



Hungarian Helsinki Committee

HUNGARIAN HELSINKI COMMITTEE

ACTIVITIES REPORT

2011

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1. Improving respect for human rights by law enforcement agencies

1.1. Preventing ill-treatment: human rights monitoring of detention

In 2011, the HHC carried out ad hoc visits to penitentiary institutions in order to follow up on individual complaints concerning e.g. ill-treatment by prison guards and unlawful detention that were received by the Human Rights Legal Counseling Program.

- In March 2011, staff members of the HHC visited an inmate in the Metropolitan Penitentiary Institution (in Venyige street). His pre-trial detention was prolonged by a judge, instead of a council consisting of one judge and two lay assessors (according to the Hungarian Code of Criminal Procedure, pre-trial detention shall be prolonged by a council in cases such as the inmate's). Both the detainee and the prosecutor appealed against the unlawful decision; however, the second instance court only quashed the first instance decision, but failed to order his release from detention. Consequently, the inmate spent one and a half months in pre-trial detention unlawfully. In April 2011, the detainee, represented by the HHC's attorney, filed a complaint to the European Court of Human Rights because of his unlawful detention.
- In May 2011, the HHC project coordinator in charge of the law enforcement program visited an inmate in the Vác High-security Prison, who earlier complained to the HHC of being ill-treated in the Miskolc Penitentiary by fellow inmates and by prison staff. It was revealed during the meeting that criminal procedures had been started in the ill-treatment cases and the complainant did not request legal aid; he promised to keep the HHC informed of the final result of the case. However, he had a new complaint: some members of the group against whom he had filed a criminal report in Miskolc were also transferred to Vác in the meantime, and he was afraid of retaliation. Therefore he requested the HHC to help in arranging measures for his safety with prison management. The HHC took the matter up with the deputy prison governor, who later informed the HHC that the inmate had been completely separated from the potentially violent fellow inmates.
- On 15 September 2011, the HHC project coordinator visited György B., in the Budapest High- and Medium-Security Prison (Kozma utca) to follow-up on the inmate's detention conditions since an earlier visit, and to discuss an application to the European Court of Human Rights concerning the length of his pre-trial detention. Among other things, the detainee claimed that the quality of food delivered by a private supplier to the prison is unacceptable, and, even though the amount of fruits and vegetables on the menu is very low, his family members are not allowed to supplement his diet with vitamins. The inmate also criticized the high telephone costs and that inmates may only take a shower once a week. Furthermore, he claimed that the principle of equality of arms had been violated in his case because he was unable to get to know the content of internet sites referred to in his case files as a result of his detention. Also, he asserted that his right to effective defense had been violated, since prison visiting hours are determined in a way that makes it difficult for his lawyer to meet him. The inmate eventually was granted permission to have unrestricted use to a computer to prepare for his trial. Other complaints were also well-founded but caused by legislation in effect. One week after the HHC's visit, he was released to home custody, and no longer needed assistance concerning his pre-trial detention.

1.2. Promoting independent police complaint mechanisms

The HHC has continued to take cases before the Independent Police Complaints Board (IPCB). Some examples are presented below.

- Ms. A. was taken into custody after she had tried to dissuade police officers from mistreating a homeless person. When she tried to make a phone call to her husband, informing him about the fact that she was being deprived of her liberty, one of the officers tore the mobile phone from her hand and turned it off (even though Hungarian law does not authorize the police to intervene in this manner). In January 2010, the IPCB established that Ms. A.'s fundamental rights had been violated. A criminal procedure was also launched against Ms. A. for committing violence against an official, charging her with having pushed the arm of one of the police officers to prevent him from mistreating the homeless person. The criminal investigation was closed without pressing charges, though Ms. A. received a warning from the prosecutor's office. The HHC represented Ms. A. before the IPCB and in the criminal procedure.
- Seven-month pregnant Ms. H. was taken into short-term arrest by the police because she failed to appear on summons before the police officer investigating a case. (Ms. H. insists that she had received no summons to any hearing.) The police took her from her apartment at 12:30 a.m. and placed her in a cell without a bed. She had to wait on a wooden bench until 8:00 a.m. when a police officer started her interrogation. Because of the stress, she had painful contractions. She indicated this to the guards twice, requesting that the interrogation be held as soon as possible, but nothing happened, not even medical care was offered to her. On 16 June, 2010 the IPCB concluded that the complainant's fundamental rights had been violated. On 15 October 2010, the National Chief of Police adopted a decision in the case, in which he found her complaint concerning the violation of the right to liberty well-founded, but rejected the rest of the complaint. The HHC requested judicial review of the decision. The administrative court repealed the decision based on procedural grounds, thus the procedure was repeated at the National Chief of Police's Office. In the repeated procedure, the National Chief of Police took the same decision, basically citing that apart from the disproportionately long period of short-term arrest, the contradictions in the statements of the parties could not be resolved. The HHC provided legal representation to Ms. H.
- In March 2010, Mr. R. was standing in front of his house with his relatives, when police officers asked them to identify themselves. Mr. R. did not have his ID card on him, but told the police officers that he could fetch it from the house. While the officers were checking the documents of his relatives, Mr. R. had his hands in his pockets. He was told by the officers to take his hands out. He showed that he only had his mobile phone and a handkerchief in his pocket. His clothing was also searched by one of the officers, who did not find any dangerous object on Mr. R. Despite this fact, he was taken into custody on the basis that he had failed to identify himself and had defied the police action. Upon the HHC's motion, in December 2010, the IPCB established that the deprivation of Mr. R.'s liberty was disproportionate, and therefore amounted to the violation of his fundamental rights. On 10 February 2011, the National Chief of Police adopted a decision in the case, in which he rejected the complaint. The HHC requested the judicial review of the decision, which is scheduled for February 2012.

1.3. Follow-up to the project "STEPSS – Strategies for Effective Police Stop and Search"

The STEPSS project was aimed at improving police-minority relations through increasing the effectiveness and accountability of police powers to conduct identity checks and searches. In order to follow up on its results, the HHC made further efforts to bring about reform police ID check practices. A new phase of follow-up activities commenced in August 2010, with the support of the Open Society Justice Initiative.

The project was nominated to [the Austrian Sozialmarie Prize](#) and received an award of 1,000 EUR. The jury [said](#): "The Sozialmarie is awarded yearly by the Austrian Unruhe Private Foundation. The aim of the award is to make public the results of the winning projects. According to the jury's evaluation, the Helsinki Committee's project is an excellent method to give an alternative to deal with questions of public safety instead of the tools used by far-right organizations."

In 2011, the STEPPS project was followed up with several activities.

1.3.1. Consultative meetings

The HHC organized consultative meetings in 4 pilot sites in 2011.



The first meeting was held in Budapest's 8th District Police station on 26 April 2011. The event saw more than 50 participants, including representatives of the local police, the municipal self-government and more than 30 NGOs. More than two-thirds of the participants found the event useful and 87% of them felt that such events should be organized on a regular basis (e.g. every 3-6 months).



The next event was held in Budapest's 6th District Police station on 6 May 2011. 45 participants, including representatives of the Roma minority local self-government, the police, the municipality, local NGOs, probation officers and mediators, and the media attended the event. 60% of the participants found the event useful (on a scale of 1 to 6, 40% rated 6 and 20% 5), and 70% responded that the effort deserves to be continued.

The third meeting was organized in Ózd (a small, impoverished town in eastern Hungary, with a high percentage Roma population) on 7 June 2011. The event was attended by 35 participants, the composition of whom was similar to that of the previous meetings. 77 % of the participants believed further consultation is needed.

The fourth meeting was held in Sárospatak (similar to Ózd, but not as poor of a region) on 16 June 2011. There were 21 participants at the forum, with representatives from 13 NGOs, including representatives of local Roma minority self-government, members of town council, police and the local press. The opinions of the participants were similar to the previous events, about two-thirds of the people present found it useful.

