

targeted online posts promoting false facts, others have focused on citizens criticizing the Government.³⁰⁰

V. Social and Employment Protection Measures

102. The Government introduced the so-called Economic Protection Action Plan (a loose umbrella term) to provide economic relief during and after the pandemic.³⁰¹ However, protection measures have been introduced by Government decrees in a scattered manner. Measures reflected sectoral industrial needs in a rather ad hoc manner. Regulations were often amendments of existing legal measures and were subject to frequent modifications. In the realm of 'workfare'-oriented social and employment policies, no new general universal payments—which are paid regardless of a person's income or social insurance record—and social insurance-based aids have been introduced during the pandemic. Administrative rules relating to social benefit claims were not eased either, leading to longer procedural times. As the Government did not allocate additional funds to finance social expenditures, large urban municipalities introduced and financed some local means-tested aids, the amount and eligibility of which being subject to their financial capacity. Social and employment measures were jointly financed by European and national funds; allocation of funds was in line with Fund for European Aid to the most Deprived regulations.³⁰² Social partners have not been involved in the decision-making process.

A. Social protection measures

1. Social assistance

103. Regarding social protection, the most important characteristic of the Hungarian measures is that no cash transfers were introduced. As for social pension, there is no form of non-contributory pension in Hungary. The amount of the minimum age-based pension (with a qualifying condition of a minimum of 20 years of service) has remained the same, ie HUF 28,500 (USD 82.02). There has been no change in the childcare support system either. Employers are allowed (but not obliged) to provide free childcare facilities for their employees if the public nursery, kindergarten, or school that the employee's child attends is temporarily shut down due to the pandemic.³⁰³ No cash-for-work scheme was introduced in Hungary. Schools switched to digital learning on 16 March 2020. As teaching was continuous, those who were eligible for free meals continued to receive this benefit.³⁰⁴ No additional benefits were introduced. Kindergarten meals are free for those who: receive regular child welfare allowance; are chronically ill or severely disabled, or have a chronically ill or severely disabled child in the family; families with three or more children; families with low per-capita income; and children who have been placed in foster care and removed from their own family. School meals are free for those who receive regular child welfare allowance, and meals are available at a 50% discount for those who: are chronically ill or severely disabled, or have a chronically ill or severely disabled child in the family; and families with three or more children.³⁰⁵ To help families with their mortgage, a payment moratorium was introduced on 19 March 2020.³⁰⁶ It consisted of a payment holiday until 1 July 2021 for principal, interest and fees under credit facilities, and loans and financial leasing provided in a business context. Any contracts maturing during the state of danger were prolonged. The moratorium also amended accessory and non-accessory secondary obligations (eg security interest, guarantee, etc). The payment holiday applied to loans already drawn under contracts existing at midnight on 18 March 2020. Debtors continued to have the right (but not the obligation) to make payments under the original terms. The parties could contractually agree to not apply the moratorium to their contract. The moratorium did not apply to bonds or hedging transactions; there was no waiver on interest and fees. There was no general moratorium on enforcement of rights and remedies for creditors, and specific temporary restrictions on court execution proceedings and the possible actions of bailiffs were introduced with effect from 24 March 2020.³⁰⁷ Until the

end of the state of emergency, a general suspension on evictions was introduced.³⁰⁸ Eviction procedures restarted 15 days after the state of emergency ended on 30 April 2022. No waivers on utility payments were introduced.

2. Social insurance

104. Both the number of unemployed people aged 15–74 and the unemployment rate rose: the former by 42,000 to 215,000, the latter by 0.9 percentage points to 4.5%. Among men, the number of unemployed increased by 14,000 to 106,000 and the unemployment rate by 0.5 percentage points to 4.1%, while among women, the number of unemployed increased by 28,000 to 109,000 and the unemployment rate by 1.3 percentage points to 4.9%. The number of unemployed persons aged 15–24 increased to 42,000, with the unemployment rate rising by 2.4 percentage points to 13.6%. Nearly one-fifth of all unemployed were young people. The unemployment rate for the 25–54 age group rose by 0.7 percentage points to 4.0%, and for the 55–74 age group by 1.1 percentage points to 3.3%. The average duration of a job search during the pandemic was 9.1 months, and 26.4% of the unemployed had been looking for a job for at least a year.³⁰⁹ However, there were no amendments made relating to unemployment benefits, pensions, healthcare insurance support, and social security contributions. Regarding public work, for those who were not able to perform mandatory work in order to receive unemployment aid due to the pandemic, wages were paid for the period remaining from their fixed-term contract.³¹⁰ Although the number of registered jobseekers grew from 234,000 in 2019 to 290,000 in 2020, and then dropped again to 238,000 in 2021,³¹¹ the number of registered public workers decreased from 1,011,000 in 2019 to 887,000 in 2020, and further to 841,000 in 2021.³¹²

