

# Analysis of the care system of children in conflict with the law in Hungary

Project: Alternatives to Custody for Young Offenders - Developing Intensive and Remand Fostering Programmes - JUST/2011-2012/DAP/AG/3054

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## 0. Executive summary

From the 1st of July, 2013 the **age of criminal responsibility has been reduced** from 14 to 12 years in case of serious crimes (manslaughter, assault, robbery and despoilment) and **if the child is able to assess the consequences of his/her actions**, but no methodology has been defined to measure the “discretion capability” of the child.

The **punitive approach** is spreading in Hungary instead of extending diversion, restorative justice, tertiary prevention and other services (eg. treatment foster care):

- Despite the legal possibility that has been in place since 2006, **restorative justice** has been implemented in a low number of cases.
- According to the proposal to modify the Civil Code the mediation would be **obligatory, not voluntary** in custody and family law cases.
- The place of **rehabilitation of juvenile offenders** are institutions not family- or community-based services.
- The latest modification<sup>1</sup> of the Child Protection Law<sup>2</sup> **forbade to place children under 12 to child protection institutions**, but there are not enough **foster parents** available, the motivation system is insufficient. Besides **deinstitutionalisation** the main purpose of the change was to **shift the emphasis to provide better and quality care for older, disabled and troubled (eg. offenders) children in institutional care**, but children’s homes are not the best options for the mentioned groups of children either, **alternatives should be developed** and recognised by the decision makers.
- From 2014 **the foster care system will be reorganized** and redefined. Foster parents should complete a **new training** (400 or 500 hours), and a **new „special legal employment status”** will be introduced for them. **Professional guardians** will be the legal representatives of every children in alternative care instead of the foster parents.

There are **two separate systems** dealing with young offenders in Hungary: the **child protection system** (if the child is under 14 or 12) and the **juvenile justice system** (if the child is older). Different ministries are responsible for the two systems, different approaches are predominant, different legislations are in force, etc.: **the care system is fragmented and divided into two parts** without real connections and effective cooperation between them.

**Due to the Hungarian legislation** (see next chapter) juvenile offenders can not be placed with foster parents, **treatment foster care is only a possibility for children under 14 or 12 in the framework of child protection system!** Nevertheless to develop, use and assess treatment foster care in child protection can be an important lesson to convince policy makers to expand its use in juvenile justice system as well.

From next year the foster care and the training systems will be reorganized, but some of the details are not known yet.

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<sup>1</sup> Law No. CXCII of 2012

<sup>2</sup> Act No. XXXI of 1997 on the protection of children and the administration of guardianship affairs

**Main issues:**

- The rights of foster carers will be reduced (guardianship) from 2014;
- The hungarian petty offences law allows custody of children for petty offences;
- Lack of interconnections between child protection and juvenile justice systems;
- To provide intensive fostering is only possible for children under 14 (or 12) due to legislation;
- Children under 12 can not be placed to children's home but to foster parents;
- The foster care system is undifferentiated;
- Children who live in alternative care are more likely to become perpetrators than other children;
- The juvenile justice system is punitive not corrective;
- Lack of output measurement, follow-up researches after the placements;
- The age of criminal responsibility has been reduced, but treatment foster care scheme or other alternatives was not even mentioned during the reform process;
- Due to data protection we lack of information of adult offenders' previous (juvenile) crimes and information about minority background of children/juveniles in the system;
- Children perpetrators if crimes/offenses "virtually disappear" in the statistics, no reliable data available;
- Children' homes and child welfare services have limited information of the lives of children's in their care the provided prevention/rehabilitation is not well-targeted.

# 1. Legal framework

## 1.1 List of laws:

### 1. Child protection:

- *Act No. XXXI. of 1997 on the protection of children and the administration of guardianship affairs (hereinafter Child Protection Act)*

The Act ensures the **best interest of the child** and the right to be brought up in the biological family and it guarantees and names various support and services for families and children. It defines the types of alternative care. According to this Act (and its modifications) **every foster carer has to be trained and assessed** before the placement. At the **local level** basic child welfare services available, guardianship offices handle the administrative measures at the **subregional “district” level**, the **state and the counties** responsible for the alternative care of children, the decision makers are at the **national level**, the Human Resources Ministry maintain **special children’s homes, and correction facilities** in cooperation with the Ministry of Public Administration and Justice.

- *149/1997. (IX. 10.) Government Regulation on the guardianship offices and on the proceedings of child protection and guardianship cases*

It includes –among the others– the **responsibilities** of guardianship offices in case of under-age offenders. These responsibilities are to (5/A. §): collect and give information; **maintain the register of programs initiated to prevent offending** and re-offending; **cooperate** with local governments, NGOs, child welfare and child protection services, public educational facilities, probation services, police, prosecution, court, drug prevention and drug rehabilitation institutions; **evaluate** the crime prevention activities of child welfare and child protection institutions; in the case of under-age offenders **initiate** the necessary child protection measures and **monitor** their implementation.

The right of family members to keep contact with their child during the out-of-home placement is also set out and regulated by this act. As well as the **regular review** of the placement in every year/half year.

- *331/2006. (XII. 23.) Government Regulation on the roles and responsibilities in child protection and guardianship affairs and on the authority and jurisdiction of guardianship offices*

1 § (1) “The **guardianship authority** includes: a) the municipal notary, b) the district guardianship office, c) the county social and guardianship agency”. This regulation describes the **responsibilities** of the guardianship authorities **on each level**: the **notary** make the environment study of families, decide on the eligibility of child care allowances, take the child under protection, etc.; the **district guardianship office** make the **decision on** temporary, short-term and long-term **placement** of the children in alternative care, it **reviews** and changes the placements, makes the accusation if a child is endangered, etc.; the **county social and guardianship agency coordinates** the municipal notaries and the district guardianship offices within the county, **authorize** the child welfare, child protection services and **monitor** them, etc.

- *30/1997. (X. 11.) NM regulation on correctional facilities for juveniles*

It regulates the operation of juvenile correctional facilities with detailed requirements on the qualifications of staff, on the official proceedings, on the education and resocialization, on the rights and obligations of juveniles, on the

after-care service, etc. Among the others it includes the right of juvenile perpetrators who has own child(ren) to be placed in the facility together.

- 29/2003. (V. 20.) ESzCsM regulation

It sets the professional requirements of foster carer's training. It is currently being under modification.

## 2. (Juvenile) justice:

In Hungary there is **no independent law on juvenile offenders**, neither is there a separate statutory definition for young adults (**contrary to the Beijing rules**). Provisions differing from the general rules are regulated in separate chapters within the Penal Code (7th chapter) and the Criminal Procedural Law (21th chapter).

- *Penal code (Act No. IV. of 1978)*

**Punishments and measures** can be used to “develop the juvenile to the right direction in order to help him/her to become a useful member of the society” (108. § (1)). In case of children under 14 only measures can be used and it is also a priority for older children, but if the measures do not lead to the purpose, punishments can be also used. **Deprivation of liberty** is only possible "if the purpose of the measure or the punishment can not be achieved by other means" (§ 108 (3)).

- *Act XIX of 1998 on Criminal Proceedings*

This act regulates the proceedings of justice system, the **21th chapter** describes the **special rules** for juvenile justice proceedings. It names the “corrective education” as a measure, notes the **need to inform and involve the child protection system**, see the custody as last resort and includes the rights of defendents such as the rule to have a pedagogue in the council, right to information, to have a defence counsel, presence of legal representatives if the suspect is under 18, etc.

454. § (2) “The place for **pre-trial detention** of juveniles can be a: a) correctional institute, b) a penal institution” upon the decision of the court in relation with the alleged offense and the suspect's personality. Under 14 years of age children only can be placed to correction facilities during pre-trial.

459. § includes the possibility of suspended imprisonment and mediation.

- *Law No. LXII. of 2012*

It modifies certain laws in order to implement **child-friendly justice**. According to the current Hungarian interpretation and use of child-friendly justice are only **pertain to victims and witnesses**, not to offenders. This is in contradiction with the European guidelines. The report<sup>3</sup> of the commissioner of fundamental rights found among the others that the **secondary victimization** is still common in Hungary and in the courts the **right to age-appropriate information** is not always fulfilled.

### 1.2. Age of criminal responsibility

The age of criminal responsibility is 14 in general and 12 in case of serious crimes and if the child is able to perceive the consequences of his/her acts.

### 1.3. Definition of children

- Definition of children in the **Child Protection Act**:

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<sup>3</sup> Number of the report: AJB-3070/2012.

5. § children = people under 18<sup>4</sup>; juvenile offenders = in case of offences: children between 14-18, in case of crimes: children between 12-18; young adults = aged between 18-24.

- Definiton of juveniles in the **regulation<sup>5</sup> on correctional facilities**:

1. § (4) a juvenile is “who has reached the age of fourteen, but not the nineteenth”. According to recent modification plans the regulation’s definition of juveniles will be changed to “who has reached the age of 12th, but not the 24th”.

- Definiton of juveniles in the **Penal Code**:

107. § children who at the time of the crime/offence was at least 12/14, but was not 18 yet.  
No defintion of young adults!

## 2. How the system functions

### 2.1. Roles and organizational structures of:

a) law enforcement agencies:

For the coordination of **police** the Ministry of Interior is responsible. In the counties the **crime prevention and victim protection division** of the police is dealing with juveniles/children. The police has a program called “D.A.D.A.”<sup>6</sup> initiated to develop law-abiding behavior among primary school aged students since 1992.

b) courts:

In juvenile cases **judges appointed by the National Judicial Office** can act; at the court of first instance one of the members of the council should be a **pedagogue**.

After 2011<sup>7</sup> „with the **reorganisation** of the organisational structure of judges, the exclusive jurisdiction of courts that used to be the fora for juveniles was terminated, instead all judges can rule in juvenile cases, if appointed by the National Judicial Council, **instead of judges that have specialised training for juvenile cases**”<sup>8 9</sup>.

c) residential and custodial institutions,

The Ministry of Human Resources maintain **4 specialised children’s homes and 4 correction institutions** (with the Justice Ministry), the Ministry of Public Administration and Justice maintain **4 juvenile prisons**. The 19 counties of Hungary had 411 care places in specialized children’s homes and 104 care places in specialized group homes in 2011<sup>10</sup> all together.

d) youth justice-oriented social welfare organizations, and community-based providers

The **Judicial Service** of the Ministry of Public Administration and Justice is the coordinating governmental body of justice related services. It supports and supervises

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<sup>4</sup> The Child protection act quotes the Civil Code’s 12. §.

<sup>5</sup> 30/1997. (X. 11.) NM regulation

<sup>6</sup> Adaptation of the American D.A.R.E. program.

<sup>7</sup> Law No. LXXXIX of 2011.