The four events covered similar topics: the idea of community policing and the role of consultative forums, general information on local crime statistics and the conditions of local police forces, how to report a crime, pubs and discos, local traffic problems, CCTVs, general sense of security, ethnic profiling, juvenile delinquency, homelessness and issues of trust, or the lack thereof, towards the police.

In 2012, the HHC plans to organize two series of follow-up forums at two locations, in Ózd and in the 8th district of Budapest. The choice of the 8th district of Budapest is appropriate because active, dedicated NGOs, which may continue organizing local consultations without the assistance of the HHC in the future, operate in this district. The Ózd location was chosen because the tension between the

ethnic majority and minority is obvious, furthermore the Roma in this region have strong self-governments and leadership, supported by the Budapest-based Hungarian Civil Liberties Union.

1.3.2. Lecture at the Police College

In the fall, the HHC was invited by the Police College to hold a lecture at the Police College regarding the HHC's experiences of the most frequent mistakes police officers make in their daily activity. The lecture covered the practice of the Independent Police Complaint Board's and some cases handled by the HHC.



1.3.3. Know Your Rights leaflet

Originally, the STEPPS project aimed at convincing the police to introduce new ID check forms, which would contain information on rights regarding the most frequent police measure (ID checks). However, eventually the police rejected to modify the decade-old forms. Therefore, the HHC decided to prepare a more detailed "[know-your-rights](#)" leaflet (with basic information on ID checks, petty offence procedure, on-the-spot fines and the right to file a complaint). The leaflet is available online and was also disseminated among the NGOs participating in the consultative forums.

1.4. Towards the Equality of Roma Defendants before Courts and in Penitentiaries

Discrimination against the Roma is widespread in all fields of life in Hungary. Research shows that police officers are also highly biased against Roma – but no research has been carried out yet with regard to the approach of the staff in penitentiary institutions. No recent data is available about the treatment of Roma by criminal courts and little research was carried out into this theme in the past as well. At the same time, numerous individual cases have been reported, which suggests that discrimination in the criminal justice system against Roma defendants is an acute problem.

Hence in December 2010 the HHC launched the project "Towards the Equality of Roma Defendants before Courts and in Penitentiaries", which aims to combat discrimination in the use of pre-trial detention, sentencing and in penitentiary institutions. This will be done by assessing the current situation through research and improving it through advocacy, thus contributing to changing penal practices. Structured, questionnaire-based interviews will be carried out with 400 inmates. Interview outcomes will be double-checked by case file research with regard to decisions taken by penitentiary judges and penitentiary personnel, and 120 full case files will be selected and assessed in depth. Furthermore, focus group discussions will be organized in the penitentiaries with members of the prison staff concerning discriminatory practices and attitudes. Finally, a research study will be prepared, summarizing research findings and providing recommendations for improving the situation, which will be discussed at a roundtable for professionals. Training materials for future prison staff and criminal judges will be produced as well.

In the first months of the project in early 2011, the HHC created a firm basis and supportive environment for the project by contacting the key stakeholders, assembling a network of professionals and defining the detailed methodology for the implementation of the project. A research plan, an interview questionnaire, a case file research questionnaire, a data protection plan a sample data processing statement were drawn up. Various experts in criminal procedure law, criminal law and penitentiary issues, academics, practicing lawyers and the National Prison Service commented on the questionnaires. A focus group, comprising attorneys and NGO staff, looked at specific aspects within the criminal procedure and the penitentiary system that enable discriminatory practices, and gave an overall impression on the situation of Roma citizens before courts and in prisons. Researchers attended a training session to research aims and methodology.

The research itself will be based on a sample of 400 detainees serving a sentence for robbery. The first interviews took place in December 2011, in the Central Transdanubian National Penitentiary Institution.

The project will conclude in late 2012 and is supported by the Open Society Institute's Human Rights and Governance Grants Program.

1.5. Ratification of the Optional Protocol to the Convention against Torture (OPCAT)

The HHC partnered with the APADOR-Romanian Helsinki Committee and the Dutch Helsinki Committee in the project "Preventing Human Rights Abuses in Places of Detention". The project's first main objective was to advocate for the implementation of the Optional Protocol to the UN Convention against Torture (OPCAT) by putting in place effective national preventive mechanisms (NPMs) to prevent human rights abuses in places of detention. Its second key goal was to ensure that prison budget allocations and expenditures become subject to public scrutiny.

In order to provide an independent overview of the current domestic situation the project partners invited Dr Elina Steinerte, a fellow-researcher at the Bristol University Human Rights Implementation Centre into the program. The expert delivered a [report](#) in which she made solid recommendations to the government, the Ombudsman's Office and civil society actors.

In Fall 2011, the Hungarian Government ultimately decided to designate the Ombudsperson to be the NPM in Hungary. The HHC [made comments](#) to the draft amendments of the Ombudsman Act in October 2011, welcoming the ratification of the OPCAT and the designation of the ombudsman as the NPM, but finding the amendments were inadequate at meeting all the requirements prescribed by the OPCAT. Given that ratification has taken place, the HHC decided to change the direction of its advocacy work and to focus on calling for improvements that would enable the Ombudsperson to fulfill the NPM mandate. Hence the HHC worked on e.g. establishing international contacts, joint action by domestic NGOs, developing economic studies and organizing seminars with international participants.

In the new context, the HHC convened an NGO meeting with the Hungarian Civil Liberties Union (HCLU) and the Mental Disability Advocacy Centre (MDAC) on 7 December 2011 to discuss NGO experience already acquired from monitoring and to clarify the NGO position concerning possible role in the NPM. Furthermore, the project coordinator participated in the regional workshop organized by the Office of the UN High Commissioner for Human Rights on 15-16 December 2011 in Geneva. The event was also a good opportunity to establish contacts with other institutions working for the prevention of torture in the NPM role.

The second phase of the project, which started in December 2011, will focus on advocacy work related to the OPCAT and the NPM in Hungary.

1.6. Promoting the Reform of Pre-Trial Detention in CEE-FSU Countries – Introducing Good Practices

The excessive and lengthy use of pre-trial detention continues to be a serious problem throughout Central Eastern Europe and the former Soviet Union region, and there is an increasing need to build support for reforming pre-trial detention laws and practices. Information exchange between NGOs throughout the CEE-FSU region, with a special focus on organizations that monitor detainees' rights and have access to detention facilities (prisons and police jails), should be enhanced. To respond to this need, the HHC launched the project "Promoting the Reform of Pre-Trial Detention in CEE-FSU Countries – Introducing Good Practices" in December 2011 to identify common problems and good examples in legislation and practice in pre-trial detention and alternatives to detention throughout the

CEE-FSU region. The project also seeks to raise awareness about the need to apply alternatives to detention and to contribute to building the capacities of NGOs.

The project will begin with a mapping exercise and an extensive research study on law and practice in 15 CEE-FSU countries. The research will be based on a questionnaire, covering the following issues: (i) norms regulating pre-trial detention; (ii) assessment of practical implementation of these norms; (iii) conditions of pre-trial detention; (iv) the costs of pre-trial detention. The draft of the research study will be discussed at an international workshop. A further "incubator-workshop" will be held for a maximum of 5 NGO's that show strong potential for elaborating their respective advocacy plans and implementing these efficiently in their domestic environments.

The project will last for 16 months, and is financed jointly by the Open Society Institute's Human Rights and Governance Grants Program and the Open Society Global Criminal Justice Fund.

1.7. Other relevant activities

1.7.1. The HHC attended relevant meetings of parliamentary committees:

- On 24 February 2011, the HHC was invited to speak at the meeting of the Monitoring Subcommittee of the Parliamentary Defense and Law Enforcement Committee that was called to discuss the impact of legislative amendments deemed "necessary for improving public security", adopted in 2010. The HHC strongly criticized the possibility of detaining juvenile offenders committing petty theft and warned that authorities are not able to deal with petty offence cases in an adequate manner under the new regime created by the legislative amendments, based on data received by the HHC from courts, police departments, penitentiaries, notaries, the Interior Ministry, the National Prison Service and the National Police Headquarters after the amendments entered into force.
- On 22 March 2011, the HHC's co-chair was invited by the Monitoring Subcommittee of the Parliamentary Committee on Constitutional, Judicial and Procedural Affairs to its meeting related to the ordering and execution of pre-trial detention were on the agenda. The co-chair of the HHC submitted the organization's concerns and suggestions and addressed some aspects of the detention conditions of juveniles.
- On 3 May 2011, the HHC was invited by the Monitoring Subcommittee of the Parliamentary Committee on Consumer Protection Matters to present the HHC's experiences concerning the special difficulties incarcerated persons face in terms of consumers' rights.