3. Tax relief and other social measures

105. The personal scope of the Economic Stability Act was extended to cover persons facing immediate danger due to the Covid-19 pandemic. According to the regulation, those who receive any services or goods relating to disaster relief free of charge are exempt from any taxation, including personal income tax.³¹³

106. From the first wave of the pandemic onwards, procedures relating to family support, aids, and other benefits were eased.³¹⁴ Article 6(5) of Government Decree 81/2020 declared that eligibility for health insurance and family benefits granted under a separate Government decree with regards to caring for and raising children shall be extended until the end of the period of state of danger (see Part VI.G below).³¹⁵

B. Employment protection measures

107. Following the outbreak of the virus in Hungary, a special legal order entered into force affecting employment policy measures (for details concerning derogations please see Part II.A above). The Government unilaterally adopted measures directly affecting labour law without consultation with social partners.³¹⁶ Opposition politicians filed a claim before the Constitutional Court to abolish the decree, arguing that the unlimited scope given to employers and employees to deviate from the binding rules of the Labour Code was unconstitutional and infringed upon several European Union regulations and directives, such as the General Data Protection Regulation (GDPR); these exceptional regulations were in force until 30 days following the end of the state of emergency, which was on 18 June 2020. The Constitutional Court rejected the motion as the questioned legislation was no longer in force at the time of the decision.³¹⁷ As long as the decree was in force, provisions of collective agreements derogating from these rules could not be applied. Employment policy measures did not follow any trends of other national jurisdictions, as no monetary relief was given, apart from the partial wage-subsidy to employers. Hungary introduced a system for shortened working hours for specific industry sectors, which was labelled as ‘*Kurzarbeit-system*’, however actual measures were somewhat different from the original

German model. Although home office and telework arrangements were promoted by the Government, the related regulations for liability for damages occurring at home were not regulated, despite the repeated requests of social partners. The differences between teleworking and home office rules are not clear in Hungarian labour law. The situation is further complicated by the fact that the legislation on telework, which was adopted in the wake of the experience gained during the pandemic, only entered into force in May 2022.³¹⁸ Despite these legal uncertainties, telework and home office work were widely utilised during the pandemic. As no specific regulations were adopted during the state of danger concerning occupational safety and health for telework and home office workers, employers had to apply the general rules of the Labour Code.

1. Economic support for employers

108. In specific sectors most affected by the economic consequences of the pandemic, like gastronomy, hotels, taxi services, sports and leisure, and arts and entertainment, a partial waiver on social insurance contributions was introduced for employers. According to the Government decree, employers are exempted from the payment of the employer's social security and training contributions (15.5% + 1.5%), and only have to pay a flat-rate health insurance contribution of HUF 7,710 (USD 22.27) for each employee per month.³¹⁹ In these sectors, financial support for wages can be claimed. Up to 50% of the gross wages were paid out from the Employment Fund for three months upon the joint request of employees and employers; the program has been continuously prolonged. The maximum amount employers can claim is 150% of the statutory minimum wage (HUF 241,500 (USD 698.44)). Employers pledged that supported employees would not be dismissed for 30 days following the payment of the benefit. Employers in these specific sectors are exempt from social insurance contributions for the period during which they receive wage support. Support measures related to wages did not modify existing labour rights. Social partners were not consulted with regards to the regulations.

2. Worker protection from dismissal and other contractual protections

109. There have been no restrictions on employers' freedom to dismiss workers, either on an individual level or according to collective redundancies regulations. An employment relationship may be terminated by the employee and the employer by notice. Employers must justify their dismissals in writing. The reasons must be clearly specified, authentic, and substantial. Reasons of termination by notice may be in connection with the employee's conduct or competence or in connection with the employer's operations.³²⁰ The employer shall terminate a fixed-term employment relationship by notice if undergoing liquidation or bankruptcy proceedings; or for reasons related to the employee's ability; or if maintaining the employment relationship is no longer possible due to unavoidable external reasons.³²¹ Collective redundancy refers to a situation in which an employer, based on the average statistical workforce for the preceding six-month period, intends to terminate the employment relationship within a period of 30 days, for reasons in connection with its operations, such as, for instance, a reorganisation, a layoff, or a termination of an organisational unit. Employers shall follow specific procedural rules, including the notification of the works council and the government employment agency.³²²

110. The most important new measure, introduced during the first wave of the pandemic (from March to June 2020), was Article 6(4) of Government Decree 47/2020 regarding emergency relief. This decree provides that an employer may modify the announced working time schedule differently and derogate from the notification rules laid down in the Labour Code³²³—it means that the employer may modify the announced working time schedule at any time, including immediately before starting or during scheduled work. The employer can unilaterally assign the employee to home office work and telework: there is no need for a mutual agreement, and home office work may be ordered without a time limit