<sup>8</sup> Alternative - NGO – report on the implementation of the UN CRC in Hungary 2006-2012

<sup>9</sup> Resolution of the President of the National Judicial Council about nominating judges making judgments about cases as defined by resolution of the National Judicial Council 3/2012 (Jan 11) on juvenile justice criminal cases and the Law 19 of 1998 Article 17 paragraphs (5) and (6) on criminal processes.

<sup>10</sup> Hungarian Central Statistical Office (2012): Yearbook of Welfare Statistics, 2011, table 5.15

the counties' victim assistance, probation and legal aid services. **Unfortunately the victim support services primarily focus on adults and on material compensation and they are only available in the chief town of each county<sup>11</sup>.**

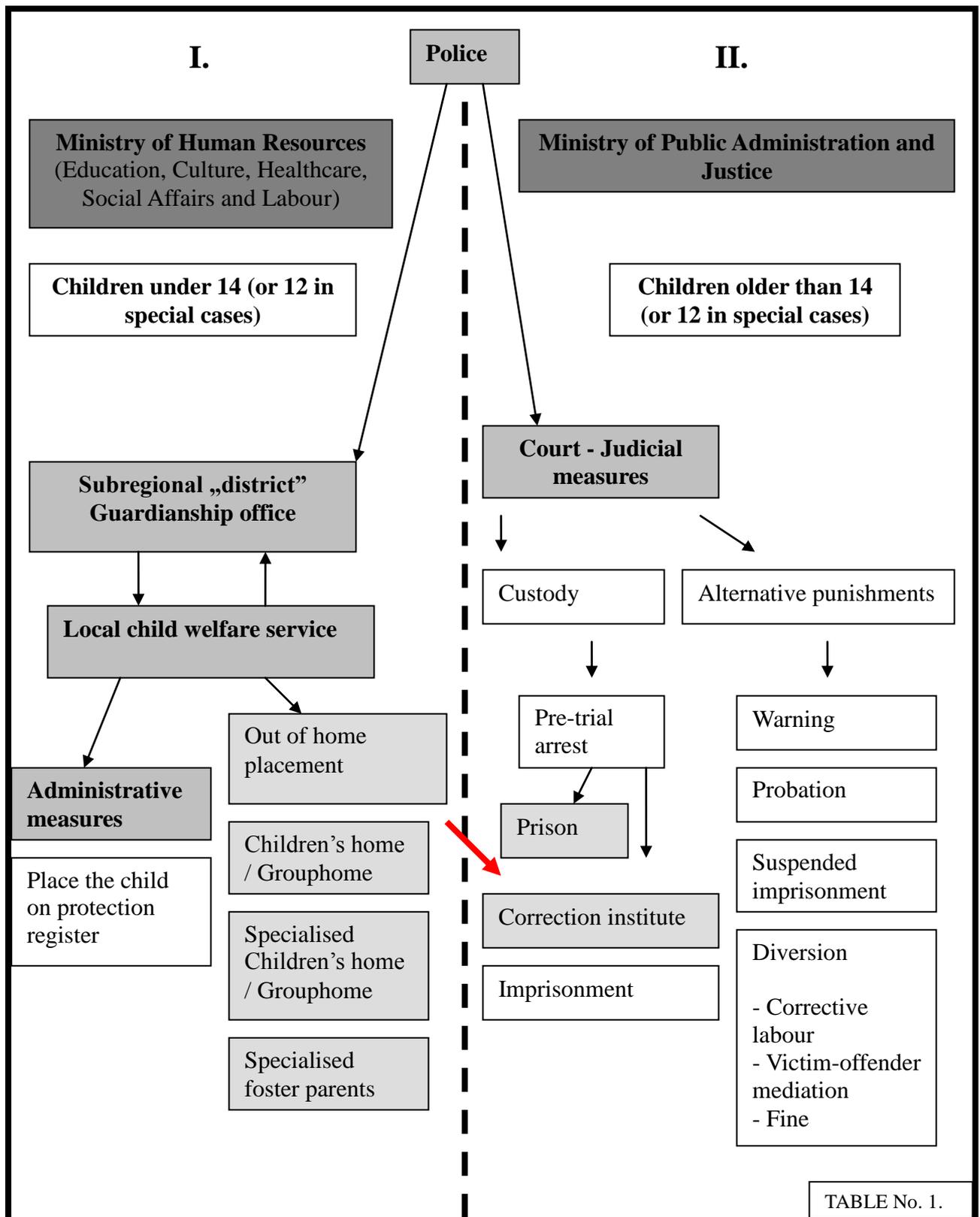
The municipalities, the **local child welfare services and NGOs** run crime prevention programmes. The services' quality varies and are not available everywhere. In the framework of **Social Renewal Operational Programme** many grants are available for crime prevention projects (see more: 22. Examples – good practices).

## ***2.2. Procedures through juvenile justice system and child welfare/child protection system***

As the figure below (table no. 1) shows the system which is dealing with young offenders is divided into two parts: **I. child protection system (on the left)**  
**II. juvenile justice system (on the right).**

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<sup>11</sup> Ombudsman's report: AJB-2617/2012.



**1. If the child is under 14 (or 12 in special cases):**

*As we mentioned before currently to use foster care is only possible if the young offender is under 14!*

The **police** should close the investigation process if the offender is younger than 12/14 and after an optional and „child-friendly” interrogation (with the child and his/her legal representative in a child-friendly room) they are obliged to refer the case to the **child welfare service** and to the district **Guardianship Office**<sup>12</sup>. From this point the **child protection system** is responsible for the case, not the justice system: **under-age children perpetrators of crimes can be placed to foster parents, but it rarely happens.**

According to the **Child Protection law** (Law no. 31 of 1997) the following **administrative measures** can be made:

- Place the child on **protection register**

The **notary** place the child on the protection register upon the suggestion of the **child welfare service**. The consultation and cooperation of the child and the family is **obligatory** with the service provider and the **family carer**.

- **Temporary placement** (emergency placement)

If the child **temporarily lack of parental supervision** or he/she is considered to **be at risk** in the family environment or because of the child's **behavior** he/she can be placed to kinship care or to **alternative care** (children's home, foster parents) temporarily. The **Guardianship Office** is responsible for the supervision, but the notary, the police, the prosecution, the court and the correctional facilities may initiate the placement.

- **Short-term foster care**

The Guardianship Office orders to place the child in alternative care, because he/she is considered to be at risk in the family environment and her/his development is not provided by the parents. The **parental rights are terminated** in this case.

- **Long-term foster care**

If the **parental rights are suspended** by court order the child should be placed to children's home or with foster parents for a longer period of time.

- **Educational supervision**

Only possible in **specialised children's homes** by the decision of the home's director. If the child's health or psychological state directly threatening the others or her/his own safety and if this can only be resolvable by separation of the child, her/his **freedom can be restricted** up to 2 months.

## **2. If the child is older than 14 (or 12 in special cases):**

*The Penal Code does not mention foster care or community-based care as an alternative of custody: juvenile offenders can not be placed to foster parents!*

The “standard way” of juvenile offenders: “warning (reprehension) – probation - suspended imprisonment - correction institute (juvenile detention home) – prison.”<sup>13</sup>

The **police** should inform the local **child welfare service** and the **Guardianship Office** if the young offender is older than 12/14 as well, but in this case they (the police, the court, the prosecutor) also have the right to immediately order the **custody** of the child for **up to 72 hours**. After, if there is a **possibility of escape or re-offending** the **court** may order **pre-trial detention** (Law no. 19 of 1998: Criminal Procedural law). The place for pre-trial detention for juveniles older than 14 can be a **juvenile correctional facility** and a **penal institution** as

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<sup>12</sup> In 2013 an old/new subregional „district” system was launched, the entire public administration service has been reorganized.

<sup>13</sup> Klára Kerecsi: A fiatalkori bűnelkövetés jogszabályai változásai különös tekintettel a javítóintézetekre (Changes of legislation of juvenile delinquency in particular to the correction facilities)

well, children between 12-14 can only be placed to correction facilities during pre-trial<sup>14</sup>. In the Criminal Code it is set out that the custodial remand of children is used only as a measure of **last resort** and for the **shortest appropriate period of time** (108 §). Juvenile offenders have **special rights**: the justice measures should concentrate on their socialization and rehabilitation (108 §).

The main punishment is **imprisonment** in „special” prisons for juvenile offenders, the minimum period of the sentence is 1 month, the maximum is 10 or 15 years (it depends if the juvenile is younger or older than 16). The court can order measures besides punishment: **deprimand, probation, fine, community work** (if the child is older than 16) and **„education in a correction institute”** up to 4 years (for children between 12-20). If the young person is on probation or on suspended imprisonment she/he has a **„probation officer”** who is responsible for the child’s rehabilitation. The probation officer makes the environment study for the court about the juvenile offender and the development plan as well for the youngster and she/he supervises its fulfillment and the child’s behavior. In a **voluntary** basis the young offender is entitled to **aftercare** up to 24 years of age and to **victim-offender mediation** with the help of the Probation Services.

Special rights of juveniles through justice system is ensured by the legislation but in practice they are not evident yet: around **30% of juvenile offenders** spend their **pre-trial detention in prisons** and the **procedures are not fast enough**. 4% of the offenders stay in pre-trial for more than 12 months according to a research from 2007<sup>15</sup> and the investigation took in average 1-2<sup>16</sup> years in 2011 as well according to the Chief Prosecutor’s report.

A progressive change is that in 2011 **mediation**<sup>17</sup> was used in 370 cases (with 582 juveniles) which means **127% growth**<sup>18</sup> of use of restorative justice compared to the previous year. Unfortunately the geographical breakdown of use of restorative justice is variable: there are counties which almost never use mediation and some use it often<sup>19</sup>.

The hungarian **petty offences law** includes a concept that is in opposition with the international legal obligations. For criminal acts under the value of a misdemeanour, the punishment can be 30, in aggravated cases 45 days of **detention** for juveniles<sup>20</sup>. The **ombudsman** has complained about the possibility of detaining minors for petty offences in several of his reports, pointing out that deprivation of liberty should be a last resort.

### 3. Summary of the demographic characteristics of young people in the youth justice and child welfare systems<sup>21</sup>

The main **risk factors** for children to becoming perpetrators:

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<sup>14</sup> House arrest is also possible, but rare.

<sup>15</sup> Judit Hegedűs (2007): *Fiatalkorú bűnelkövetők gyermekkoruk és a javítóintézetben töltött éveik pedagógiai vizsgálata* (The childhood of juvenile offenders and a pedagogical research about their years spent in detention centers)

<sup>16</sup> The investigation took 1 year in 87,3% of the cases and 2 years in 11,3% of the cases.

<sup>17</sup> The use of mediation is only possible during the first instance and only in the case of proceedings initiated for crimes against the person, property, or traffic offences, punishable by no more than five years of incarceration.