1.7.2. With financial and professional support of the Open Society Institute, the HHC conducted a project in 2010 aimed at promoting prison complaints mechanisms in the CEE-FSU region and at providing NGOs that are active in defending detainees' rights with information on best practices and workable models. *Börtönügyi Szemle*, a Hungarian prison law quarterly published a Hungarian summary of the research report.

2. Right to asylum, protection from refoulement

In 2011, 1693 persons applied for asylum in Hungary and out of these, 671 persons had a full examination of their claim. During the year, the Office of Immigration and Nationality (OIN) granted refugee status to 47 persons and subsidiary protection to 98 persons, while 11 persons were given tolerated status on the basis of the risk of refoulement. The application of 446 persons was rejected in the admissibility phase of the asylum procedure, mainly for arriving in Hungary from a country deemed "safe" for asylum-seekers. The majority of people granted a form of international protection were from Afghanistan.

2.1. Effective legal counseling for persons in need of international protection

The HHC is the only organization in Hungary that provides free legal counseling and representation to asylum-seekers in Budapest, including those in all immigration jails (Békéscsaba, Nyirbátor, Kiskunhalas, Győr, Budapest Liszt Ferenc International Airport) and the refugee reception centers in Debrecen.



Attorneys contracted by the HHC provide legal counseling in detention facilities. In the largest open reception centre in Debrecen the HHC employs a full-time legal advisor. Budapest-based attorneys are also contracted to provide legal representation to asylum-seekers challenging the status determination decisions before the competent courts.

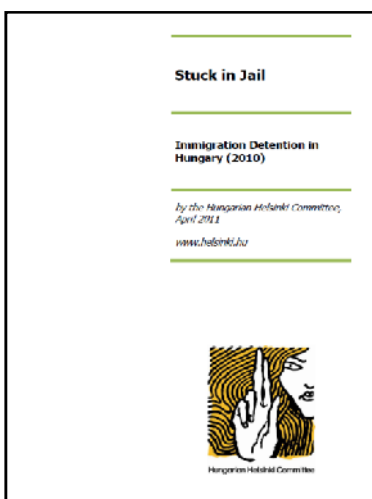
In 2011, the HHC provided legal counseling to asylum-seekers on 1041 occasions, including providing formal legal representation to 81 asylum-seekers in the administrative phase of the asylum procedure and 61 asylum-seekers in the judicial review procedure. Statistics indicate that asylum-seekers' chance to obtain international protection increased if they were provided with professional legal assistance by the HHC.



To complement its legal assistance activities, the HHC published two information leaflets in 2011: one for [unaccompanied minors](#) and another for [adult asylum-seekers](#) about the Hungarian asylum procedure. The brochures, available in 8 and 9 languages, were released in December 2011.

The project on legal assistance to asylum-seekers is currently funded by the European Refugee Fund (National Actions) and co-financed by the Hungarian Ministry of the Interior.

2.2. Challenging unlawful immigration detention practices



In February 2010, the HHC turned to the European Court of Human Rights (ECtHR) on behalf of two asylum-seekers from the Ivory Coast who had been unlawfully detained for almost 6 months in the Nyirbátor immigration jail. In the case of [Lokpo and Touré v. Hungary](#), the ECtHR ruled on 20 September 2011 that the asylum-seekers were held in immigration detention unlawfully for 5 months and granted 10.000 EUR of compensation for each applicant. The Court's judgment highlighted systemic problems concerning the detention of asylum-seekers in immigration jails in Hungary, against which the HHC had already been advocating for several years.

In February 2011, the HHC two other cases of unlawful detention of Iraqi and Palestinian asylum-seekers to the European Court of Human Rights. The cases were communicated to the Hungarian government in December 2011.

The HHC continued to conduct monitoring visits to immigration jails on a regular basis during the year. In April 2011, it's a comprehensive report "[Stuck in Jail – Immigration Detention in Hungary](#)" was released on the conditions of immigration detention in temporary jails. The report was based on the visits conducted to all temporary detention facilities in August and September 2010.

In November 2010, the HHC turned to the Parliamentary Commissioner for Civil Rights to initiate an investigation regarding the systematic unlawful detention of asylum-seekers between 2008 and 2010. The investigation is still pending.

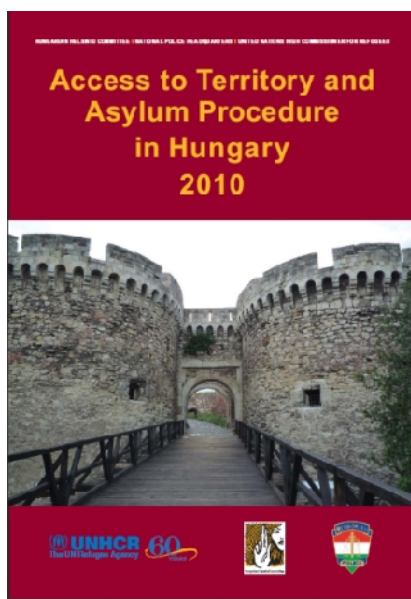
2.3. Promoting access to territory and the asylum procedure

Monitoring border areas and entry points is crucial in order to ensure that the principle of non-refoulement is respected and that asylum-seekers have access to territory and to the refugee status determination procedure. Being on the European Union's external border, this task gains particular importance in Hungary.

2.3.1. Promoting protection-sensitive entry systems through border monitoring

In order to contribute to ensuring asylum-seekers' access to protection in Hungary, the HHC concluded a tripartite agreement with the UNHCR and the Border Guard in 2006. The agreement allows the HHC to monitor practices at Hungary's land borders with Serbia and Ukraine and the Budapest International Airport on a regular basis. The monitoring aims to gather information on the actual situation of persons (potentially) in need of international protection. It also aims to identify individual cases of persons in need of international protection, who may be, or have been, affected by measures that could amount to refoulement, and to provide legal assistance to such persons.

The HHC contracted three monitors with legal expertise who, throughout 2011, paid two border monitoring visits per month to the Ukrainian and Serbian border sections as well as to the Budapest airport. The methodology used was the same as in previous years: the monitoring lawyers inform the UNHCR and the Police two working days before the visits, specifying the date(s) and the location(s) of the visit. The monitors contact detained foreigners and examine official files concerning asylum-seekers in order to assess whether the Police respect the principle of non-refoulement and take adequate care of vulnerable people with special needs (such as families, single women, disabled persons etc.) The HHC prepared a short mission report after each visit and shared it with the cooperating parties in accordance with the Tripartite Agreement.



The [report on border monitoring activities in 2010](#) was published in August 2011.

The border monitoring program in 2011 found that, similarly to previous years, the submission of asylum applications still raises concerns at certain border sections. In cases where the necessity of an expulsion order arose, the OIN gave the Police its country of origin information assessment – based on the registered minutes of interviews – during the assessment of the non-refoulement principle. The HHC's experience shows that the country information assessment carried out by the OIN and its conclusions, often fails to provide sufficient time for an exhaustive assessment of the specific circumstances of the case -- although this would be indispensable for a thorough assessment of all of the relevant circumstances of a case. It is of further concern that beyond regular working hours (when most apprehensions occur at the border) it is not the OIN's specialized country information unit, but its general on-duty service that provides the assessment and the specific expertise of the latter is questionable.