(as opposed to 44 working days a year as provided by the Labour Code). The Government Decree allowed the employee and the employer to derogate from the provisions of the Labour Code by mutual agreement. Any rule of the Labour Code, whether for the benefit or the disadvantage of the employee, may be derogated from by an agreement between the parties. It remained open whether the authority of the parties to deviate from the Labour Code by agreement is truly unlimited, that is, that any rule can be deviated from or not.³²⁴ Another open question not settled by the Decree was what would happen to these agreements after the end of the state of emergency. One interpretation was that these agreements would be null and void. However, parties may agree upon long-standing rules, such as exclusion of termination of employment for a year, or a longer working time reference period of two years. These exceptional regulations were in force until the expiry of a period of thirty days following the end of the state of emergency on 18 June 2020.

3. Other worker protections

111. There have been no measures introduced to protect vulnerable employee groups, such as: non-standard workers; casual or 'zero hours' workers; workers with protected characteristics; women; and parents with caring responsibilities.

112. Businesses shedding 30 to 50% of working time of their employees (compared to their pre-pandemic situation), who can prove that their orders have not fallen by more than 50% and who are working towards the 'interests of the national economy' were eligible for the following agreement. For every employee that is considered for layoff, the State agrees to pay 70% of the salary that was lost due to the worktime reduction. Income supplement is provided only for up to HUF 214,300 net (twice the minimum wage, USD 619.44) per month. Earnings beyond that threshold are not subsidized. The maximum amount received by an employer was HUF 75,000 (USD 216.94).³²⁵ Additional criteria for eligibility are that the employer must agree to keep the headcount level until the end of the year in order to be considered for the subsidy; the shortened work contract may not drop below four hours per day of working time; and employers must organize training for the employee for 30% of the hours that have been cut from their working time and pay wages for this time as well. Applications opened on 16 April 2020 and were later extended until 31 August 2020. The measure was financed by the European Social Fund and co-financed by the State budget.

113. As of 1 January 2021, significantly stricter rules applied for itemized tax for small taxpayers ('KATA'). The most stringent rules are related to the surtax: if the total revenues received by the KATA taxpayer from a foreign non-related party exceeds HUF 3,000,000 (USD 8,167), aggregated from the beginning of the calendar year, the KATA taxpayer should pay 40% of KATA surtax on the amount exceeding the HUF threshold. The tax base is 71.42% of the total revenues.

4. Health and safety

114. The employer may take any necessary and justified measures to control the health of the employee and was able to unilaterally order employees to telework.³²⁶ Employees who are concerned about the adequacy of the safety measures taken by the employer may refuse to take up the work. However, an employee who is concerned about working but does not have an adequate reason could be fired with immediate effect. Employers were not obliged to consent to the employee's absence from work, as it is not equitable to any of the leaves specified by the Labour Code,³²⁷ or an employer can make its consent conditional on not paying the employee any wages for the duration of the absence. In this respect, the Labour Code merely states that if the employee is exempted from work with the employer's

consent, they shall be paid for the time missed in accordance with the terms of their agreement.³²⁸ The Labour Code was not modified during the pandemic.

115. If Covid-19 is considered to be an occupational disease, 100% sickness benefit is payable (occupational sickness benefit) to the employee. Accident sickness benefit can be granted if the insured person has contracted the virus during the course of the insured person's work. This could reasonably be envisaged for health care workers (doctors, nurses, paramedics, etc) who deal with persons infected with the virus, however, any employer may require that the National Public Health Centre (NPHC) accept the disease infecting their employees as an occupational disease. Occupational diseases are investigated and diagnosed by the NPHC under Governmental Decree No 27/1996. After the NPHC's decision, and the health insurance body also has to decide to recognise the occupational disease as an industrial accident for social security purposes under Article 52 of the Social Security Act. Statistics show that in 2021, out of approximately 12,000 Covid-19-related requests to the NPHC, 70% of the cases were related to health workers, 20% to teachers, and only 10% to other professionals.³²⁹ The amount of sick pay paid to employees was drastically increased from HUF 127 billion (USD 367 million) in 2019, to HUF 153 billion (USD 444 million) in 2020, and HUF 163 billion (USD 472 million) in 2021.³³⁰ However, the number of sick leave days (the first 15 days of incapacity)³³¹ decreased from 8.8 million in 2019 to 8.6 million in 2020, and grew again to 8.8 million in 2021.³³²

116. Please see Part VI.B below on privacy concerns relating to employer data collection on employee protection status regarding Covid-19.

