalization Strategy

Government Resolution 1023/2017. (I. 24.) was issued in January 2017 on the long-term vision for 2017–2036 concerning the replacement of capacities at social institutions offering care and nursing to people with disabilities.

The following main measures are included in the long-term vision:

* Shortening the duration of implementation by 5 years.
* Prohibition of new admissions to institutional places.
* Ensuring a varied group of services and initiatives supporting employment, as well as their systematic and equal accessibility.
* Planning and implementing the research and monitoring process following through the entire process.
* Planning and implementation of proactive communication.
* Strengthening the coordination, technical-methodological management and monitoring of the replacement process.

In January 2017, the EFOP-2.2.2. scheme entitled “Promoting transition from institutional care to community-based services” was announced, with a budget of HUF 21.8 billion. The project aimed at the complete replacement of institutional service forms having more than 50 capacities per authorisation holder in respect of the target groups, offering care and nursing to persons with disabilities, psychiatric diseases and addictions, and at the creation of community-based service forms of high quality, responding to residents' needs. The deadline for submitting applications expires at the beginning of April, and the call for tenders will be suspended as of 11 April 2017, with regard to the large number of the applications for aid submitted and the probable exhaustion of the budget available for commitments.

A call for applications within the VEKOP-6.3.2 scheme entitled “Promoting transition from institutional care to community-based services – replacement of institutional capacities” was also announced in March 2017, and with a budget of HUF 730 million it facilitates the implementation of the process in the Central Hungarian region too. The first deadline for application is at the end of June 2017.

1. Housing and housing environment

In Hungary, Chapter 2 of **Government Decree 12/2001. (I. 31.) on state aid for housing** contains provisions as to the system of **accessibility aid** available for disabled persons, in accordance with which accessibility aid is direct non-reimbursable state aid that can be granted to persons with reduced mobility. The aid can be used for building or buying a home, and for performing construction and technical work with a view to ensuring accessibility in the context of using the home, in order to reduce difficulties in everyday life and ensure proper use of the home.

The decree was amended as of 1 January 2016, and according to the amendment the amount of aid was increased, which is now HUF 300,000 per home, and a further favourable change is that the aid can be requested again after a period of 10 years, if justified.

In accordance with the objectives and responsibilities defined in the **Action Plan of the National Disability Program** for 2015-2018, the accessibility of the housing and housing environment of disabled persons must be ensured. According to Section 7.2 of the Action Plan: *“A cross-sector working group, including relevant civil stakeholders should be set up in order to elaborate a proposal for the support scheme for improving the accessibility of housing and the housing environment and for the restructuring of the support scheme.”*

With a view to the implementation of the measure described above, the **Inter-ministerial Disability Committee** set up a working group to review the support scheme for housing and the housing environment, and this working group met on 3 occasions in the spring of 2016 in order to identify and analyse the problems and prepare the submittal. The proposals for amendment in response to the problems and deficiencies identified by the working group are currently being discussed with the competent ministries.

1. The organisations responsible for compliance with the rights to housing

The following organisations are responsible for compliance with anti-discrimination rights and for inspecting compliance:

Equal Treatment Authority

Act CXXV of 2003 on equal treatment and the promotion of equal opportunity prohibits discrimination based on protected characteristics. People with disabilities who, on the basis of their protected characteristics, are treated less favourably than other people in a similar situation, may make a complaint to the authorities. Furthermore, the legislation allows advocacy organisations to institute proceedings even if the violation of the requirement of equal treatment affects a large group of persons that cannot be identified exactly (e.g. people with disabilities).

Office of the Commissioner for Fundamental Rights

Pursuant to Section 18 of Act CXI of 2011 on the Commissioner for Fundamental Rights, anyone can turn to the Commissioner for Fundamental Rights, if they find that the activity or failure of an authority, such as an administrative body, local government, minority government, public body functioning on the basis of compulsory membership, the Hungarian Army, a law enforcement body, other body exercising administrative powers, investigative authority or the Public Prosecutor's Office's investigative body, the notary public, bailiff, independent judicial officer or public service body violates or represents a direct threat of violating the fundamental rights of the person submitting the complaint.

National Judicial Office

The National Judicial Office is responsible for the central administration of courts. The courts supervise compliance with the relevant provisions determined in the legal acts indicated in connection with the first question, and citizens may appeal to the courts.

1. Judicial practice

The provisions below ensure that people with disabilities cannot be deprived of their right to housing. (In practice it can occur that before instituting proceedings aimed at placement under guardianship, the home owned by a disabled person is sold, and in this case the guardian institutes the necessary (criminal, civil) proceedings.)

 Section 308

(2) of the Act on Civil Procedure

 If the guardianship authority orders sequestration with regard to the claimant's asset or, before filing an action, the defendant's asset, or appoints a temporary guardian for the defendant, within 30 days following receipt of the complaint the court shall examine the necessity of maintaining the measures taken by the guardianship authority. In the course of this, the court may order distraint-description even in the absence of the preconditions determined in Section 207, and in particular it may order that the defendant be examined by a forensic psychiatrist expert.

(3) If the distraint-description procedure is not concluded within 30 days, the court may extend the sequestration or the appointment of the temporary guardian by a maximum of 30 days.

(4) As a result of the examination performed in accordance with paragraph (2), the court shall keep in force the sequestration or the appointment of the temporary guardian until the final termination of the proceedings, or it shall revise the guardianship authority's decision and terminate the sequestration or the appointment of the temporary guardian and send the parties immediate notification about it.

Section 308/A[765](https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=95200003.TV#lbj764id415) If there is a probable need for placement under guardianship, and it is required for protecting the defendant's interests, the sequestration or the appointment of a temporary guardian determined in Sections 2:25 and 2:26 of the Civil Code may also be ordered by the court as a provisional measure before the trial, through the proper application of the provision included in Section 308 (2) relating to distraint-description, or in the case that the trial is postponed. Provisional measures can also be taken ex officio. The court shall notify the guardianship authority about its order relating to sequestration or the appointment of a temporary guardian, in the interest of taking the necessary measures or appointing a temporary guardian.

Section 308/B[766](https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=95200003.TV#lbj765id415) Separate appeal proceedings may be brought against the decision relating to sequestration or the appointment of a temporary guardian, but the court may declare it enforceable on a provisional basis.

Section 308/C[767](https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=95200003.TV#lbj766id415) The appointment of a temporary guardian shall not affect the defendant's capacity to bring legal proceedings.

1. Good practices, proposals

We encourage the Special Rapporteur to formulate general recommendations for the Member States on the basis of the answers received. In other respects we find that the collection and publication of the answers is progressive practice.