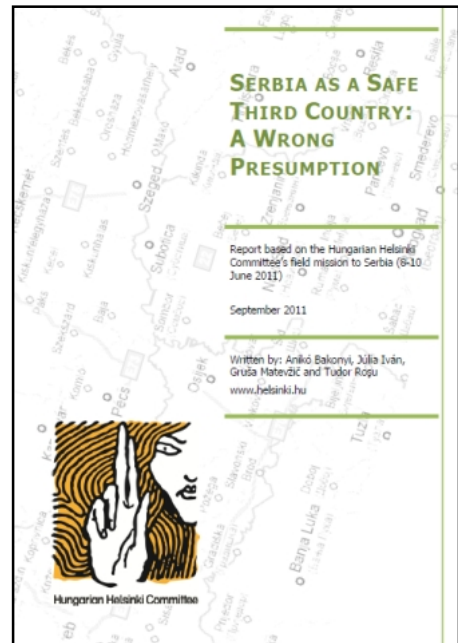
Furthermore, the worrisome practice of initiating criminal prosecution against asylum-seekers for the use of forged travel documents still prevails at land borders; this can result in several months of pre-trial detention or imprisonment of later-recognized refugees.

The HHC's border monitoring project coordinator also participated in a joint lobbying visit to Brussels with colleagues from Human Rights Watch (HRW) and the Slovak NGO Human Rights League in May 2011. The aim of the visit was to present findings of the 2010 HRW report on Ukraine "[Buffeted in the Borderland](#)", to persuade EU officials and members of the European Parliament to urge the review of EU readmission policies to Ukraine as well as to call their attention to the human rights situation of migrants, asylum-seekers and refugees in Ukraine. The delegation met with UNHCR's Europe Bureau, a cabinet member of EU Commissioner Cecilia Malmström and the representative of the Office of the United Nations High Commissioner for Human Rights (OCHCR) in Brussels.

2.3.2. Cross-border and regional cooperation on border monitoring

In June 2011 the HHC carried out a fact-finding mission to assess whether Serbia should be regarded as a "safe third country" for asylum-seekers, a principle systematically applied by the Hungarian asylum authorities. The HHC delegation met Belgrade-based NGOs dealing with asylum issues (Grupa 484, Danish Refugee Council and the Asylum Protection Centre), representatives of the Serbian asylum authority and the Commissariat for Refugees. The HHC also visited the only refugee reception center operating at that time in Serbia, in Banja Koviljaca, where the HHC had discussions with the director, legal advisors and asylum-seekers. The HHC also participated in an international conference on forced migration in Serbia, organized by ECRE and Grupa 484, in Belgrade on 9 June 2011.

The findings and conclusions of the fact-finding mission were summarized in the report "[Serbia as a Safe Third Country: A Wrong Presumption](#)".



- The Serbian asylum system is not able to provide adequate reception conditions to the vast majority of the asylum-seekers who are forced to live in the streets or pay for private accommodation.
- 95% of asylum-seekers continue their journey onward to Western European countries and abandon the Serbian asylum procedure; therefore, many of the asylum cases are closed without the proper examination of the claim.
- Serbia widely applies the concept of safe third country to all its neighboring countries, resulting in almost all asylum applications being rejected.
- The recognition rate of asylum-seekers is extremely low, only five persons were granted subsidiary protection between 2008 and 2010 and not a single asylum seeker was recognized as refugee.
- There are no integration perspectives (language courses, vocational training) for recognized refugees.

The report was widely circulated to international and European partner organizations, UNHCR offices, the European Commission and it is now available on various websites for country of origin information. Its executive summary has been translated into Hungarian and was sent to Hungarian authorities and partner organizations. The HHC received very positive feedback on the report. Furthermore, the report's findings were also used in litigation resulting in an interim measure granted by the European Court of Human Rights that stopped the transfer of an asylum seeker from Austria to Hungary in the framework of a "Dublin procedure".

(In March 2012, the HHC will pay another fact-finding mission to the Northern border region of Serbia to update this report.)

The HHC continued to cooperate with NGOs in Ukraine and receives information on potential cases of refoulement on an ad hoc basis.

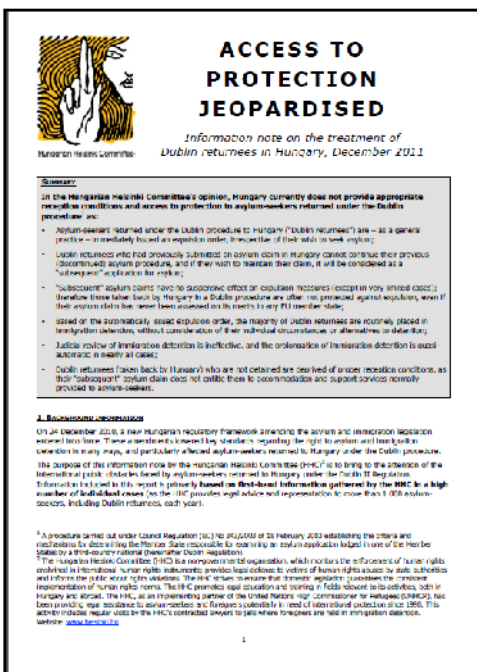
The border monitoring project coordinator participated in two regional border monitoring conferences: in Lviv in September 2011 and in Zagreb in October 2011. The conferences on refoulement and the increased effectiveness of the Schengen border control. Both events were organized by the UNHCR Regional Representation for Central Europe in cooperation with the UNHCR's Ukrainian and Croatian representations.

2.3.3. Criminal procedures against asylum-seekers in breach of international refugee law

As a result of the border monitoring project, the HHC became aware of an important gap in the proper implementation of Article 31 (non-penalization for illegal entry) of the 1951 Refugee Convention. Foreign nationals, who arrive at the border carrying false or forged travel documents and who express a wish to seek asylum in Hungary immediately or within a short time period, are regularly charged with forgery of official documents and are taken into pre-trial detention.

The HHC's attorneys provided legal assistance in several cases, including an Afghan unaccompanied minor refugee. Several of their clients were eventually granted protection status (refugee status or subsidiary protection) in Hungary, but were nevertheless subjected to a criminal procedure, lengthy pre-trial detention and possible criminal sanctions for merely using a false travel document in order to gain entry into Hungary and seek protection. All of cases taken by the HHC are currently pending before courts at second or third instance. In one case, the Supreme Court found that the first and second instance courts failed to properly assess the facts of the case and ordered the re-examination of the case in November 2011.

2.3.4. Addressing the flaws of the "Dublin system" in Hungary



The treatment of Dublin returnees in Hungary gives rise to serious concerns and leads to an improper application of the EU Dublin Regulation by Hungary and to the violation of asylum-seekers' fundamental human rights. The non-refoulement principle is not duly observed, returnees are immediately issued an expulsion order and routinely detained without considering their individual circumstances, asylum claims of those taken back in a Dublin procedure are considered as "subsequent applications" not ensuring the usual safeguards foreseen by EU asylum legislation.

In December 2011, the HHC issued an information note "[Access to Protection Jeopardised](#)" in order to raise awareness about the situation and to urge national Dublin units and courts around Europe to carefully examine the conditions returnees would face in Hungary before ordering return.

The report has been widely disseminated to relevant stakeholders all over Europe: national asylum authorities and their Dublin units, the judiciary, UNHCR offices, academia and NGO partners. The report is already available

in French; the German translation is under way.

2.4. Improving refugee and migrant integration through the media

The HHC is a dedicated representative of asylum-seekers and refugees not only at courts, but in the media as well. To enhance the correct and impartial presentation of refugees and asylum-seekers in the media, the HHC organized, in May 2011, a two-day event for 18 journalists from the most important online, print and broadcast media in Hungary. Participants were given information on and discussed the situation of asylum-seekers, refugees and immigrants, international migration trends, the Hungarian asylum procedure, statelessness and the Hungarian naturalization procedure, with a strong focus on objective and humane presentation, as well as the media's social responsibility in tackling racism and xenophobia.