5. Activation

117. Anyone with a secondary school degree is eligible to participate in a basic IT course, organized by selected private companies and financed through Government subsidy to mitigate the negative effects of job losses and to facilitate re-employment in sectors where computer literacy is required.³³³

6. Social partners

118. There has been no social dialogue going on concerning the special pandemic-related measures introduced by the Government, because social partners were largely ignored both at the national and workplace levels. A subsequent emergency decree amended the working time banking system, which allows employers to schedule working hours flexibly on a daily and weekly basis. Applying a working time banking system at workplaces is an issue which had formerly been subject to a collective agreement.³³⁴ Under this derogation, employers were able to unilaterally expand the reference period for working time banking. However, after the state of emergency was lifted, the law reinforced the extended reference period for working time banking and stipulated that collective agreements regulating this issue were not applicable.³³⁵

7. Other legal measures

119. There was an attempt to modify the Labour Code and codify 'home office' work or teleworking as a self-standing institution. This instrument is unregulated by the current labour law, yet, due to the pandemic, employers increasingly ordered employees to work from home. Eventually the bill was not discussed by the Parliament.³³⁶ However, a new definition of telework was provided by an amendment to the Labour Code, providing that telework means that the employee works part or all of their working time at a place separate from the employer's premises.³³⁷

VI. Human Rights and Vulnerable Groups

A. Civil liberties

120. Regarding freedom of assembly, during the first wave of the pandemic, outdoor events with more than 500 participants—and indoor events with more than 100 participants—were prohibited (see Part IV.A.3 above).³³⁸ While the Act on Transitional Rules allowed all events to be held, it also entitled the Government to establish special rules with regards to these events.³³⁹ The Government, based on this authorisation, prohibited music and dance events held either indoors or outdoors, regardless of their public, non-public, or regular nature, if the number of persons present there, including those working for the event, would exceed 500 persons.³⁴⁰ At that time, however, there was no restriction on the number of people who can attend sports events.³⁴¹ Football games were played in front of around 15,000 soccer fans in Budapest. During the third wave (from February to April 2021), a blanket ban on assemblies in public spaces was introduced and the decree imposed heavy fines of up to HUF 500,000 (USD 1445.72) for non-compliance.³⁴²

121. Students at the University of Theatre and Cinematic Arts, who were protesting for the university's autonomy for 70 days and were keeping up a blockade at the campus premises,³⁴³ ended their physical gathering as per the regulation, but declared that they would be continuing their #freeSZFE protest in the online space.

122. The Government drafted legislation practically banning adoption by same-sex couples, which was considered an attack on the LGBTQ community.³⁴⁴ Since freedom of assembly was restricted, no protests could be lawfully organized against the motion.³⁴⁵ During the pandemic, the Government by its majority in the National Assembly also passed a constitutional amendment³⁴⁶ providing that 'the mother is female, the father is male',³⁴⁷ that children have a right to their identity in line with their sex by birth, and requiring that children be raised with a Christian interpretation of gender roles.³⁴⁸

123. Government Decree 484/2020 (10 November 2020) on the second phase of protective measures applicable during the period of state of danger was challenged before the Constitutional Court. The petitioners asked for the Court to declare the non-conformity of Article 5(1)–(2) of the Decree with the Fundamental Law, arguing that the provisions unnecessarily and disproportionately restricted the right of freedom of assembly, prevented the individual assessment of circumstances, established a general prohibition on the possibility of an effective remedy, and unlawfully discriminated against persons who assemble for different purposes, such as those who wished to exercise their right of freedom of assembly or those who assembled for other purposes such as the practice of religion or education. Moreover, petitioners maintained, as it was classified as an infraction and incurred a fine, that it had an additional chilling effect. In both cases, the Constitutional Court ruled that the restrictions were proportionate during the periods of state of danger.³⁴⁹

124. Freedom of movement was severely restricted during the periods of state of danger (see Parts IV.A.4 and 7 above).

125. Governmental decrees also enacted rules regarding travel restrictions.³⁵⁰ As of 1 September 2020, the Government introduced serious travel restrictions, similar to those that had been in effect during the first wave of the pandemic.³⁵¹ Access to the territory of Hungary was denied to persons other than Hungarian citizens arriving from abroad.³⁵²

Several categories of non-Hungarian citizens, however, were exempted from this prohibition and granted the same treatment as Hungarian citizens (see Part IV.A.2 and 7 above).³⁵³

126. Regarding freedom of speech, the new criminal law regulations on fearmongering triggered particular attention (see Part III above). A constitutional complaint aimed at establishing the incompatibility of the regulations with the Fundamental Law and aiming to annul Article 337(2) of Act C of 2012 of the Criminal Code was filed. However, the Constitutional Court ruled that the provisions were not in conflict with the Fundamental Law,³⁵⁴ since the prohibition is only applicable to individuals knowingly stating false or distorted facts, and does not apply to critical opinions. Therefore, this does not extend to untrue facts the untruthfulness of which the perpetrator was unaware. At the same time, the decision established as constitutional requirement that the provision on the offense of fearmongering only sanctions the disclosure of a fact which the perpetrator should have known was false at the time the act was committed, or which was distorted by the perpetrator themselves, and which is suitable to prevent or frustrate the imposition of measures during the special legal order.