<sup>18</sup> J/6851 Report of the Chief Prosecutor, 2011

<sup>19</sup> Tünde Barabás (2010): *Initial Experiences of mediation in criminal justice*

<sup>20</sup> Law No. 2. of 2012. about petty offences, procedure of petty offences, petty offences registration. Chapter 4 special provisions, 18. Regulations concerning juveniles and soldiers 27. para (2)

<sup>21</sup> Office of the Chief Prosecutor, IT Department (2012): *Tájékoztató a gyermekkorúak és fiatalkorúak bűnözésével összefüggő egyes kérdésekről* (Report on certain issues of children and youth related crimes)

- deviance (problems in the socialization, micro-cultural factors, weaknesses of social integration)<sup>22</sup>,
- experience of child abuse or multiple victimization<sup>23</sup>,
- poor financial and socio-economic situation of the family,
- offender relatives,
- failures in education,
- living in alternative care.

### **3.1 Demographic characteristics of young offenders under 14 in 2011:**

Children under 14 (or 12) cannot be held criminally liable.

#### **Number:**

According to the crime statistics the number of **under-age offenders** with definitive sentence slowly declined in the past 5 years<sup>24</sup>. In 2011 **2714 children** had conflict with the law, 82,24% of them are boys, 17,76% are girls.

Proportion of under-age offenders is **0,20% from the population of corresponding age**<sup>25</sup> (200 per hundred thousand inhabitants).

#### **Place of residence of children perpetrators:**

<b>Two parent family</b>	<b>76,57 %</b>
One parent family	12,38 %
With brother/sister, other relatives	0,15 %
Foster parent, substitute parent, guardian	3,57 %
<b>Children's homes, institutions</b>	<b>6,85 %</b>
Other	0,48 %
<b>Total</b>	<b>100 %</b>

#### **Demographic breakdown of place of residence of under-age offender by regions:**

(Find the map of regions of Hungary in Appendix 1.2)

<b>Northern Great Plains</b>	<b>27,05%</b>	<b>(from which: Szabolcs-Szatmár-Bereg county: 11,35%)</b>
<b>North Hungary</b>	<b>21,9%</b>	<b>(from which: Borsod-Abaúj-Zemplén county: 14,8%)</b>
<b>Central Hungary</b>	<b>12,38%</b>	
Southern Transdanubia	11,86%	
Central Transdanubia	10,58%	
Southern Great Plains	9,88%	
Western Transdanubia	6,08%	

<sup>22</sup> Andrea Borbír – Klára Kerecsi (editors): A kriminálpolitika és a társadalmi bűnmegelőzés kézikönyve – 2009 I. kötet (Handbook on criminal policy and social crime prevention - 2009, Volume I.)

<sup>23</sup> Katalin Ligeti (2008): A fiatalok elítéltek áldozati minőségének vizsgálata különös tekintettel a családon belüli erőszakra (Research on juvenile perpetrators' victimization in particular on domestic violence), p. 8

<sup>24</sup> Number of children offenders: in 2007: 3387, in 2008: 3 433, in 2009: 2 573, in 2010: 2 607.

<sup>25</sup> Tendency: 2007: 0,24%, 2008: 0,25%, 2009: 0,19%, 2010: 0,19%

Abroad	0,27%	
<b>Total</b>	<b>100%</b>	

### Crimes:

Against person	12,79 %
Traffic crimes	2,98 %
Against marriage, family, youth and sexual morality	2,25 %
Against law and order	19,01 %
<b>Against property</b>	<b>61,20 %</b>
Other	1,77 %
<b>Total</b>	<b>100 %</b>

### 3.2. Demographic characteristics of juvenile offenders (age between 14-18):

#### Number:

Number of juvenile offenders with definitive sentence in 2011: **11 034**<sup>26</sup> (82,18% boys and 17,82% girls), 2476,59 per hundred thousand inhabitants of corresponding age<sup>27</sup>.

#### Place of residence of juvenile offenders:

**54,8% of juvenile offender were living in a two-parent family**, 29% in a single-parent household, 2,2% in a relatives household, 1,1% in a stranger's household, 0,9% in his/her own household and **9,7% in institutions** in 2011<sup>28</sup>.

#### Demographic breakdown by regions:

<b>Northern Great Plains</b>	<b>21,73%</b>	<b>(from which: Szabolcs-Szatmár-Bereg county: 8,94 %)</b>
<b>North Hungary</b>	<b>17,01%</b>	<b>(from which: Borsod-Abaúj-Zemplén county: 9,84%)</b>
<b>Central Hungary</b>	<b>18,72%</b>	<b>from which: Budapest: 10,35%)</b>
Southern Transdanubia	11,47%	
Central Transdanubia	9,97%	
Southern Great Plains	11,98%	
Western Transdanubia	8,56%	
Abroad	0,56%	
<b>Total</b>	<b>100%</b>	

### Crimes:

Against person	9,89%
Traffic crimes	1,48%

<sup>26</sup> 2007: 10 909, 2008: 11 438, 2009: 10 036, 2010: 11 248

<sup>27</sup> 2007: 2,21%, 2008: 2,35%, 2009: 2,11%, 2010: 2,44%, 2011: 2,48% from the population of corresponding age

<sup>28</sup> Hungarian Central Statistical Office (2012): Yearbook of Welfare Statistics, 2011, table 11.5.

Against marriage, family, youth and sexual morality	1,06%
Against law and order	29,76%
<b>Against property</b>	<b>53,85%</b>
Other	3,96%
<b>Total</b>	<b>100 %</b>

## 4. Research

In 2011 almost 10 million (precisely 9 937 628)<sup>29</sup> was the population of Hungary, 20,6% (2 041 193) were under 18<sup>30</sup> and 18 287<sup>31</sup> minors lived in alternative care. This is the highest number since 2000<sup>32</sup> despite the decline in child population. 52% of children in alternative care were older than 12 in 2011<sup>33</sup>.

### 4.1. Trends in youth crime<sup>34</sup>

Year	Under-age offenders		Juvenile offenders	
	Number	Proportion of population - %	Number	Proportion of population - %
2007	3 387	0,24	10 909	2,21
2008	3 433	0,25	11 438	2,35
2009	2 573	0,19	10 036	2,11
2010	2 607	0,19	11 248	2,44
<b>2011</b>	<b>2 714</b>	<b>0,20</b>	<b>11 034</b>	<b>2,48</b>

### Perpetrators of crimes<sup>35</sup>

<sup>29</sup> Central Statistical Office: Census [http://www.ksh.hu/nepszamlalas/tablak\\_teruleti\\_00](http://www.ksh.hu/nepszamlalas/tablak_teruleti_00)

<sup>30</sup> Central Statistical Office: Census -2011 [http://www.ksh.hu/nepszamlalas/docs/tablak/teruleti/00/1\\_1\\_4\\_1.xls](http://www.ksh.hu/nepszamlalas/docs/tablak/teruleti/00/1_1_4_1.xls)

<sup>31</sup> Central Statistical Office: Stadat [http://www.ksh.hu/docs/hun/xstadat/xstadat\\_hosszu/h\\_fsp001.html](http://www.ksh.hu/docs/hun/xstadat/xstadat_hosszu/h_fsp001.html)

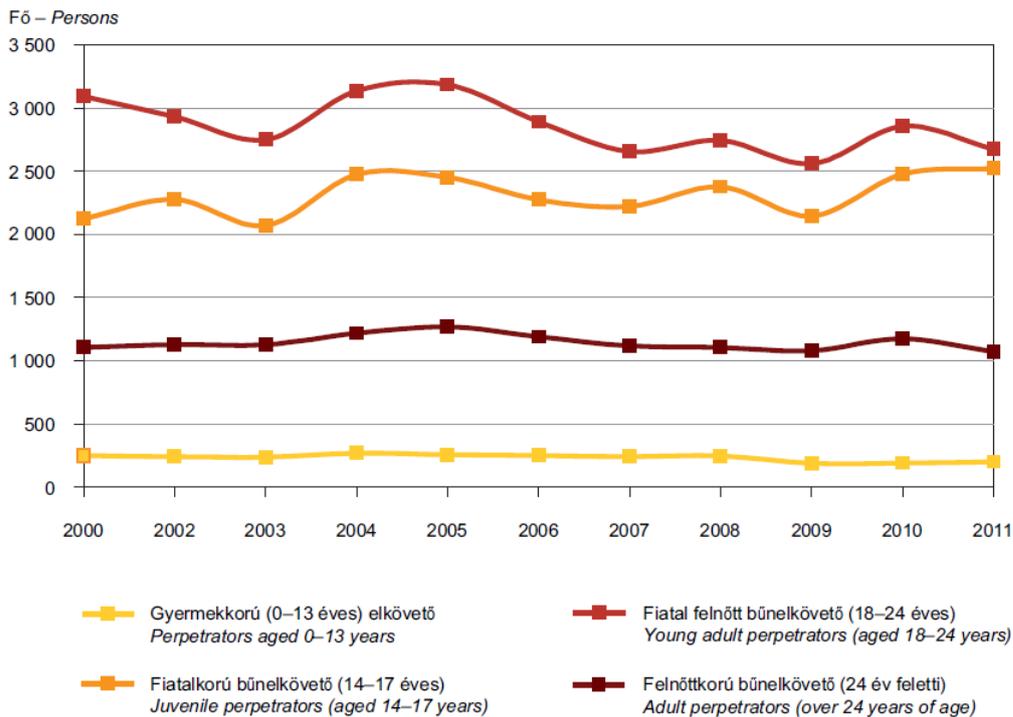
<sup>32</sup> Hungarian Central Statistical Office (2012): Yearbook of Welfare Statistics, 2011, table 5.8.

<sup>33</sup> Hungarian Central Statistical Office (2012): Yearbook of Welfare Statistics, 2011, table 5.9.

<sup>34</sup> Office of the Chief Prosecutor, IT Department (2012): Tájékoztató a gyermekkorúak és fiatakorúak bűnözésével összefüggő egyes kérdésekről (Report on certain issues of children and youth related crimes)

<sup>35</sup> Hungarian Central Statistical Office (2012): Yearbook of Welfare Statistics, 2011

30. A bűncselekményt elkövetők százezer azonos korú lakosra jutó száma, 2000–2011  
*Perpetrators of crimes per hundred thousand inhabitants of corresponding age, 2000–2011*



- Offending rate of under-ages in 2011: 0,20%, trend: low decline.
- Offending rate of juveniles in 2011: 2,48%, trend: low increasement.
- Crimes against property are the most common in both groups (61,20% - under-ages and 53,85% - juveniles).
- 39,8% of the under-age (<14 years) offenders commit the crime alone, 37,4% with another minor, 11,6% with a juvenile, 3,5% with an adult and 7,7% in mixed groups. These rates among juveniles are the followings: 41,8% (alone), 2,8% (with under-aged), 28,6% (with a juvenile), 15,7% (with an adult), 11,2% (mixed).
- The committed crimes/offenses in juvenile cases are usually (38,26%) against an unknown person.