In May 2011, the HHC updated its publication "[Foreigners in Hungary](#)", which explains the correct use of expressions and terminology and presents asylum-related questions and concepts to journalists in order to clarify common misconceptions.

From January until October, the HHC monitored online and print media and collected articles relating to asylum-seekers and migrants that were published in the Hungarian press. Since most Hungarians meet foreigners only through the media, the media's role cannot be underestimated in influencing public opinion. The media monitoring resulted in the short study "[Migrants in the Hungarian media](#)". The findings of the study were shared at a round-table discussion with journalists and university students majoring in communication. All these activities were funded by the European Integration Fund. The study generated significant media interest.

2.5. Return with human rights safeguards



In a new project entitled "Return with human rights safeguards" that started 1 June 2011, the HHC will publish new training manual for police officers and the Police Academy on human rights issues related to expulsion and return procedures. The training manual is drafted in cooperation with the Police, the UNHCR and the Cordelia Foundation and will be published in March 2012. It is planned to become part of the Police Academy curriculum.

In 2009, the HHC published a manual for judges on the topic of removal and human rights, which focused on the absolute prohibition of torture, inhuman or degrading treatment and punishment. As a part of this project, this manual will be updated and extended with two additional chapters on the rights of the child and the protection of private and family life within the context of expulsion. (The updated manual will be released in February 2012 and will serve as the basis of seminars for criminal and administrative law judges, to be organized in cooperation with the Judicial Academy in early 2012.)

In response to the major shortcomings experienced in connection with immigration detention in recent years, the HHC held a two-day seminar in December 2011, which brought together judges and prosecutors responsible for overseeing the lawfulness of immigration detention. The evaluation of the event was very positive and the HHC expects, in particular, that the currently ineffective judicial review of immigration detention could improve.

All the above project activities are funded by the European Return Fund.

2.6. Training activities on asylum and international protection

In 2011, the HHC continued to be active in providing trainings and information sharing opportunities in asylum field. (All events were organized by the HHC unless otherwise noted.)

- 25 February: "COI in Judicial Practice" seminar in Brno, Czech Republic. About 50 judges dealing with asylum cases from both the Czech Republic and Slovakia attended the seminar, which focused on the assessment of evidence and country information in the review of asylum cases.
- 31 March - 1 April: Regional workshop on gender related asylum issues with the participation of 25 experts both from state agencies and NGOs. The training sessions were held by Hungarian and international experts in the field.
- 13-15 April: Conference on "Evidence and country information (COI) in the practice of European courts" in Budapest. 70 asylum judges from 20 EU member states attended the conference, which was to date the largest event involving refugee law judges in Europe.
- 21 April: Roundtable to discuss the question of the family reunification of Somali Refugees in Hungary, with the participation of other NGOs actively present in the field of migration and asylum, the UNHCR Regional Representation and the Ministry of Foreign Affairs.
- 9-10 May: Training course for Greek and Cypriot asylum practitioners (lawyers, asylum officers, NGO staff and experts, organized in the framework of the "Knowledge based harmonization" project, in Athens.
- 12-13 May: Two-day training course for journalists in the framework of the project on the role of the media in the integration of immigrants. The training aimed to increase journalists' knowledge of issues related to immigration and asylum.
- 18-20 May: Training course organized in cooperation with the Italian Refugee Council for Italian and Maltese practitioners (lawyers, asylum officers, NGO staff and experts) in Rome in the project "Knowledge-based Harmonization" project.
- 7-8 June: Seminar in Rome, organized in cooperation with the UNHCR Regional Representation for Southern Europe, on "Recognition of International Protection and COI for the Judiciary". The event focused on recent relevant case-law of the European Court of Human Rights, existing transnational cooperation initiatives of the judiciary and the assessment of evidence and country information, in particular, in the review of asylum cases.
- 13-15 June: Training course on refugee law for Spanish and Portuguese practitioners (lawyers, asylum officers, judges, NGO staff and experts) in Madrid in the framework of the project "Knowledge-based harmonization".
- 15 June: Presentation on statelessness in Hungary at the conference organized by the Ministry of Foreign Affairs on the occasion of World Refugee Day 2011.
- 8 July: Provided training on asylum issues to staff members of the Slovenian NGO PIC.
- 22 August: Presentation by the refugee program coordinator at a training session in Mexico City to Mexican asylum and immigration officers on credibility assessment and the use of country information in asylum procedures
- 14-16 September: Two-day training course for Central and Eastern European lawyers, attorneys and refugee law experts in the framework of the project "Knowledge-based harmonization of European asylum practices". The event focused on European asylum law and practice.
- 3 November: Training session on female genital mutilation for social workers and medical staff of the Békéscsaba immigration jail, in cooperation with MONA, a Hungarian women's rights organization.
- 10-11 and 24-25 November: Training seminars for Hungarian lawyers, asylum officers, judges, and Interior Ministry and UNHCR staff in Sarlóspuszta.
- 17 November: Presentation on the situation of Dublin returnees in Hungary at the annual Asylum Forum in Linz, Austria, organized by Asylkoordination Österreich.
- 28 November: Presentation by HHC as national expert at the regional closing conference of the "Fleeing Homophobia – Seeking Safety in Europe" project, in Warsaw.

- 1-2 December: Seminar with judges and prosecutors responsible for overseeing the lawfulness of immigration detention at the Judicial Academy in Budapest.
- 8-9 December: "Refugee Law Reader Conference on Asylum and Refugee Law Education in Europe" held with the participation of 65 lawyers, academics, judges and trainers from 20 countries in Budapest.
- 15-16 December: Presentation on immigration detention in Hungary at the international conference on "Alternatives to detention", organized by the Latvian Center for Human Rights.

See statelessness-related training activities under section 2.9.

2.7. The Refugee Law Reader

The Refugee Law Reader (www.refugeelawreader.org), created by a group of international refugee law specialists and published by the HHC, is the first comprehensive online model curriculum for the study of international refugee law.

The amount of material available within its easily-accessible framework has doubled to over 600 documents since the first publication of the Reader in 2004, while its user base now exceeds 20,000 individuals worldwide. As a "living" casebook, the Reader offers access to an enormous wealth of primary source material and secondary literature that we hope will further strengthen the teaching and research capacity in international refugee law. Over 85% of the Reader's documents are accessible for all users. The rest of the materials are only available for professors, students and researchers working mainly in Eastern Europe, Africa and Asia, due to strict copyright agreements with international publishing houses. The Hungarian Helsinki Committee negotiates with publishers regularly in an effort to continue expanding the circle of beneficiaries.



Within the framework of the ERF-funded project "Knowledge-based harmonization of European asylum practices", the Reader was expanded and updated, and its sixth English Edition was launched. Printed booklets are now available and have been widely distributed at the closing conference of the ERF-project. The training sessions held as part of the harmonization effort have benefited from the comprehensive online model curriculum offered by the Reader. The Reader's newly published second French edition, and its first Russian edition, will make this material available to regions where our training resources for refugee law have been less known. The HHC has also promoted the Reader by printing flyers in six languages and by distributing them at various training events and international conferences. With the regularly updated online curriculum, the HHC strives to reach NGOs and lawyers that do not belong to the beneficiary group of already existing (usually costly and limited) training courses and are denied opportunities for professional development.

The Editorial Board meets twice a year. The first event of 2011 was held in Brussels on 6-7 May. Besides the general issues regarding the Reader, financial and strategic planning and potential undertakings were also discussed. Most of the editors were present and took part in the meeting. Furthermore, an elevated discussion about current asylum issues was carried out. The second Editorial Board meeting took place on 9-10 December following the conference in Budapest where several editors contributed with lectures. The members of the Editorial Board – among others – made plans regarding the timing and content of the 7th edition of the Reader and distributed related tasks. In cooperation with the HHC, the editors have made plans to extend the Reader's use as a capacity-building tool.

2.8. International cooperation in the field of asylum

In 2011, the HHC continued to be an active member of the [European Council on Refugees and Exiles](#) (ECRE) and of the ECRE Asylum Systems Core Group. The HHC also served as national coordinator for the European Legal Network on Asylum (ELENA), a legal network operated by ECRE.