127. With regards to access to information, information about the pandemic and specific anti-epidemic measures, decisions, and legislation was strongly restricted for journalists, citizens, and politicians. A Government decree allowing authorities and public bodies to respond to information requests within 45 days, which could be extended for a further 45 days,³⁵⁵ was harshly criticized because in normal circumstances freedom of information requests must be fulfilled in 15 days (which can be extended by a further 15 days).³⁵⁶ The extension of the deadline arguably is a serious infringement of freedom of information and indirectly infringes freedom of expression as the data provided after 45 (or 90 days) loses its relevance. This particularly hinders journalistic work and endangers the control functions carried out by opposition politicians. MP Bernadett Szél challenged the constitutionality of this measure, but the Constitutional Court did not examine the complaint on the merits arguing that it would be unnecessary as the Decree was not in effect at the moment the decision was made (for further information, see Part III.F above).³⁵⁷

B. Privacy

128. During the first wave (from March to June 2020), regulations relating to data protection and retention aimed to foster contact tracing. For the purpose of contributing to the work of the police as an epidemiological authority, data controllers had to, at the request of the police, forward personal data without delay,³⁵⁸ free of charge, and as a matter of priority compared to other data transmission obligations.³⁵⁹ Later on, for the purpose of modelling and analyzing the spread of the epidemic, the Minister responsible for innovation and technology, as Government member responsible for science policy and information technology, was authorized to access and process any available data. State and local government organs, economic operators, and individuals were obliged to provide assistance and the requested data to the Minister responsible for innovation and technology for the performance of his task.³⁶⁰ From April 2020 onwards, the epidemiological authority had to forward to the police, for the performance of its monitoring tasks, any decision on ordering official home quarantine or on epidemiological isolation, observation, quarantine, or restriction under Act CLIV of 1997 on healthcare, as a matter of priority.³⁶¹ Data not required to monitor compliance with rules on epidemiological containment and official home quarantine shall not be registered. Registered data shall be deleted when the official home quarantine, epidemiological isolation, observation, quarantine, or restriction is

lifted.³⁶² During the second wave (from August 2020 to February 2021) of the pandemic, the rights of the police relating to data collection and management were reinforced.³⁶³

129. Derogations from provisions regulating data requests and addressing data processing activities relating to Covid-19 were introduced too, suspending GDPR rights. In particular, Government Decree 179/2020 provides that, with regards to data processing for the purpose of the prevention, study, and detection of Covid-19, data controllers can suspend the fulfilment of data requests under Articles 15–22 of the GDPR until the state of emergency is revoked in Hungary.³⁶⁴ Moreover, the Decree contains details on the time limit and information requirements for access requests. In addition, according to the Decree, data controllers may comply with applicable data information obligations under Articles 13 and 14 of the GDPR by publishing an electronic notice which describes the purpose, legal basis, and scope of data processing activities.³⁶⁵ The emergency decree received much criticism from various European data protection authorities and civil rights groups. The head of the European Data Protection Board (EDPB) was rather concerned about the measure, arguing that it was unnecessary and detrimental. In its most recent plenary session, the EDPB also specifically discussed Hungary's emergency measures in light of European data protection law.³⁶⁶

130. Regarding the performance of organizational tasks relating to voluntary vaccination against Covid-19, further data management regulations were introduced.³⁶⁷ The National Health Insurance Fund was authorized to send healthcare service providers the mail or electronic address, phone number, or other contact address provided as part of registration of the person registering for vaccination, as well as any health and personal identification data required for vaccination. After vaccination, any data received had to be deleted without delay.

131. There were concerns about how employers could handle employee data on immunity. The National Data Protection and Freedom of Information Authority (*Nemzeti Adatvédelmi és Információszabadság Hatósághoz*) (NAIH) issued guidance regarding how employers can lawfully determine whether an employee is protected against Covid-19. For certain occupations or employees, it may be necessary and proportionate for employers to know whether the employee is protected against Covid-19, with regards to labour law, occupational health and safety, and work organization. Employers can only ask employees to present their Covid-19 Protection Certificate and the application for Covid-19 vaccination. The company cannot make copies of them, store them in any form or manner, or transfer them to third parties. The employer can only record that the employee is certified as being protected against Covid-19 and how long this protection will last.³⁶⁸

C. Gender

132. In line with global trends, reported cases of domestic violence increased during the lockdown in Hungary. In March 2020 alone, a one-third increase in cases was reported according to official sources—women's organizations' helplines had already been overloaded prior to the pandemic. Women in households where less severe forms of control and coercion had been exercised by the male partner prior to the Covid-19 pandemic faced a deterioration of their situation. Their isolation—often a tool for abusers—was made easier; the frustration of being stuck at home and having to face financial stress enhanced the risk of violence; and it was even more difficult to seek help outside the household—eg, to secure a place in one of the very few shelters for domestic abuse victims—for those whose lives were in danger. Despite the warning data, the Hungarian Government refused, and

continues to refuse, to sign the Istanbul Convention on Preventing and Combating Violence Against Women and Domestic Violence.³⁶⁹