#### 4.2. Assessment of the effectiveness of interventions and disposals

- Basic child welfare
- Children's home and specialised children's home
- Correction facilities
- Lack of alternatives!

##### 4.2.1. Basic child welfare provision

- Endangerement, abuse, delinquency, etc. often stay hidden,
- The preventive role is underdeveloped,
- Limited assessment and documentation,

- lack of resources.

The tasks of the members of the child welfare and child protection system are the recognition and the treatment of the children's endangerment.

- The **signalling system** is the basis of the child protection care: members are **obliged to report** the responsible authority in case of any suspicion or at risk situation when the child is considered to be endangered. The signalling system does not work properly, a high amount of endangerment/abuse/etc. stay hidden<sup>36</sup>.
- The **basic child welfare provision** "shall contribute to the promotion of the physical, intellectual, emotional and moral development, welfare and upbringing of the child in a family environment, the **prevention** and elimination of existing endangerment"<sup>37</sup> by provide **family case work** and special support (eg. psychologists).
- **Endangements** are „conditions as a result of certain behavior, failure, or circumstances that are blocking or hindering the child's physical, intellectual, emotional, and moral development" according to the Child Protection Act.
- Children often are considered as endangered and placed out of the family **for financial reasons**. The welfare approach does not work in practice.
- Child welfare services are responsible for the **awareness raising**, prevention and services for at risk families/children and **interventions** in case of abuse, neglect, **delinquency**, etc. „In practice the system has not been working properly due to the **lack of resources**, very few professionals, case loads are extremely high, there is accountability, responsibility always exclusively lies with parents."<sup>38</sup> The basic child welfare provision provides very limited prevention, early intervention and holistic family support. Assessment and documentation system is not used properly. There is no guaranteed safety net for families with children.
- If the child is considered to be endangered (often after a signal from one of the signalling system's members) the **notary place the child under protection**, than the **parents obliged to cooperate with the local child welfare service**.
- Child welfare services are **decentralized, universal and optional** (except if the child is on the protection register) facilities in order to support families and children. **The number of children under protection has tripled in the last 10 years**. 97,7% of the settlements in Hungary are covered by this service now (in 2009 it was 99%)<sup>39</sup>. In 2011 151 204 children received their services all over the country. They provided "**special**" **preventive services** as mediation, mental hygiene services, summer camps, etc. for 64 025 children<sup>40</sup>. It is a relatively low number which should be raised if we consider that this preventive role should be the prior one of the services.
- As a result of every second minors at risk are endangered for **environmental reasons** (which includes material, housing, etc problems) child welfare services happen to concentrate on **administrative tasks and financial help, not on providing preventive** or any other kind of services.
- Child welfare services cared approx **12 000 children who committed crime or offence** (culpable behaviour of child and because they committed a crime/offence) in 2011. Every fourth of them were younger than 14 years of age.

<sup>36</sup> Reports of the Office of the Commissioner for Fundamental rights - AJB-2227/2010, AJB-906/2011

<sup>37</sup> Law no. 31 of 1997

<sup>38</sup> Maria Herczog, Ferec Irk (2000): Comparative juvenile justice: An overview of Hungary

<sup>39</sup> See the table of statistics of child welfare services in the Appendix 2, table 1.

<sup>40</sup> Find more datas in Appendix 2, table 2.

According to the only researches on this issue around **70%**<sup>41</sup> **of under-age offenders** (up to 14 years old) **and their families were known by the child welfare system before they committed the crime/offence** in 2004 and presumably the situation have not changed since. **The basic child welfare system can not accomplish its preventive goal.**

#### 4.2.2. Children's home, specialised children's home, foster parents

- No specialised care in practice,
- Children's homes lack of information of children's past and information of their families,
- Mixed groups,
- Lack of enough and good quality care places (both children's homes and foster parents).

**Alternative care** provides residential care and foster care and ensures development of children lack of parental care or children whose development can not be ensured within the family environment either with the assistance of child welfare services (children offenders often fall to this category). The types of alternative care facilities are:

- **children's homes** (up to 40 children) and
- **group homes** (up to 12 children).
- **Foster parents** can be **professional or traditional** ones.

From **2003** two different types of specific care is available:

- **particular care** for children under 3 years of age, children with chronic illness and disabled children;
- **special care** for children with behavioural problems, children with severe psychological problems and for young substance users.
- In 2003 **national and regional committees** were set up in order to examine the children with special needs and make a proposal for individual care plan and for their suppositional best placement.

**The alternative care system still lacks of enough and good quality special and particular places (in children's homes and in foster care as well)!**

#### Specialised children's homes:

- Often have problem to find employees, especially psychologists;
- The groups of children in the homes are mixed (for example previous offenders and victims could be placed together);
- The care plan is hard to be produced because of the few and fragmented information available from the child's past;
- Children's homes sometimes try to **export the problem** with the child and send him/her to one of the **Ministry's special homes**;
- These children homes are **not closed institutions**, but if the child has „**seriously threatening behavior**” the law allows the director of the home to take her/him under „**educational supervision**” **up to 2 months**. This means **restrictions on freedom**: the child can not leave the children's home and she/he is obliged to stay in the designated room. According to the legislation in specialised homes 8 children live together in

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<sup>41</sup> Maria Herczog, Szilvia Gyurkó (2007): Ártatlanságra ítélve – Gyermekkorú elkövetők az igazságszolgáltatás és a gyermekvédelem határán. (Sentenced to be innocent - Young offenders in the edge of justice and child protection systems) In: Kriminológiai Tanulmányok 44. (ed.: György Virág) OKRI, Budapest, 2007. pp 134-153.

each group and 2 pedagogues, 2 psychologists and 1 educator available for them. In practice the **shortage of stuff** is really frequent, and as a result of limited care places the size of the groups are often higher.

**Foster parents:**

- **Often refuse to accept children** with serious psycho-social and/or behavioural problems to avoid the “bad effect” on other children in their care.

**Children with special needs, especially the older ones usually placed to “big” institutions** (up to 40 children) not to group homes or to foster families. Even if they placed to “general” children’s home in a specialised group they lack of help and they are **segregated** in the building, they have less right and they are **stigmatized** by other children and often by the employees as well<sup>42</sup>.

The table below shows the needs of children in alternative care and their place of care in 2011. Children perpetrators of crimes considered as special needs children and they almost never placed to foster families, but to institutions!

<b>Minors in alternative care by their needs and place of care, 31. 12. 2011.</b> <sup>43</sup>			
<b>Needs</b>	<b>Lives in children’s home</b>	<b>Lives with foster parent</b>	<b>Lives in social institution</b>
Without special or particular needs	52,8 %	65,9 %	0,0 %
Particular needs due to age	6,2 %	9,2 %	0,1 %
Particular needs due to disability	26,6 %	16,6 %	63,2 %
Particular needs due to chronic illness	4,2 %	7,9 %	35,8 %
Special needs due to severe psychological problems	4,1 %	<b>0,4 %</b>	0,9 %
Special needs due to dissocial symptoms	5,0 %	<b>0,0 %</b>	0,0 %
Special needs due to drug addiction	1,1 %	<b>0,0 %</b>	0,0 %
<b>Total</b>	100,00 %	100,00 %	100,00 %

According to other statistics, in 2009 **425 children offenders were placed to children’s homes and only 8 to foster parents because of delinquency.**

Number of minors who committed crime or offence before their placement in alternative care – 2009<sup>44</sup>

<sup>42</sup> Reports of the Ombudsman: AJB-228/2010, AJB-4883/2009, AJB-3012/2012

<sup>43</sup> Hungarian Central Statistical Office (2012): Állami gondoskodástól a mai gyermekvédelemig (From state care to today’s child protection), p. 5

<sup>44</sup> Tibor Papházi (editor): Gyermekvédelmi statisztikai tájékoztató, 2009 (Child protection statistical report, 2009), table no. 3.13

		Children's home		Foster parents		Together	
		Total	From which under 14	Total	From which under 14	Total	From which under 14
		A	B	c	d	E	F
01.	minors who committed offence	145	29	6		151	29
02.	minors who committed crime	280	37	2		282	37
03.	<b>Total (01+ 02)</b>	<b>425</b>	<b>66</b>	<b>8</b>		<b>433</b>	<b>66</b>

Researches<sup>45</sup> show that in Hungary there is **no available and suitable form of care for children offenders (under 14)**, the specialized care is missing. **In children's homes there are no correction programs, problem-based therapy or special services available.** The service provided for them does not depend on the type and seriousness of the committed crime/offence. The main goal is the „**resocialization**” of the child, but there are not any **follow-up studies** to prove the institutions' successes or failures.

#### 4.2.3. Correction facilities

- Lack of alternatives,
- Separated, institutionalized,
- The families are not involved.

The secondary prevention lack of alternatives: „Due to the **lack of resources**: an overwhelming majority of juvenile delinquents are released on **probation** or **reformatory** institute those who had committed more serious crimes were given **juvenile prison terms**”<sup>46</sup>.

In 2011 the main punishment was imprisonment for 1867 juveniles, 80% of them were suspended, **576 juveniles were taken to custody, 360 of them stayed in pre-trial arrest<sup>47</sup> and 36 were imprisoned** in penal institutions (without the number of cases of pre-trial detentions)<sup>48</sup>. In 2011 585 juvenile were in penal institutions<sup>49</sup>. The length of possible imprisonment is long: between 1 months to 15 years. In the same year, **in 2011 only 210 juveniles were placed to correction facilities**, the length of stay is regulated between 1-4 years. The court can order reformatory education “if the institutional environment is necessary for the child's **successful education**” (Penal Code 118 §)

- A research<sup>50</sup> appointed that around 35% of the juveniles in correction facilities have relatives who also have had conflict with the law. **To work with the offender's family is never happen, after the imprisonment the children returns to the same environment.**

<sup>45</sup> Maria Herczog, Szilvia Gyurkó (2007): Ártatlanságra ítélve – Gyermekkorú elkövetők az igazságszolgáltatás és a gyermekvédelem határán. (Sentenced to be innocent - Young offenders in the edge of justice and child protection systems) In: Kriminológiai Tanulmányok 44. (ed.: György Virág) OKRI, Budapest, 2007. pp 134-153.