The HHC is also a member, regional focal point and participant in the advisory board of the [International Coalition on the Detention of Asylum-seekers, Migrants and Refugees](#) (IDC), which aims to raise awareness of detention policies and practices and to promote the use of international and regional human rights standards and principles as they relate to the detention of refugees, asylum-seekers and migrants. The coalition has over 250 member organizations worldwide.

In March 2011, the HHC provided comments to the publication "There are alternatives, A handbook for preventing unnecessary immigration detention" which was officially launched in May 2011. In June 2011, the HHC attended the IDC annual planning meeting in Geneva and, as part of the advisory board, met with the UNHCR Division of International Protection (DIP) in order to discuss alternatives to detention.

The HHC's refugee program coordinator has been elected as chair of the [European Network on Statelessness](#) (see section 2.9).

2.8.1. Transnational projects on promoting reform of the "Dublin system"

The so-called "Dublin system", based on Regulation 343/2003 of the European Council (Dublin II Regulation), was set up by European states to reduce the abuse of national asylum systems and enhance the effectiveness of refugee status determination (by establishing that each asylum claim must be processed by only one member state). The Dublin Regulation establishes a hierarchy of criteria for identifying the EU Member State responsible for processing an asylum claim. This will usually be the state through which the asylum seeker first entered the EU. The Regulation aims to ensure that each claim is examined by only one Member State, to deter repeated applications and enhance efficiency. The application of the Regulation can seriously delay the presentation of claims, and can result in claims never being heard. Causes of widespread criticism of the Dublin system include the use of detention to enforce transfers of asylum-seekers from the state where they apply to the state deemed responsible for determining the asylum claim, the separation of families, the denial of an effective opportunity to appeal against transfers and the reluctance of Member States to use opportunities to alleviate these and other problems. The Dublin system also increases pressures on the border regions of the EU, where states are often less able to offer asylum-seekers support and protection, particularly in the case of Greece.

The "[Transnational advisory and assistance network for asylum-seekers under a Dublin process](#)" project (December 2009 - May 2011), coordinated by the French NGO, Forum Réfugiés, established a network of European NGOs and developed an information tool in order to provide a closer monitoring of asylum-seekers in a Dublin Procedure and to better provision of information for them. The HHC acted as national partner for Hungary in this project and participated in various project activities. In the framework of the project, the HHC produced new brochures on the Hungarian asylum procedure, with emphasis on the Dublin procedure. The [brochures](#) are available in 6 languages (English, Russian, Somali, Farsi, Arabic and French). The HHC also wrote a chapter on Hungary for the project's [final report](#).

Forum Réfugiés was successful in securing funding for the second phase of the project, which started in July 2011. At this time the HHC is acting as co-coordinator for the project. During this phase, the network will be expanded to include Greece, Slovakia, Bulgaria and Germany. The project will produce training materials on the Dublin Regulation, a comparative report on the application of the Dublin Regulation in partner states, expand its case law database, and provide training for legal practitioners and national workshops.

In October 2011, another project on the Dublin Regulation, DIASP (Dublin's Impact on Asylum-seekers' Protection) was started. This project is coordinated by the Jesuit Refugee Service (JRS) Europe. Its main goals are to study the level of fundamental rights protection asylum-seekers have access to under the implementation of the Dublin Regulation and to identify and advocate for good practices in implementing Dublin procedures. The HHC is a partner in this project.

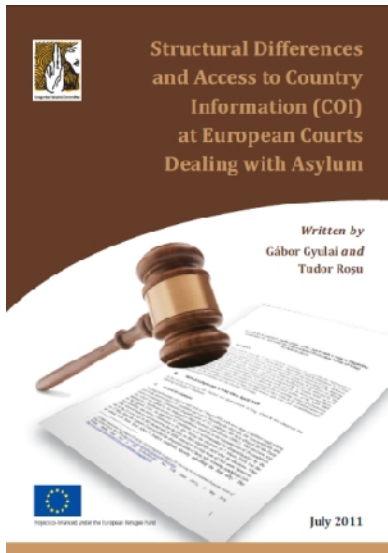
2.8.2. Country Information in Judicial Practice

The "COI in Judicial Practice" project, supported by the European Refugee Fund Community Actions, was coordinated by the HHC and involved 6 partners. The project primarily focused on practical cooperation, exchange of good practices and dialogue on the assessment of country information (COI) as evidence in the judicial review of asylum decisions.

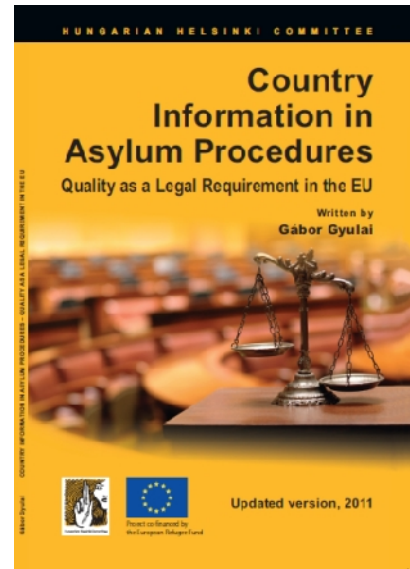
The HHC published two comprehensive research studies in the project:

- Gábor Gyulai and Tudor Roşu: [Structural Differences and Access to Country Information \(COI\) at European Courts Dealing with Asylum](#), Hungarian Helsinki Committee, July 2011,

This study focused on the judicial review structures of asylum cases in all EU member states and country information services at European courts.



- Gábor Gyulai: [Country Information in Asylum Procedures – Quality as a Legal Requirement in the EU](#), Hungarian Helsinki Committee, August 2011



The second study concentrated on European and national jurisprudence on quality requirements related to COI as evidence. The second study was translated into 7 languages (French, German, Hungarian, Polish, Italian, Spanish, Czech) and printed copies were disseminated to more than 1,000 refugee law judges, policy makers, asylum authorities, NGO practitioners and UNHCR staff from all member states.

In the framework of the project, the HHC organized two seminars for judges in the Czech Republic and Italy, as well as the conference "Evidence and Country Information (COI) in the Practice of European Courts" in Budapest in April 2011 (see details under 2.6.).

2.8.3. Knowledge-based harmonization of European asylum practices

The "Knowledge-based harmonization of European asylum practices" project is coordinated by the HHC and several NGO partners (European Council on Refugees and Exiles (ECRE), Spanish Red Cross, Italian Council for Refugees and ACCEM from Spain). The project started in July 2010 and will run until February 2012. It is supported by the European Refugee Fund Community Actions.

The project aims to:

- Improve the preparedness of national asylum officers, lawyers, judges and NGO activists on the European asylum acquis across Europe by using existing teaching tools such as The Refugee Law Reader, particularly in regions/countries that have traditionally been inadequately represented in high-quality international training events due to financial and linguistic barriers (Mediterranean region, Eastern EU).

- Identify and promote exemplary judicial practices in the EU with regard to key areas of international and European refugee law; integrate this knowledge into mainstream refugee law education.
- Monitor the national follow-up of asylum-related judgments of the European Court of Justice and promote a harmonized and rights-based approach.

Four training courses were organized in the project (in Athens, Madrid, Budapest and Rome).

In February 2012, the first-ever comparative study on the national impact and follow-up of asylum related judgments of the Court of Justice of the European Union will be published, which is one of the main results of this project. The project also includes pan-European research on asylum-related national jurisprudence (related to three pre-selected key topics) and the publication of at least 70 case sheets.