133. Working women were more severely affected by the pandemic; as many as 13% of Hungarian women lost their jobs during the different periods of state of danger. Women are generally overrepresented in jobs in social services that were and still are at the forefront of tackling the crisis: education, social care, and the healthcare system. They therefore have been more prone to infection.³⁷⁰

D. Ethnicity and Race

134. According to the results of the last census conducted in 2001—the next census originally planned in 2021 was postponed by way of derogation from the provisions of Act CI of 2018 on the 2021 census and will be conducted in 2022³⁷¹—the five major minorities in Hungary include Roma (3.2 %), Germans (1.9 %), Slovaks (0.4 %), Romanians (0.4 %), and Croats (0.3 %).³⁷² Roma communities in Hungary faced severe challenges and experienced significant deterioration in their social and living conditions during the pandemic. Data on infections in the Roma community is unavailable, but interviews with about a dozen Roma, who often live in cramped and unsanitary conditions, reveal harrowing stories of suffering and death and of huge healthcare challenges.³⁷³ Roma communities in Hungary have been facing extreme vulnerability due to the ongoing pandemic. Drastic reductions in income led to higher levels of debt, mental health challenges, and food insecurity; public work programs have been drastically reduced; and those who had seasonal work during the summer are better off than those who had had regular employment but were laid off. Families are resorting to selling their assets (such as mobile phones) to be able to withstand the financial impact, and approximately 40% of Roma households require financial assistance during the pandemic, as they continue to pay household expenses such as food, medical bills, and rent. A fifth of the families surveyed noted struggles to pay for monthly utility bills as their main financial concern between March and July 2020, during the first wave of the pandemic. Mental health precarity has risen, owing to economic pressure topped with limited access to testing facilities, personal protective equipment, and general healthcare services, and Roma access to public services has seen dramatic declines.

135. Roma communities across the country have limited access to government support services and healthcare: 74% of households report not having access to hospital care in their localities, and just 4% of respondents say members of their family have been tested for Covid-19. With only 3% of households reporting using their municipalities for information on the pandemic, the research suggests a weak communication line between central government, local authorities, and Roma communities about restrictions designed to mitigate the pandemic and the availability of support measures and strategies on how to respond to their constituents. Access to education for Roma communities is significantly limited during this pandemic, due to the shift to online education. This in part results from the Roma community not having adequate access to technology infrastructure sufficient for following online education. Only 41% of households report having access to both cable and mobile internet, and 13% report no access to the internet at all. Therefore, school drop-outs have increased dramatically.³⁷⁴ As schools were closed, research data suggests that Roma children who had access to free school meals suffered direct deprivation as a result of education moving online.

136. New forms of discrimination appeared and hate crime has increased. Focus group respondents encounter a prevalent narrative that Roma communities are responsible for exacerbating the spread of the pandemic.³⁷⁵

E. Disability

137. Special provisions regarding people with physical or mental disabilities during the pandemic were rare. In the first wave, the general provisions applied to every Hungarian citizen. From the second wave of the pandemic onwards, persons with intellectual or psychosocial disability or autism spectrum disorder were not obliged to wear face masks.³⁷⁶

F. Elderly

138. On 8 September 2020, the Chief Medical Officer ordered a ban on visits in all residential care homes. For family members, visits could be granted based on compassionate grounds to say goodbye to an end-stage patient. Permission to leave the institution was only granted under exceptional circumstances by the head of the residential care home or on other reasonable grounds, eg for medical purposes or health evaluation. Residents, however, could go out into the gardens of these institutions. New residents could only be admitted if in possession of two negative SARS-CoV-2 PCR tests.³⁷⁷ During the opening hours of shops, a special period was reserved for the elderly (persons aged 65 or over).³⁷⁸ Vaccination started with people with the highest risk of infection, most notably with those who were retired.³⁷⁹

G. Children

139. Schools were closed from 16 March 2020 (see Part V.A.2 above). The measure was announced by the Prime Minister during a televised speech and was called a digital working order rather than a school closure. The arrangements had no official end date, but the common assumption was that it would continue into the school year of 2020/2021.³⁸⁰ The announcement was made at 8.30 pm on a Friday and forced the schools to start this digital working order on the next Monday morning, and children were forbidden to enter school buildings. Rules were relaxed a few days later to allow the children of essential workers to be at school for childcare. Kindergartens and nurseries had to provide services, and children had to be separated into small groups of a maximum of five children in the same room.³⁸¹