<sup>46</sup> Maria Herczog, Ferec Irk (2000): Comparative juvenile justice: An overview of Hungary

<sup>47</sup> J/6851 Report of the Chief Prosecutor, 2011

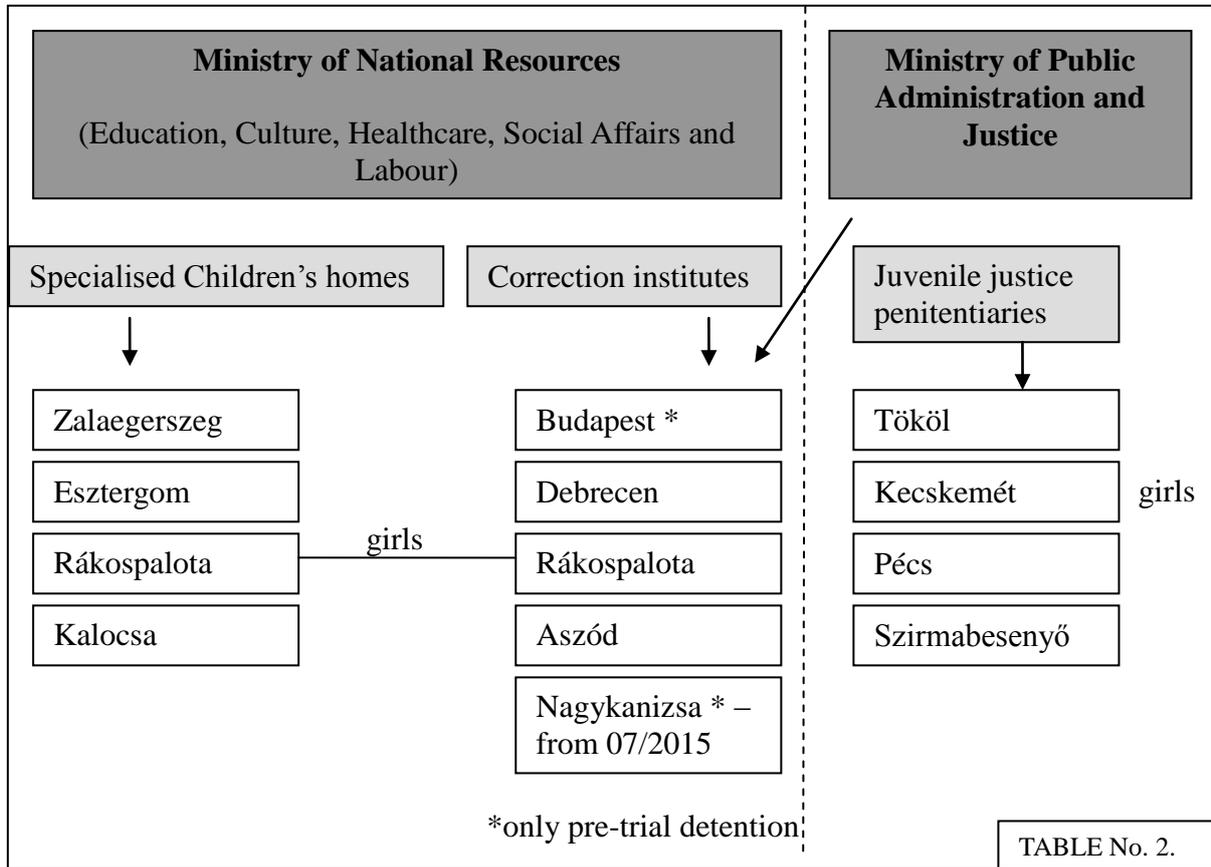
<sup>48</sup> Hungarian Central Statistical Office (2012): Yearbook of Welfare Statistics, 2011, p. 186.

<sup>49</sup> Ágnes Solt (2012): Peremen billegő fiatalok (Youth on the edge), p. 18

<sup>50</sup> Judit Hegedűs (2007): Fiatalkorú bűnelkövetők gyermekkor és a javítóintézetben töltött éveik pedagógiai vizsgálata (The childhood of juvenile offenders and a pedagogical research about their years spent in detention centers)

- In correction facilities the **primary education** is ensured for everybody and after its successful completion vocational trainings are available. Unfortunately provided vocational trainings are limited, not flexible and not marketable.

The diagram below shows the juvenile justice institutions (and their location) in Hungary and the responsible ministries.



As the table shows **the system is divided into two parts.**

In 2012 the ombudsman visited the four juvenile justice institutions and he saw improvement, for example in Tököl daily use/availability of warm shower/water was ensured not like in previous years, but there are still too few psychologists, and the reintegration of young offenders is a serious problem as well as the **violence between the juveniles.**

A research from 2010<sup>51</sup> which used qualitative and quantitative methods and included „143 juvenile offenders released from reformatories, and 220 juveniles whose charges have been deferred” **draw a good picture of correction institutions:** “Most of the youths admitted to reform schools experienced the time spent there not as a punishment but as a kind of assistance, which gave them an opportunity to break with their earlier behaviour and they received appropriate support in this process.”

## Probation

If the potential duration of imprisonment is less than 5 years the prosecutor can **suspend the punishment** for a year in order to give a chance for the juvenile to develop in a good way. In

<sup>51</sup> Klára Kerezsi, József Kó (2010): The effectiveness of juvenile criminal justice: relapsing juvenile offenders, OKRI review 2010/2

third of the cases **it does not work** and the juvenile goes to custody afterwards. It shows the **dysfunction of the provided assistance** during suspension for them, the services are not able to rehabilitate the juveniles.

Probation officers usually **overburdened**, can **not provide early-assistance** because of the failure of the signalling and the justice procedural system and the **cooperation** with social workers still **insufficient**.

As a conclusion we would like to highlight that besides the laws and services **the rehabilitation of juvenile offenders is not successful**: „Although there is a **broad social safety net** for juvenile offenders in Hungary, ranging from social workers to community work and alternatives to punishment, **it plays a marginal role**. This is largely due to the former ideological and political practice, the lack of professional debates, a weak sense of advocacy on the part of the delinquents and their helpers, and **the lack of research and evaluation on the outcomes** of various ways of dealing with juvenile offenders.”<sup>52</sup>

### ***4.3. Communication of research findings***

NGOs, research groups, universities usually send their research findings to law makers and politicians. Sometimes it has **direct effect** on policy making: eg. after the research of under-age offenders by Maria Herczog and Szilvia Gyurkó in 2007 which found the lack of statistical resources, the official statistics started to include information of the children perpetrators' past placements and his/her connections with child welfare and child protection system.

## **5. Influences on the system**

Due to historical and actual political reasons influences on the system are **unpredictable**, accidental, depends on personal relationships.

**International obligations** play an important role (eg: child-friendly justice, victim-offender mediation).

The **ombudsman** and its reports are also important factors which can influence the system.

## **6. Philosophies of the system**

- In case of under-age offenders the main philosophy is the best interest of the child and the **child rights approach**. In practice due to lack of quality care places and specialized foster parents it can not be accomplished. Young offenders are separated from their parents and from the community. Children's homes do not provide problem centered therapy, the family work is rare.
- Juvenile offenders should be rehabilitated, not punished, but due to lack of alternative resources it hardly happens.

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<sup>52</sup> Maria Herczog, Ferec Irk (2000): Comparative juvenile justice: An overview of Hungary

## **6.1. Latest concluding observations of the Committee on the rights of the child<sup>53</sup>**

We would like to highlight the issues of concluding observations that have not changed since 2006:

**Data collection**, 15. paragraph: (...) “the Data Protection Act impedes the compilation of disaggregated statistics, especially with regard to most vulnerable groups of children, such as minority children; in particular Roma, disabled children, asylum-seeking children and children in conflict with the law.”

**Respect for the views of the child**, 25. paragraph: (...) „This general principle should also be reflected in all laws, judicial and administrative decisions, policies and programmes relating to children and should be implemented in the family, school, community and all institutions attended by and working with children.”

### **Prohibition of torture or other cruel, inhuman or degrading treatment or punishment**

„26. The Committee is concerned about information indicating that children continue to be victims of arbitrary detentions, police brutality and ill-treatment in detention facilities.

27. The Committee recommends that the State party investigate thoroughly all allegations of torture and ill-treatment committed in particular within the juvenile justice administration by public officials and ensure that perpetrators are rapidly brought to justice and tried. The Committee also encourages the State party to provide adequate reparations, rehabilitation and recovery programs for victims of such abuses.”

### **Separation from parents**

30. „The Committee is concerned about the high rate of children placed in alternative care”. (...) „The Committee is particularly worried about the considerable overrepresentation of Roma children among children in institutions.”

„31. The Committee is concerned by reports about the extremely low quality of many institutions and by the fact that children previously in state care subsequently are overrepresented among the homeless.

32. The Committee recommends that the State party provide adequate family support in order to prevent separation and promote family based assistance in foster care as a form of alternative care.” (...)

„33. The Committee recommends that the State party undertake further preventive efforts to address root causes of poverty and to avoid that poor socio-economic conditions result in the separation of children from their parents. (...)”

### **Administration of juvenile justice**

„60. The Committee is concerned about reported cases involving minors being arbitrarily detained and about ill treatment by law enforcement officials. Also, the Committee is concerned about reports of ill-treatment by adult inmates due to mixed detention facilities. The Committee expresses concern over the lack of public defence lawyers. The overrepresentation of Roma children within the administration of juvenile justice remains a serious concern.

61. The Committee recommends that the State party fully bring the system of juvenile justice into line with the Convention, in particular articles 37, 40 and 39, and with other United Nations standards in the field of juvenile justice” (...) „In this regard, the Committee recommends that the State party in particular:

(a) Take all necessary measures to ensure that persons below 18 are only deprived of liberty as a last resort and that children, if detained remain separated from adults and protected from any form of ill-treatment;

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<sup>53</sup> Committee on the rights of the child concluding observations CRC/C/HUN/CO/2, 17 March 2006, <http://www2.ohchr.org/english/bodies/crc/crcs41.htm>

(...) (d) Ensure that the principle of non-discrimination is strictly applied, in particular with regards to children of vulnerable groups such as Roma; (...)"

## Foster care

### *Traditions*

In Hungary “the transformation of the public care system started in 1985 when the first experimental professional foster care scheme was launched. Prior this initiative the role of **foster care had been undervalued compared with residential care**. Before the WWII over 85% of the children were placed into foster families and **only offending children** or those having severe disabilities **were institutionalized**. After the war the role of foster care decreased rapidly mostly due to ideological reasons and by the mid 80’s it took less than 30% of all placements. The changes to broaden the scope of foster care placements slowly occurred due to the strong **prejudice against foster carers** for different reasons, and the high employment rate of women as well.”<sup>54</sup> After the 80’s “despite the gradual recognition of the value of family-based care in child welfare, previous patterns, which relied heavily on institutional care, have been difficult to change.”<sup>55</sup>

The **United Nations Convention on the Rights of the Child** (UN CRC) was ratified in 1991 in Hungary. The **new Child Protection Act** (which is in accordance with the CRC) came into force **in 1997**. The Act ensures the **best interest of the child** and the right to be brought up in the biological family and it guaranteed and named various support and services for families and children. According to this Act (and its modifications) **every foster carer has to be trained and assessed** before the placement. The **Looking After Children assessment system** was introduced in 1998 and it is still in use in order to help the individualised and holistic decision making and the unified documentation.