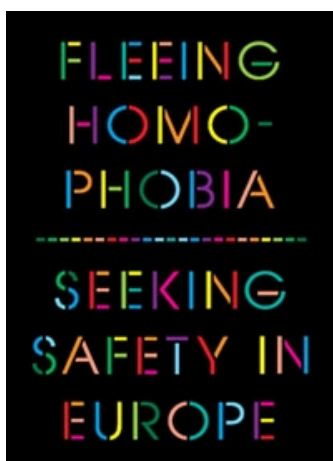
2.8.4. CREDO – Improving Credibility Assessment in EU Asylum Procedures

A significant proportion of asylum claims are rejected in the EU on credibility grounds and “credibility assessment” has become an indispensable element of the majority of asylum procedures. Yet, no common concept exists about what “credibility” means in an asylum context and EU law has only set basic principles in this respect. Experience shows that credibility assessment is often conducted in a non-structured manner (often based on “gut feelings”) and persisting erroneous or unscientific concepts distort this process in various ways.

The overall goal of the CREDO project is to contribute to better structured, objective, high-quality and protection-oriented credibility assessment practices in asylum procedures conducted by EU Member States, as well as to promote a harmonized approach, reflecting relevant provisions in EU law and international standards. Based on identified good practices, this goal is to be achieved through several methods: a) by identifying exemplary practices and shortcomings in the application of credibility-related guidance in EU Member States’ asylum practices, b) by establishing and promoting a firm basis for multidisciplinary training on credibility assessment (including guidance, curriculum and methodology) that is accessible to all relevant target groups, and c) by raising awareness about the necessity for structured and objective credibility assessment among national decision makers and EU policy-makers.

The project is coordinated by the Hungarian Helsinki Committee and implemented together with its partners – UNHCR Bureau for Europe, the International Association of Refugee Law Judges and Asylum Aid (UK). The project started in September 2011 and will run for 18 months. It is supported by the European Refugee Fund Community Actions.

2.8.5. Fleeing Homophobia, Seeking Safety in Europe



Large numbers of lesbian, gay, bisexual, transgender and intersexual (LGBTI) asylum-seekers apply for asylum in EU Member States each year. Experience shows that there are varying rules and practices on the qualification for international protection and related asylum procedures. Many asylum applications by LGBTI applicants are denied on incorrect grounds. The aim of this project (led by the Free University of Amsterdam) was to identify best practices regarding qualification for international protection and asylum procedures. These best practices should provide the basis for harmonized European standards, whether by amendment of secondary European law or in other forms. The HHC took part as a regional focal point for the project and, as such, was not only responsible for research, but also the dissemination of project

results in the Eastern EU region and the identification of relevant target groups and potential partners..

In September 2011, the project final report, "[Fleeing Homophobia: Seeking Safety in Europe](#)" was published. This report was translated into several languages; the HHC coordinated the Hungarian translation of the report ([Menekülés a homophóbia el I](#)), which is available at the HHC website.

On 29 June 2011, the HHC (as the only Central or Eastern European NGO participant) was invited to UNHCR's Headquarters in Geneva, Switzerland to participate at the follow-up meeting of last year's global consultation process on LGBTI asylum-seekers with the UNHCR and US-based NGOs.

2.8.6. GenSen – Enhancing gender-sensitivity and a harmonized approach to gender issues in European asylum practices

The GenSen project, supported by the European Refugee Fund, is led by CEAR (the Spanish Council for Refugees) and the HHC participates as project partner responsible for Hungary and Romania. The project strives to enhance gender equality and provide additional safeguards for vulnerable asylum-seekers in asylum procedures conducted by European states.

The project's objectives are

- ensuring access to the procedure and the effective protection of women and LGBTI asylum-seekers;
- attending their specific needs ensuring that they are adequately assisted and consulted;
- ensuring that no discriminatory practices are applied towards women and LGBTI asylum-seekers.

The project consists of a European comparative research study, a capacity-building program of national stakeholders and the exchange of good practices amongst partners. The main output is a final report on findings and recommendations to identify appropriate mechanisms for integrating the gender perspective in the asylum procedures. The HHC also played a leading role in establishing the project's research methodology and designing its training and advocacy activities.

In March 2011, the HHC organized a regional training course on LGBTI and gender issues in the asylum field for 29 participants from asylum authorities and NGOs from Romania, Poland, Hungary and Bulgaria. The HHC also carried out extensive research on Hungarian legislation, practice and jurisprudence in the fields of gender and asylum for the final report. In December 2011, the HHC organized a national roundtable for several stakeholders (UNHCR, immigration and asylum authorities, NGOs and social workers) that focused on the main gender-related aspects of asylum issues in Hungary. This also provided an opportunity to disseminate and discuss the national report on Hungary. A set of recommendations were also adopted at the roundtable in order to improve treatment of women in the Hungarian asylum procedure.

2.8.7. Practices in interviewing immigrants: legal implications

The HHC a partner in the "Practices in interviewing immigrants: legal implications" project, which is coordinated by the Slovakian NGO Human Rights League. Other partners are NGOs from Ukraine, the Czech Republic and Poland. The aim of the project is to research bad and good practices in holding asylum interviews, with a particular focus on the role of the interpreters. The HHC produced a report on the Hungarian practice and the coordinating NGO will produce a final comparative report. The project will also produce educational material prepared on good practices in interviewing immigrants.

2.8.8. Global Detention Project

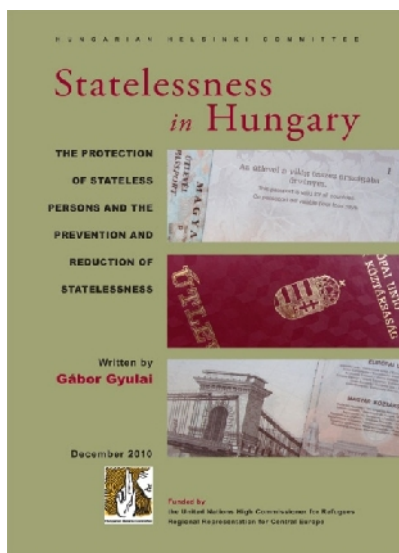
The [Global Detention Project](#) (GDP) is a research initiative that assesses states' use of detention in response to global migration. Based at the Graduate Institute's Programme for the Study of Global Migration in Geneva, Switzerland, the GDP's aims include: a) providing researchers, advocates, and journalists with a measurable and regularly updated baseline for analyzing the growth and evolution of detention practices and policies; b) encouraging scholarship in this field of immigration studies; and

c) facilitating accountability and transparency in the treatment of detainees. The HHC participated in this project by completing questionnaires about individual immigration jails in Hungary and a questionnaire on detention law and policy. The Graduate Institute will use these questionnaires in order to write a special report on immigration detention in Hungary.

2.8.9. The legal situation of unaccompanied minors seeking asylum in Europe

The HHC is taking part in a Europe-wide research project, coordinated by the French NGO France Terre d'Asile, which aims to assess the legal situation of separated children seeking asylum in the EU. The research focuses on several issues: separated children's access to the territory and the asylum procedure in various EU member states, the quality of guardianship and legal representation, detention of unaccompanied minors and decision making patterns regarding this group of vulnerable asylum-seekers. Further project activities, such as publishing a comparative report and organizing dissemination events are scheduled to take place in 2012. The project is funded by the European Commission under its Fundamental Rights and Citizenship program.

2.9. Statelessness



The HHC continued to play a leading role in advocacy efforts regarding the protection of stateless persons, and the prevention and the reduction of statelessness, both in Hungary and at the international level.

The HHC is a founding member of the [European Network on Statelessness](#) (ENS), which was founded in 2011 with the participation of the Open Society Justice Initiative, Tilburg University, and UK NGOs Asylum Aid and Equal Rights Trust. The HHC's refugee program coordinator has been elected as the network's chair.

The HHC publication "[Statelessness in Hungary](#)" is a first of its kind analysis of a statelessness-specific protection mechanism in Hungarian law. The report has been widely distributed both in Hungary and abroad, generating enthusiastic feedback from various target groups (including certain Hungarian authorities).

To follow up to this publication, in autumn 2011 the HHC became engaged in a dialogue with the Hungarian Ministry of National Resources to initiate law reform, to increase the effectiveness of the prevention of statelessness at birth. The HHC presented the legislative gaps to the Ministry and made proposals regarding the amendment of the Citizenship Act, one of which was partly taken up in a motion for amendment introduced by a Fidesz MP.