140. Teachers were obliged by the national school authority to provide digital teaching for the compulsory number of lessons and to follow the curriculum meticulously. Children were at school digitally from 8 am until early afternoon and got 'homework', which they were obliged to send to the teachers online. This created a nearly impossible situation in families with more than one child, especially if either or both of the parents also needed to work from home. In the majority of schools, there was no single platform teachers used, so many students and their parents also had to use several platforms in a single day. The majority of teachers were untrained and inexperienced in digital learning. They did not receive professional support officially, although there was a lot of self-organized support, especially on Facebook. However, according to research data, about 20% of children could not and have not been reached by these digital provisions due to lack of devices or internet connection. In about another 20% of families, there were no possibilities for multiple connections with only one suitable and accessible device in the household.³⁸² Some municipalities have introduced visits to families not connected to see if children were actually inside the house from 8 am to 4 pm in the case of primary school pupils, and 8 am to 2 pm in the case of secondary school pupils. Generally, parents had the right to keep their children at home if they were concerned about their health. The written part of the

final exams at secondary school was held from 4 May 2020 onwards—the oral and practical parts of the exams were, as a general rule, omitted.³⁸³

141. In September 2020, schools started functioning regularly,³⁸⁴ but during the second wave of the pandemic, on 11 November 2020, secondary schools began operating again according to a digital working order. Nurseries, kindergartens, and elementary schools remained open—headmasters of schools were in charge of adopting measures relating to social distancing and the wearing of face masks and of ensuring compliance with the protective measures specified by the Chief Medical Officer.³⁸⁵ Generally, children under the age of six were not obliged to wear face masks in public places.³⁸⁶ During the third wave in March 2021, a digital working order was reintroduced in elementary schools as well.³⁸⁷ After the Government announced that it would reopen schools on 19 April 2021,³⁸⁸ there was tremendous resistance from teachers, students, and parents to the decision.³⁸⁹ Eventually, the opening was postponed and (upper) grades from five to eight in primary schools and secondary schools and vocational training institutions reopened on 10 May 2021.³⁹⁰ After waves of protest by trade unions, teachers, and parents, the Government finally gave in and prioritized teachers in Hungary's vaccination plan, to inoculate them before the reopening of schools (see Part IV.A.4 above). Government Decree 599/2021 on the compulsory use of the coronavirus vaccination by employees of public institutions (like public schools) provided that employers must impose unpaid leave on unvaccinated employees, but the employer may decide whether to terminate the employment relationship with immediate effect after the one-year period.³⁹¹ Many petitioners turned to the Constitutional Court concerning Government Decree 599/2021. In its decision, the Constitutional Court decided that in the case of public servants, the persons concerned by the restriction of fundamental rights did not have to fear that, if they did not take up the vaccination, the State might force them to do so. Although the legislature had introduced serious disadvantages, such as termination without notice which resulted in severe financial loss, they did not amount to a complete deprivation of the right to self-determination in that matter, and the possibility of a sanction under the contested legislation did not result in a disproportionate interference with the applicant's right to self-determination concerning health matters.³⁹²

H. Prisoners

142. During the first wave, the Hungarian Prison Service called upon the relatives of detainees to minimize the number of visits. However, visits were still allowed if the family members were separated from the detainee by a plexiglass screen. The number of visitors was also reduced to two per visit, and the Hungarian Prison Service suggested that detainees avoid visits with their elderly or young relatives. Phone calls and Skype calls were allowed for everyone to a certain limit, but according to complaints received from relatives and attorneys, not all could use this facility, partially because of the lack of sufficient financial or technical resources of their family.³⁹³ Rule compliance in prisons was reviewed by the Ombudsman (see Part III.G above) as his almost only activity during the pandemic, due to the necessity to observe the related international obligations, such as the Optional Protocol to the Convention Against Torture (OPCAT). The disproportionate restriction of Skype calls for prisoners who had the possibility of personal visits to keep in touch resulted in an abuse of the right to communicate.³⁹⁴

143. Some institutions suspended visits, referring to the curfew restriction Hungary introduced on 27 March 2020.³⁹⁵ On 5 April 2020, a Government decree introduced tighter measures for prisons, including, among others, a two-week isolation for new detainees; a transfer to hospitals for new detainees with any symptom of Covid-19; and the prohibition of leaving the institution even if a close relative is dying or to attend a funeral.³⁹⁶ Act LVIII of 2020 authorised the Director General of the National Prison Administration to restrict

forms of contact that involve leaving penitentiary institutions. In practice, this still meant a total ban,³⁹⁷ meaning detainees were not allowed personal visits from their relatives from the end of March 2020 for a consecutive 16 months, after which restrictions were eased for four months on 1 July 2021 which made visits possible again, but under significantly stricter conditions than before the ban—such as children were not allowed to visit, a one-hour visit of at least once a month was reduced to a half-hour visit no more than once a month, and adults were only allowed to visit if they had a vaccination card. On 8 November 2021, the prison visitation ban was reintroduced. As of 14 April 2022, all penitentiary institutions remain under total lockdown to reduce health risks related to the pandemic despite the fact that the Government lifted the last Covid-19 restrictions outside penitentiaries on 7 March 2022. This long-standing total lockdown has put a severe burden on detainees' family ties.³⁹⁸

