



# The criminalisation of rough sleeping in Hungary

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*The law forbidding rough sleeping in Hungary came into effect on 15 October 2018, following an amendment to the Constitution in the summer. Police must order the homeless to move into shelters, and if they fail to comply with the regulations after being ordered three times in a 90-day period, they can be imprisoned.*

## Description

After introducing the criminalisation of homelessness in 2011, the Hungarian Government went even further by amending the Constitution (Article 22): “habitual residence in a public space is forbidden”. The Law on Misdemeanours was also amended. The prohibition of rough sleeping came into effect on 15 October 2018. Previously, municipalities were authorised to decide whether “residing on public premises for habitation” should be seen as a crime in their local territories, but now this act is punishable over the whole country. If someone accepts the offered social care, official proceedings are not initiated against him/her; if not, the offence is punishable by public work and also confinement. The procedure may potentially involve forced cleaning of the person. Contrary to general rules, it is compulsory to immediately detain the person and bring him/her to court within 72 hours if he/she has already been warned three times. The offender can be kept in custody until the legally binding closure of the case (which may be as long as 1.5 months). Those who are convicted twice within 6 months can only be punished by confinement (1-60 days), which – as opposed to general rules – must take place immediately after the decision is made. The regulations concerning the handling of the personal belongings of the homeless were changed a few days before the law came into effect, so now their personal belongings can even be destroyed without any compensation.

The government argues that this new law is intended to provide proper living conditions for the homeless by forcing them to use the system of social provision. Social service providers, on the other hand, argue that services should be accessed on a voluntary basis.

The Ministry of Human Capacities claims that there will be places for everyone in need, and that with the introduction of this new legislation, in addition to the 9.1 billion HUF (€28.5 million) financing for the homeless provision system, an additional 300 million HUF (€937,500) fund was created as a reserve to cover any additional extra costs, e.g. extended opening hours of day-shelters.

The first arrest was made on the basis of the new legislation 2 days after it came into effect, and others followed within a week.

## Outlook & commentary

There have been previous attempts to outlaw homelessness, but these were rejected by the Constitutional Court. There is broad agreement among professionals and human rights advocates that although it is very important to reduce public homelessness, this should not be done via punitive measures, but through social policy. The new law seems to suggest that homelessness is a free choice, and handles it as a criminal act, instead of providing real options for affordable living. Leaders of charity organisations which operate a number

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of shelters also noted that there was no proper dialogue with them before the legislation was passed.

There is a war of numbers going on as to whether there are enough vacancies in the system. The state secretary responsible for social affairs claims that there are 19 thousand vacancies, including all shelter types and daytime shelters. The latter are used during the day only and have no beds, only chairs; their capacity is calculated on the basis of a relatively high turnover rate during the day. Thus, NGO experts say there are 11,000 places (the official figure from the Central Statistical Office was 10,201 vacancies in 2017). As the homeless are a hidden population, there are only estimations regarding their numbers, ranging up to 30,000 people. It is also true that some homeless people do not want to use the shelters for various kinds of reasons: shelters are very crowded; there are conflicts, fights, thefts, and bugs; dogs are not admitted; and couples cannot be placed together.

This law is considered by many as a violation of human rights. There are fears that neither the social service institutions, nor the authorities and the Prison Service are ready, and that they do not have adequate capacities. Thus, a probable impact of the amendment is that people living on public premises will be forced out of the cities, e.g. into wooded areas, where they cannot access public services. A week after the law came into effect, this seems likely to be the case as, based on reports, there has been only a slight increase in the number of clients in shelters, but homeless people have disappeared from a number of places where they used to be seen.

This new regulation is not only considered inhumane and discriminatory to the poor, but also very expensive. The estimated cost of one day in prison is 8,000 HUF (€25), the actual direct cost is 3,000 HUF (€9.4). The legal proceedings cost an additional 20,000 HUF (€62.5), so if a homeless person is put into prison, it costs at least 110,000 HUF (€344). For this amount, decent housing conditions could be created in the rental sector (Helsinki Figyelő 2018).

All this is happening in a country which lacks a coherent housing policy, and although increased funds have been allocated to housing, these still promote home ownership among more affluent families and have not systematically targeted the establishment of an affordable rental housing sector. Private home ownership is dominant: in 2016, 90.2% of the population lived in their own or in their relatives' homes, 7.1% in private rentals and only 1.3% in municipal housing. This latter segment keeps decreasing, so it is increasingly more difficult to get housing based on social criteria. In 2017, only 46% of municipal housing, approx. 50,000 flats, were available for such purposes (KSH 2018). There is a deepening housing crisis: 1.5 million people live in low-quality homes, and every third household has affordability problems. The number of those affected by housing poverty is estimated to be around 2-3 million. Over the past eight years, private rental prices doubled while per capita net incomes increased by only 26.5% between 2010 and 2016 (Habitat 2018). Since the end of the moratorium at the end of April, there have been more than 1350 evictions (see:

<http://www.parlament.hu/irom41/00989/00989-0001.pdf>).

Based on estimations, a third of homeless individuals or families only need affordable housing, and not vacancies in the overcrowded, underfinanced, hard-to-access and low-quality homeless shelter system (Habitat 2018). A complex diagnosis of a comprehensive survey of the Hungarian homeless indicated that if certain conditions are provided (such as affordable housing, higher income, cash support, social support, social provision accessible near the residence), 72% of the homeless can be considered capable of independent living (Habitat 2017:7, 20).

### Further reading

Habitat for Humanity Magyarország (2018): Éves jelentés a lakhatási szegénységről 2017 (Annual report on housing poverty 2017).

Habitat for Humanity (2017): Éves jelentés a lakhatási szegénységről 2016. (Annual report on housing poverty, 2016).

Helsinki Figyelő (2018): Hajléktalan matematika - elzárás vagy lakhatás? (Homeless mathematics - lock-up or housing?) 19 October 2018.

KSH (2018): Lakásstatisztikai évkönyv 2017 (Yearbook of housing statistics). Központi Statisztikai Hivatal, Budapest.

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