Between 2003 and 2004 the ratio of children in children’s home and in foster care reached the equal proportion and **in 2011 60,4 % of children in alternative care lived with foster parents**<sup>56</sup>.

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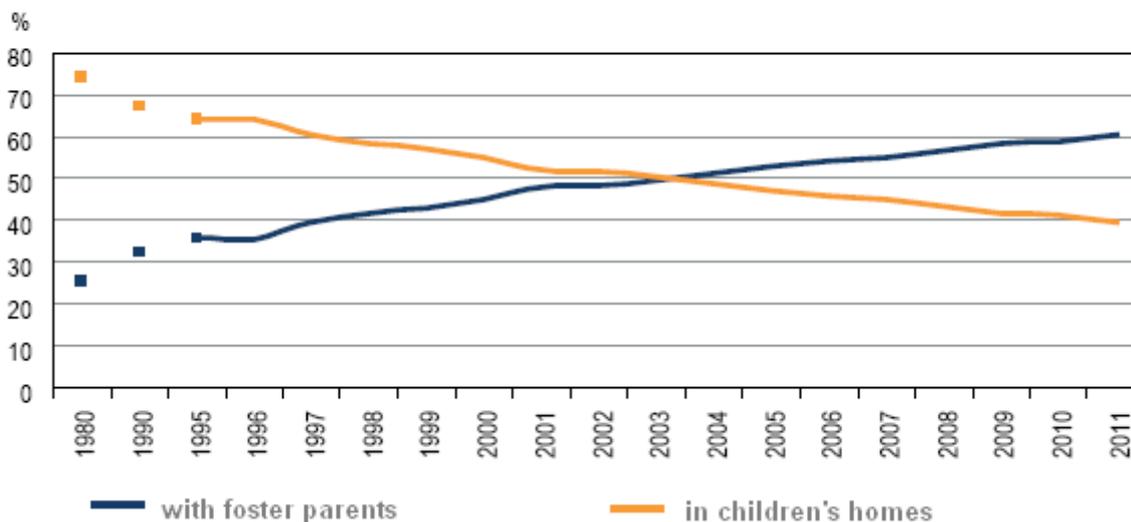
<sup>54</sup> Maria Herczog: The development and state of specialized foster care system in Hungary

<sup>55</sup> Maria Herczog: Ideology and the changing role of foster family care in Hungary

In: Brad McKenzie (ed.) (1994): Current perspectives on foster family care for children and youth

<sup>56</sup> Hungarian Central Statistical Office (2012): Yearbook of welfare statistics, p. XIV.

Ratio of children placed in children's homes and with foster parents



### *1. Role of foster parents:*

Child Protection Act:

Article 54 (1) The foster parent may be a capable person of legal age and with a clean record, who has successfully participated in a training specified in separate legal regulation and based upon his or her personality and conditions, is qualified to **ensure the child's balanced development as well as to assist the child to return to his or her family.**

### *2. Law:*

Foster care enshrined by national law (see: Legal framework).

### *3. National Standards relating to foster care*

- **Child Protection Act:** From 1997 all families who want to foster a child have to be assessed and trained. A foster parent should be older than 24 years of age and the age gap between the him/her and the child can not be more than 45 years. The lack of criminal history and to have appropriate housing conditions are also important requirements.
- Terms to be a foster parent (**FIKSZ training**):
  1. Adult, older than 24, without criminal record, without a court order of suspended parental rights.
  2. The foster parent's and his/her family's health and personalities allow fostering a child.
  3. Have permanent residence in the country.
  4. Have suitable housing conditions: separate room for the child from the parents, at least 6 m<sup>2</sup> own space for each child in their care.

5. Environment study: have fundamental human and material facilities and secure financial background.
6. Participation on the training.
7. Psychological examination.
8. Cooperation.
9. Participation on the programmes of the foster parent's network.
10. Undertakes to accept on-going help.

#### ***4. Types of foster care***

**Foster parents** (Child Protection Act, Article 54):

- **substitute parent** *temporary care*
- **traditional foster parent** *long-term, short-term or temporary care*
- **professional foster parent** *long-term, short-term or temporary care*
  - **specialized professional foster parent** *long-term, short-term or temporary care*  
=> children with behavioural problems, children with severe psychological problems and for young substance users
  - **particular professional foster parent** *long-term, short-term or temporary care*  
=> children under 3 years of age, children with chronic illness and disabled children

There are **two general types** of foster parents: traditional and professional ones.

- Traditional foster parents receive family allowance and eligible for maternity leave. In 2011 **94,1% of all foster families were traditional.**
- Professional foster parents are **full-time employees** of the service provider (county child protection agency, church-run foster parent network or NGOs). A **modification** of the Child Protection Act<sup>57</sup> would like to change the proportion of traditional and professional foster families, give employment for all of them from 2014. A new **special employment status** will be introduced for them.
- In a traditional foster family maximum **4 children** can be placed in the same time, together with the parents' own children living in the same household.
- Professional foster parents can take care of 3-7 children, **specialised professional foster parents can take care of 3 children**<sup>58</sup> and particular professional foster parents for 3-5 children.
- An „average foster parent” now in Hungary is a married women in her 50s with secondary education<sup>59</sup>.

**The most common problems of the foster parents** are:

- the child's difficulties in school with the integration;
- the burden of bureaucracy of the foster parent profession;
- the prejudices of the community<sup>60</sup>.

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<sup>57</sup> Law 192 of the year 2012

<sup>58</sup> (eg. juvenile offenders)

<sup>59</sup> Andrea Homoki (2011): Viharsarki nevelőszülők mint a posztmodern gyermekkor formálói (Foster parents as shapers of the postmodern childhood) In: Esély 2011/2

<sup>60</sup> Andrea Homoki (2011): Viharsarki nevelőszülők mint a posztmodern gyermekkor formálói (Foster parents as shapers of the postmodern childhood) In: Esély 2011/2

Foster parents often refuse children with behavioural problems but children have better chances for development in a family environment and escapes are much lower from foster families than children's homes. In 2011 **389 escapes** happened **from foster care** and **17 337 from children's homes**. 60% of children lives with foster parents so it is a significant difference even if we take into account that children placed to foster care are the younger and "well-behaved" ones. **Children often commit crimes during the escape** as the table below shows. The amount of escapes and the number of crimes committed during the escape are the highest from **specialised homes** in proportion with the number of children in care.

### 5.23. Escape from the place of care, 2011<sup>61</sup>

Denomination	Number of children escaping					Number of cases of escape	Children committing crime during escape
	once	twice	three times	four or more times	total		
<b>Type of placement</b>							
General children's home	326	152	91	393	962	6 616	100
General group home	212	132	90	386	820	4 319	72
Primary school with student's home and children's home	4	3	3	6	16	124	1
Specialised children's home	75	30	23	100	228	2029	53
Specialised group home	9	15	6	28	58	323	1
Particular children's home	26	18	12	28	84	643	13
Particular group home	34	17	14	59	124	650	20
After-care home	1	–	–	–	1	1	–
Shelter for children	200	118	84	118	520	2 632	13
					2		
<b>Children's homes, total</b>	<b>887</b>	<b>485</b>	<b>323</b>	<b>1 118</b>	<b>813</b>	<b>17 337</b>	<b>273</b>
<b>Foster care, total</b>	<b>79</b>	<b>45</b>	<b>15</b>	<b>30</b>	<b>169</b>	<b>389</b>	<b>16</b>

Besides the escapes researches<sup>62</sup> show that children have better chances and outcomes in the **educational system** if they placed to foster parents, not to children's homes. 23% of children who enter alternative care<sup>63</sup> is over-aged in education, it is a priority to caught up since education is a protection factor of criminalization.

According to a research from 2003 children who live in alternative care are **8.4 times more likely to become perpetrators** than other children<sup>64</sup>.

## 5. Number of approved fostering households by type and by the number of children in their care (1990-2011):

### Number and proportion of foster parents<sup>65</sup>

<sup>61</sup> Hungarian Central Statistical Office (2012): Yearbook of Welfare Statistics, 2011, table 5. 23.

<sup>62</sup> Tibor Papházi (editor): Gyermekvédelmi statisztikai tájékoztató, 2009 (Child protection statistical report, 2009); Vera Messing and Mária Neményi: Gyermekvédelem és esélyegyenlőség (Child protection system and equal opportunities); Andrea Rác (2009): „Barkácsolt életutak, szekvenciális (rendszer)igények – Gyermekvédelmi szakellátásban nevelkedett fiatal felnőttek iskolai pályafutásának, munkaerő-piaci részvételének és jövőképeinek vizsgálata

<sup>63</sup> Erzsébet Kovács Gulyásné dr. (2012): Gyermekesélyek és a gyermekvédelmi szakellátás (Opportunities and the child protection system)

<sup>64</sup> Both Emőke (2003): A gyermekvédelmi rendszer és a bűnözés összefüggései (Correlation between the child protection system and crimes), Család, Gyermek, Ifjúság Folyóirat XII. évfolyam 2003/4. szám, pp. 5-12

<sup>65</sup> Hungarian Central Statistical Office (2012): Állami gondoskodástól a mai gyermekvédelemig (From state care to today's child protection), p. 6.

Year	Number of foster parents	Traditional foster parents	Professional foster parents	With 1-2 children in their care	With 3-4 children in their care	With more than 5 children in their care
1990	5373	93,4	6,6	86,0	9,1	4,9
1995	4890	91,4	8,6	83,6	11,1	5,3
2000	4858	91,6	8,4	74,9	17,1	7,9
2005	5323	92,5	7,5	67,2	23,7	9,0
2010	5416	93,6	6,4	61,1	29,0	9,9
2011	5526	<b>94,1</b>	5,9	60,9	29,3	9,8

## ***6. Rates of foster care placement breakdown***

The only research of this issue was made in 2001 on the placement breakdowns (23 cases) of the Budapest Capitol Child Protection Agency's foster parent network in the same year<sup>66</sup>.

In most of the cases the **teenage children** asked for new placement, 16 children after a long period of time spent in the same family (7-10 years). The foster family was not able to handle the **new needs** and behaviour of the adolescent.

From 23 families 9 were **overburdened** with more than 6 children in their care, personal attention was not given to the children.

**Families were not provided with services** in order to prevent the placement breakdown.

## ***7. Foster care services offered by:***

- the State, county
- Religious institutions
- NGOs

## ***8. Selection of foster carers***

Everyone can be a foster parent after selection and training if he/she is older than 24 years of age and the age gap between him/her and the child is not more than 45 years<sup>67</sup>.