I. Non-citizens

144. Until 26 May 2020, asylum could only be sought at the border (inside the transit zone), because of the current status of the mass migration emergency,³⁹⁹ although in practice no new entries were allowed in the transit zones as of March 2020. Only those lawfully staying could apply for asylum in the country. On 26 May 2020, Government Decree 233/2020,⁴⁰⁰ and from 18 June 2020, the Transitional Act,⁴⁰¹ introduced new rules on asylum. Those wishing to seek asylum in Hungary, with a few exceptions noted below, must first personally submit a 'statement of intent for the purpose of lodging an asylum application' (*'[m]enedékjogi kérelem benyújtására irányuló szándéknyilatkozat'*)⁴⁰² at the Embassy of Hungary in Belgrade or in Kyiv.⁴⁰³ The embassy must then forward the 'statement of intent' to the National Directorate-General for Aliens Policing (NDGAP) in Budapest, which shall examine it within 60 days.⁴⁰⁴ The NDGAP should make a proposal to the embassy and inform the would-be asylum seeker through the embassy whether to issue a special, single-entry permit to enter Hungary for the purpose of lodging an asylum application.⁴⁰⁵ The law does not clarify what criteria are considered by the NDGAP when deciding on such applications. Applicants receive an email with one paragraph stating that the NDGAP decided either to suggest or not to suggest the issuance of a single-entry permit. The decision therefore presents no reasoning and the law does not foresee any remedy. Those issued a single-entry permit can then travel to Hungary in order to submit an asylum application.⁴⁰⁶ The Transitional Act was supposed to regulate the asylum procedure only temporarily. It entered into force on 18 June 2020 when the first state of danger was terminated by Government Decree 282/2020 according to Article 408(1) of the Transitional Act,⁴⁰⁷ but it remained in force and is still in force in an amended form. The provisions of the Transitional Act relating to the asylum procedure (Articles 267–275) will be in force until 31 December 2021 according to Article 55 of the Act CLXII of 2020.⁴⁰⁸

145. Only people belonging to the following categories are not required to go through the process described above: beneficiaries of subsidiary protection who are staying in Hungary; family members of refugees and beneficiaries of subsidiary protection who are staying in Hungary; and those subject to forced measures, measures, or punishment affecting personal liberty, except if they have crossed Hungary illegally.⁴⁰⁹

146. For all the others, including foreigners legally staying in Hungary, it is no longer possible to apply for asylum in Hungary or at the border.⁴¹⁰

147. During the state of danger, special rules apply to third-country nationals unlawfully entering and/or staying in Hungary and to those seeking asylum, including: police are authorized to pushback across the border fence irregularly staying migrants who wish to seek asylum in Hungary from any part of the country, without any legal procedure or opportunity to challenge this measure; and the deadlines to seek judicial review against

inadmissibility decisions and rejections of asylum applications decided in accelerated procedures are drastically shortened to eight days.⁴¹¹

148. Asylum seekers are to be held in transit zones for the entire asylum procedure without any legal basis for detention or judicial remedies.⁴¹² All vulnerable persons and unaccompanied asylum-seeking children over 14 years of age are also automatically detained in transit zones.⁴¹³

149. Although there is a possibility in Hungary for launching individual constitutional complaint procedures in certain cases, only a few cases were lodged before the Constitutional Court. In asylum cases, the applicable legal act could be challenged only much later than the actual violation, after the termination of the appellate court procedure.

150. From 1 September 2020, Hungary has closed its borders to all foreigners with the exception of Visegrad countries, with regards to migrant workers and non-residents (see Part IV above).⁴¹⁴

J. Indigenous peoples

151. There is no relevant information to be reported.

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Footnotes:

¹ See Government of Hungary, 'Covid-19 Cases - Number of confirmed Covid-19 cases by county' (accessed 22 April 2022).

² See Government of Hungary, 'There are two patients with coronavirus in Hungary' (4 March 2020).

³ HungaryToday, 'First Coronavirus Death Reported in Hungary, Case Count Rises to 32' (15 March 2020).

⁴ Portfolio, '40,000 people have already died in Hungary from the coronavirus' (11 January 2022).

⁵ See Government of Hungary, 'Orbán: We have defeated the fifth wave' (4 March 2022).

⁶ Fundamental Law (18 April 2011), art 53(1).

⁷ Z Sente, *Constitutional Law in Hungary* (Wolters Kluwer 2022).