## ***9. Process for approval to foster carers***

- Application of foster parent to one of the foster parent's networks,
- Environment study of the applicant by the professional of foster parent's networks,
- Proof of lack of criminal record of the applicant and his/her adult relatives,
- Medical examination of the future foster parent,
- 60 hours of training => for traditional foster parents,
- + 300 hours of training => for professional foster parents,

<sup>66</sup> Nóra Bede – Zsuzsanna Vida (2001): Sikertelen nevelőszülői kihelyezések (Failed foster care placements), In: Család, Gyermekek, Ifjúság, 2001/3

<sup>67</sup> From 2014 the maximum age gap will change to 50 years.

- Receiving of the operating permit,
- Search for children,
- Few weeks for getting to know the selected children,
- Place the children to the foster family,
- The guardianship office approves the placement and the individualized care plan of the child,
- 6 hours training/supervision in every half year.

### ***10. Who is involved in the process?***

- Social and child protection general directorate
- District guardianship office
- County child protection agency, church run foster parents network, NGOs

### ***11. Payment and employment***

The **central budget** is providing a set amount of allowances for foster parents based on the number of children taken care of by them. It depends on the service provider, local opportunities, circumstances how much supplementary budget is needed, so foster care payment is set but there are other influencing factors.

In 2013 the minimum allowance for a child/young adult is 15 000 HUF/month (app. 50 EUR) and the **minimum allowance paid to professional foster carers** is 135 000 HUF/month (app. 445 EUR) equal as a teacher's average salary for example. The **monthly care allowance** is 34 200 HUF (~120 EUR) or 39 900 HUF (~140 EUR) if the child has particular needs or **42 750 HUF (~150 EUR) if the child has special needs.**

In 2011 and 2012 based on a complaint from Pest County foster families an investigation conducted by the Ombudsman found **delays in payment** due to the financial constraints of some counties. It threatened the well-being of the children and the foster families.

**Recent changes:** A new **special employment status** will be introduced for **every foster parent** (now only 5,9% employed as professional foster carers, other 30-40% have other full time jobs, but 60% of current foster carers have no employment, no pension, no insurance, etc). From 2014 the **universal salary of foster parents** will be the 30% of the minimum wage (~100 EUR), and they will receive additional payment per every children in their care (20% or 25% of the minimum wage depending on the children's special needs).

### ***12. Recruitment***

From 2014 children under 12 can not be placed to institutions, but to foster parents, but Hungary lack of them. A **big campaign** started in 2012 to find foster carers all over the country by a church run organization called „Ágota”<sup>68</sup> with the financial help of the Government.

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<sup>68</sup> <http://www.agotaalapitvany.hu/>

### ***13. Children in foster care***

- Every children in alternative care is entitled to be placed with foster parents, but due to prejudices and the limited number of foster parents older, troubled and Romani children have less chances.
- The counties' child protection committee decide on the placement with the approval of the guardianship office. The committee has 3 members: a pediatricist, a child psychologist, a social worker.
- The National Child Protection Committee decide on the special/particular needs of children and on the best placement option according these needs. The Committee has 5 members: pediatricist, child psychiatrist, psychologist, special education teacher and social worker. (Eg: they decide to place the special needs children to specialized children's home, specialized foster parents, etc.)
- Ministry of Human Resources is responsible for foster care as a whole.
- The Child Protection Act includes the rules.

### ***14. Training of foster parents***

60 hours are the minimum obligations for "traditional" foster carers and 300 hours in-service training<sup>69</sup> for professionals following the 60 hours. The national curriculum until 2014 is the Hungarian adaptation of **PRIDE** (called FIKSZ<sup>70</sup> in Hungarian) since 1997; introduced by the Family Child Youth Association. The 60 hours training includes home visit and family assessment and 28 hours training and 32 hours of legal and practical information. "The program steps are driving the participants through an emotional journey by learning about their own feelings and attitudes, children's needs and feelings and understanding of the dynamic and context of fostering"<sup>71</sup>. After the placement supervision is provided, but foster parents often feel themselves "alone with their problems", **supervision** and support during the placement for foster parents **should be widen and improved** as well as more competitive salary and acceptance from the society.

In 2013 the Apor Vilmos Catholic University in cooperation with the Saint Ágota Child Protection Provider and the National Institute for Family and Social Policy in the framework of the EU funded Social Renewal Operational Programme (TÁMOP-5.4.10-12/1-2012-0001, 'Modernization of social trainings' system<sup>72</sup>) **developed a new a training for foster carers** and trained a 100 foster carer trainer.

**In 2014** a new legislation will come into force, which will make **obligatory** this new **400-500 hours training for every foster carer**, but the information on methodology, requirements, curriculum, etc. is not public yet, eventhough the first foster carer's have already started their training.

Every foster parent should finish the new training until 2017, except the professional foster carers (their number was 326 from the 5526 foster parents in 2011) or if the foster parent has

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<sup>69</sup> It includes: information of psychology, pedagogy, health and law, 100 hours of supervised practice and case studies made by the foster parents.

<sup>70</sup> FIKSZ = Responsibility, Information, Competency for Parents

<sup>71</sup> Maria Herczog: The development and state of specialized foster care system in Hungary

<sup>72</sup> [http://tamop5410.hu/about\\_the\\_project](http://tamop5410.hu/about_the_project)

children in her care for more than 10 years. Foster parents who already participated in the FIKSZ training have to apply for a 400 hours long training instead of 500 hours.

The new foster parent training will be around **1 year long**, the courses will be held on 52 days per year (it means weekly a day long training). According to former plans foster parents will receive 3,3 EUR allowance per day to solve the children's supervision during the whole day which is around 1 hour salary of a sitter.

From 13.09.2013 to 08.11.2013 foster parents could apply for free trainings, 72 training groups started in 47 cities. Later the training will cost around 1000 EUR, which is around 3 months salary.

## ***15. Review***

An official placement review should be carried out in every half year during the first 2 years of placement and after in every year. In the Ministry's specialized children's home a children can stay only up to 2 years.

## ***16. Legal status***

Every children in foster care has a guardian. Until 2014 the guardian is the foster parent or a professional guardian, and if the child lives in children's home the director of the home is the legal representative. From 2014 every children in alternative care will have a professional guardian, foster parents will not be the legal representatives of the children in their care. It started a big debate in Hungary. Foster parents feel that their **rights will be reduced**, but their duties are not going to change. For example from next year they can not enroll their children in the school, can not allow them to go on school trips, can not give permission for medical intervention (neither in case of emergency), etc.

Professional guardians will have 30 „cases”, 30 children to represent their interest.

## ***17. Monitoring***

The placements are monitored by the state besides the foster parent's network's advisor.

## ***18. Leading research groups/universities in foster care***

There are no foster parent-specialized research groups in Hungary.

Few researches were made by: universities that have social science department, NGOs, church-run foster parent networks, the National Institute for Family and Social Policy, the National Central Statistical Office, etc.

## ***19. Biggest challenges for foster care placements***

- Recruitment of foster parents,
- Changing rules of training and selection,
- The motivation system to be a foster parent is insufficient,
- Proper payment for foster families,

- On-going support for foster parents,
- Abolish prejudices.

## ***20. Remand fostering – an unknown type of foster care in Hungary***

Not known and not available in Hungary.

Remand fostering is an alternative option to pre-trial or house arrest of juveniles in some European countries, for example in the United Kingdom.

## ***21. Intensive foster care***

Not available in Hungary, the closest scheme is the specialised foster care where children perpetrators of crimes can be placed.

Foster parents can be professional or traditional ones. From 2003 two different types of specific professional foster care is available: particular care and specialised care. Less than a 100 specialised foster parents are available in Hungary.

In specialised care children with behavioural problems, children with sever psychological problems and young substance users can be placed.

**National and regional committees** examine the children with special needs and make a proposal for individual care plan and for their suppositional best placement.

Specialised professional foster parents can take care of 3 children. The carers should make the 300 hours foster parents training before the placement besides the 60 hours of general FIKSZ (PRIDE) training. From next year they should finish the 500 hours new training. We do not have information about the curriculum, it is not known if care of children perpetrators included or not.

They do not receive more or specialized support from the foster parent's network or from other professionals, than the "general" foster parents.

## ***22. Exmaples***

Good practices:

1. **Romani foster parents:** Romani children are overrepresented in the Hungarian child protection system<sup>73, 74</sup> and in the correctional facilities<sup>75</sup> as well. Romani children especially teenagers and who was labelled as mentally disabled/special needs children "relatively less accepted by foster families". There have been a few pilot projects to find and train Romani foster parents and/or social workers since 1993 (Family Child Youth Association) to nowadays (National Roma Self-Government, Türr István Training and Research Institute).
2. From 2003 new types of foster parents are available: **special and particular professional foster parents** as we mentioned it before (see: 4. Types of foster care and 21. Intensive foster care). The potential of these types of alternative care are not utilized yet but this situation hopefully will change from 2014, when every child under 12 should be placed to foster parents.

<sup>73</sup> Maria Herczog and Maria Neményi (2007): Romani Children and the Hungarian Child Protection System <http://www.erc.org/cms/upload/media/02/F1/m000002F1.pdf>

<sup>74</sup> Maria Neményi, Vera Messing (2007): Gyermekvédelem és esélyegyenlőség (Child protection and equal opportunities). In: Kapocs VI/1, pp. 2-19.

<sup>75</sup> László Korinek (2010): Kriminológia II. (Criminology II.), Magyar Közlöny Lap- és Könyvkiadó

3. **Teenage mothers in care.** The Budapest Capitol Child Protection Agency<sup>76</sup> has a program for teenage mothers who are living in alternative care. The Agency provides accommodation and support for the mothers and the children together. Teenage mother learn parenting techniques in order to stop the circle of disadvantage and to keep the family together. They live in a separate community within the children's home and receive specialised care. It is a unique program in Hungary.
4. The **Budapest Capitol Child Protection Agency** also has specialized professional foster parents who helped "the most troubled" children in the past 20 years. These carers have special competences and personality, they undertake the responsibility to take care for children with multiply problems, and who usually have had 6 or even more care places before. Some of the children who grew up in these families became carer themselves as well, in children's homes or in a foster parent's network.
5. The hungarioan **SOS children's villages**<sup>77</sup> manage a foster parent's network besides their family-like small group homes. They also have 3 youth houses where older children (16-24) can learn the independence with the supervision and support of carers.
6. The **hungarian section of FICE** in collaboration with 2 correction facilities have a prevention program in the framework of the Social Renewal Operational Programme. They offered training and activities (work orientation, mediation, skill development, drama pedagogy, etc.) to 72 children from 2 correction facilities<sup>78</sup>.
7. "BAGázs" Non-profit Association<sup>79</sup>: From 2010 the BAGázs **NGO** runs a **mentor and empowerment program** in Bag which is one of the Hungarian settlements with the biggest Roma segregated population (around 5-800 inhabitants). In Bag the unemployment, the low educational level and the poverty of families is really frequent, children usually finish the primary school but do not continue to learn after or drop out from the secondary education early. Teenagers often face with drug addiction and offend crimes. The community based project train **peer mentors**: young persons from the local community and middle-class, young volunteers as well. Every teenager (12-16 years old) has a peer mentor, they meet every week for half a year and learn or play together, make individual progress plan, improve skills and competences in **informal** ways. Most of the peer mentors from the local community have had conflict with the law before, but managed to overcome their past difficulties. The primer goal of the project to decrease criminal acts and substance abuse among the youth. It is a successful programme, the methodology of the mentor training and the additional available services for the children could be interesting for child protection professionals as well.
8. Nutcracker ("Diótörés") Foundation<sup>80</sup>: provides **after-care** for young adult aged between 18 and 35 who previously lived in professional child protection care or have had "difficult life". The service receivers are usually homeless youngsters with drug addiction and without personal relationships, employment, etc. The Foundation helps facilitate them to develop their skills, to integrate in the society, offer them residential care and psycho-social case therapy and low-threshold services in case of substance use.

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<sup>76</sup> <http://www.tegyesz.hu/>

<sup>77</sup> <http://www.sos.hu/>

<sup>78</sup> <http://www.fice.hu/english/>

<sup>79</sup> <http://www.bagazs.org/en/>

<sup>80</sup> <http://diotores.hu/>

### ***23. Outcome or evaluation research on Intensive Fostering***

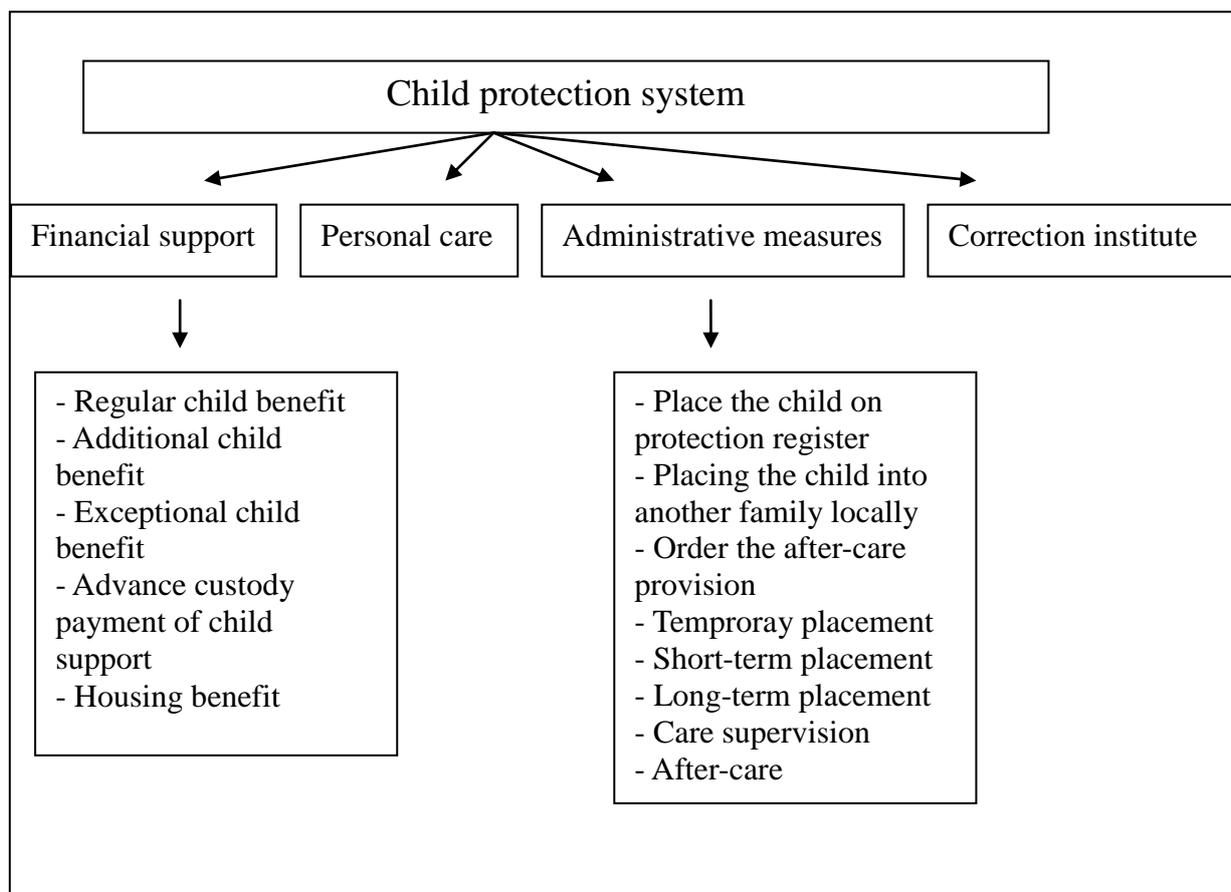
Not any.

It is a weak point of the Hungarian child protection system, evaluation, follow up and outcome researches are completely missing.

# Appendix

## 1. Figures

### 1.1. Child protection system



## 1.2. Map of regions in Hungary



Source: Hungarian Central Statistical Office

## 2. Tables

### 2.1. Settlements providing child welfare services

#### 4.11. Settlements providing child welfare services<sup>81</sup>

Year	Number of			Number of settlements supplied with child welfare service, %	Ratio of	Number of children receiving service	Number of families receiving service
	child welfare services	settlements running child welfare service	settlements covered by service				
2006	1 238	924	2 099	3 021	96,1	122 908	63 327
2007	881	820	2 254	3 050	96,8	121 539	64 246
2008	815	765	2 348	3 096	98,2	126 478	68 548
2009	814	762	2 360	3 084	99,0	127 219	69 340
2010	807	754	2 334	3 045	96,6	145 377	79 645
2011	782	734	2 387	3 081	97,7	151 204	84 705

### 2.2. Number of children receiving special or prevention care from child welfare services during the year

#### 4.16. Number of children receiving special or prevention care from child welfare services during the year<sup>82</sup>

Denomination	Number of children receiving special or prevention care			
	2008	2009	2010	2011

<sup>81</sup> Hungarian Central Statistical Office (2012): Yearbook of Welfare Statistics, 2011, table 4.11.

<sup>82</sup> Hungarian Central Statistical Office (2012): Yearbook of Welfare Statistics, 2011, table 4.16.

<b>Special care, total</b>	<b>40 177</b>	<b>45 762</b>	<b>60 051</b>	<b>64 025</b>
Mediating among the members of disintegrated family	7 517	6 514	10 422	11 866
Mental hygiene services	3 588	3 055	3 319	2 399
Social work on streets and in housing estates	9 940	17 459	26 690	27 027
Social work in hospital	4 817	4 504	3 319	3 430
Social work in school	14 249	14 230	16 277	19 303
Psychic hot line for youth	66	..	24	–
<b>Prevention care, total</b>	<b>..</b>	<b>25 788</b>	<b>180 623</b>	<b>171 138</b>
Playhouse	..	..	60 106	59 919
Club	..	..	70 467	63 575
Coaching	..	..	16 873	15 917
Holiday camps	..	25 788	33 177	31 727

## 2.3. Number of the signals sent by members of the child protective system to child welfare services by region and county, 2011

### Number of the signals sent by members of the child protective system to child welfare services by region and county, 2011<sup>83</sup>

Signal made by:	cases:
health service	14900
of which: district nurse	11382
social institution	6063
day care provision	2987
short-term care provision	4273
educational institution	90902
police	10660
public prosecutor's office, court	1275
nonprofit organisation, church, foundation	700
patron custodial service	4699
citizen	6389
notary	63021
victim helping service	335
station admitting refugees	16
labour authority	175
Country, total	206395

## 2.4. Care of children who committed an offence or a crime by region, 2011

### 4.17. Care of children who committed an offence or a crime by region, 2011<sup>84</sup>

Region, type of care	Number of children who committed offence, of which:			Number of children who committed crime, of which:		
	under 14 years of age	juveniles	children, total	under 14 years of age	juveniles	children, total
<b>Country, total</b>	<b>1 948</b>	<b>6 305</b>	<b>8 253</b>	<b>690</b>	<b>2 979</b>	<b>3 669</b>
	<b>Region</b>					
<b>Central Hungary</b>	<b>437</b>	<b>1 389</b>	<b>1 826</b>	<b>79</b>	<b>572</b>	<b>651</b>
Central Transdanubia	155	577	732	97	314	411
Western Transdanubia	155	567	722	67	238	305
Southern Transdanubia	221	1 039	1 260	100	415	515
<b>Transdanubia</b>	<b>531</b>	<b>2 183</b>	<b>2 714</b>	<b>264</b>	<b>967</b>	<b>1 231</b>
Northern Hungary	202	638	840	88	494	582
Northern Great Plain	527	1 314	1 841	151	566	717
Southern Great Plain	251	781	1 032	108	380	488
<b>Great Plain and North</b>	<b>980</b>	<b>2 733</b>	<b>3 713</b>	<b>347</b>	<b>1 440</b>	<b>1 787</b>

<sup>83</sup> Hungarian Central Statistical Office (2012): Yearbook of Welfare Statistics, 2011, table 4.32.

<sup>84</sup> Hungarian Central Statistical Office (2012): Yearbook of Welfare Statistics, 2011, table 4.17.

	Type of care					
Not in care	907	3 028	3 935	329	1 273	1 602
In social basic care	619	1 882	2 501	202	795	997
Under child protection	422	1 395	1 817	159	911	1 070

## 2.5. Persons with definitive sentence by age-group, 2011

### 11.6. Persons with definitive sentence by age-group, 2011<sup>85</sup>

Age-group	Male convicts		Female convicts		Convicts, total	
	number	per hundred thousand males of corresponding age	number	per hundred thousand females of corresponding age	number	per hundred thousand inhabitants of corresponding age
14–17	5 132	2 289	708	332	5 840	1 335
18–19	5 015	4 031	665	560	5 680	2 336
20–24	11 125	3 396	1 634	522	12 759	1 991

## 2.6. Number of convicted persons by the length of imprisonment and by age-group

### 11.8. Number of convicted persons by the length of imprisonment and by age-group, 2011<sup>86</sup>

Duration	14–17	18–24
Up to 1 month	–	3
1–6 months	2	164
6 months to 1 year	3	291
1– 2 years	10	465
2– 3 years	11	318
3– 5 years	7	387
5–10 years	3	254
Over 10 years	–	60
Life sentence	–	2
<b>Total</b>	<b>36</b>	<b>1 944</b>

<sup>85</sup> Hungarian Central Statistical Office (2012): Yearbook of Welfare Statistics, 2011, table 11.6.

<sup>86</sup> Hungarian Central Statistical Office (2012): Yearbook of Welfare Statistics, 2011, table 11.8.