On the invitation of UNHCR, the HHC's refugee program coordinator travelled to Ecuador to give lectures on statelessness (one to a more academic audience, and the other to a more practice-oriented target group) and to have high-level meetings with Ecuadorian governmental and judicial officials (the Ecuadorian Constitutional Court's President and prominent judges, the vice-minister of the interior, the head of the Civil Registry, the director of the asylum authority and the Ombudsperson for Human Rights). The meetings focused on current gaps in Ecuadorian nationality legislation, proposed concrete amendments and raised awareness about the importance of avoiding statelessness at birth (e.g. through improving the currently problematic birth registration practices). He also urged the on-going ratification of the 1961 Convention on the Reduction of Statelessness, and explained the importance and the methodology of creating a statelessness-specific protection mechanism. Partly as a result of this effective intervention, it is likely that Ecuador will, in the near future, establish a statelessness-specific protection system and carry out the necessary legal modifications.

Furthermore, in 2011, the HHC's refugee program coordinator promoted protection against statelessness on the following occasions:

- 9 June: Training session on statelessness and the protection of stateless persons for 30 Italian lawyers in Rome, invited by the *Ius Nomos* Association;
- 15 June: Intervention at the World Refugee Day event organized by the Hungarian Ministry of Foreign Affairs and the Ministry of Interior;
- 18-19 August: Training session in Heredia, Costa Rica on statelessness (protection, prevention, reduction) including the presentation of best practices and recommendations for 25 high-ranking government officers and NGO representatives from Mexico, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica and Panama (invited by UNHCR);
- 20 August: Training session in Panama City on statelessness (protection, prevention, reduction) including the presentation of best practices and recommendations for 25 high-ranking government officers, lawyers, researchers and students;
- 23 August: Speech delivered at the “Colloquium on Statelessness” organized by the Federal Government of Mexico, to about 100 participants;
- 24-26 August: A three-day training session on statelessness (protection, prevention, reduction) including the presentation of best practices for 40 UNHCR officers representing most states of the Americas;
- 3 October: Briefing a delegation of high-ranking state officers of the Philippines on issues related to statelessness (protection, prevention) and the relevant Hungarian and international experiences. A number of recommendations made here were later adopted in the drafting process of the relevant legislation in November-December 2011;
- 13 October: Workshop on statelessness in a European asylum framework delivered to 25 European NGO representatives at the annual general conference of the European Council on Refugees and Exiles (ECRE) in Malta;
- 18 October: Lecture on the protection of stateless persons and an analysis of the Spanish protection framework at a national workshop involving lawyers, NGOs, state officers and judges held by the UNHCR in Madrid;
- 21 October: Briefing a delegation of high-ranking state officers of the Moldova on issues related to statelessness (protection, prevention) and the relevant Hungarian and international experiences, formulation of recommendations
- 2 November: Briefing a delegation of high-ranking state officers of Macedonia on issues related to statelessness (protection, prevention) and the relevant Hungarian and international experiences;
- 16-18 November: A three-day training session on statelessness (protection, prevention, reduction), including the presentation of best practices, for 30 UNHCR officers from European countries,
- 20 November: Lecture on statelessness and the protection of stateless persons for 50 European lawyers at “The international protection of refugees” training course, organized by the European Legal Network on Asylum (ELENA), in Lisbon.

3. Promoting access to justice

In 2011, the HHC continued to work towards improving the efficiency of the criminal legal aid system.

3.1. “Steps Towards a Transparent Appointment System in Criminal Legal Aid”

The “Steps Towards a Transparent Appointment System in Criminal Legal Aid” project is aimed at promoting reform in the criminal legal aid appointment system in order to reduce the possibility of corruption. The HHC is closely cooperating with the Police and relevant bar associations in the project, which is built on the following elements:

- FOI requests to police headquarters about ex officio defense counsel appointments

The HHC requested data concerning the names of appointed counsel and the number of cases in which they were appointed in 2008 from altogether 30 local and county police headquarters in 7 regions, in order to demonstrate that the practice of having “in-house” lawyers at police headquarters is widespread. The data analysis clearly confirmed the HHC’s assumptions: 8 police headquarters

appoint the ex officio defense counsel in a way that the same attorney is appointed in more than 50% of the cases (one of the highest rates in this regard was 82%). This finding supports the HHC's concerns regarding the impartiality and efficiency of ex officio appointed defense counsels, and sustains the view that the current system of ex officio appointment adversely affects the defendants' right to effective defense.

- Strategic litigation against police headquarters refusing FOI requests

The HHC sued all 11 police headquarters that refused to provide the requested information on account of unlawful denial of access to public interest data. Almost all final court decisions ruled in favor of the HHC and obliged the police units to provide the requested information. However, two cases ended up before the Supreme Court, which ruled in both cases that the names of ex officio appointed legal counsels and the number of their appointments do not constitute data of public interest. The HHC submitted an [application](#) to the European Court of Human Rights regarding both decisions in March and September 2011, arguing that the Supreme Court's judgments breached the HHC's right to freedom of expression guaranteed by Article 10 of the European Convention on Human Rights.

- Developing and piloting a "corruption-free" model for a new appointment system

The HHC developed and piloted of a "corruption-free" model for a new appointment system. Accordingly, the former system of appointments (in which police officers are fully free to select the appointed lawyer from a list compiled by the bar association) was replaced in three pilot sites (Budapest 10th District, Szombathely and Szarvas) by a software developed by the HHC's IT expert. The software was designed to select defense counsels on a random basis from a list provided by the bar associations so that, in the selection process, special weight is accorded to the specialization of the counsel and the number of cases he/she already has in the docket, thus ensuring proportionality. The software has been integrated into the Police's central IT system; this creates the possibility to switch to the new system in the future should the Police so decide.

- Evaluating the performance of ex officio defense counsel

In early 2012, the performance of ex officio defense counsels (appearance at hearings, appeals filed, motions submitted regarding the pre-trial detention of the inmate, etc.) will be evaluated on the basis of case file analysis, both with regard to cases initiated at the pilot sites before and during the pilot period. The HHC's assumption is that the level of the ex officio defense counsel's performance will increase as a consequence of the new appointment system, and substantiating this assumption could strengthen the position of the HHC when lobbying for the introduction of the new system of appointments on a national level.

The project's findings and the model draft regulation aimed at reforming the appointment system will be discussed at a conference on 24 February 2012, organized by the HHC in cooperation with the Budapest Bar Association.

The project is supported by the Trust for Civil Society in Central and Eastern Europe.

3.2. Other developments in the area

In 2010, the Budapest Bar Association decided to draft a Code of Conduct for ex officio appointed counsels, and asked the HHC to suggest standards that could be included in the code. The HHC researched similar codes of conduct of other countries and provided the Budapest Bar Association with a number of comments and suggestions. The HHC's co-chair presented the HHC's research results at a conference, organized by the Budapest Bar Association, for criminal legal aid lawyers on 7 March 2011.

4. Promoting equal treatment

4.1. Anti-discrimination Law Clinic

- Legal clinic in Miskolc

The Anti-discrimination Law Clinic program started in 2008 at two law faculties in Hungary. The Clinic aims to sensitize law students to this special legal field and provide them with a thorough theoretical background as well as practical skills that they can use when handling anti-discrimination cases. After taking part at a course on anti-discrimination law, the law students – under the close supervision of practicing attorneys – participate in handling actual cases, which enables them to see law at work and acquire skills that they will be able to rely on after graduation.

In the spring semester of the 2010/2011 academic year, 15 students participated in the Law Clinic at the University of Miskolc and 25 students at the Pázmány Péter Catholic University Law Faculty. They took part in fieldwork under the supervision of attorneys from the HHC, the Legal Defence Bureau for National and Ethnic Minorities (NEKI) and the Kézenfogva Foundation. The Oppenheim law firm also took part in the program on a pro bono basis by representing a blind client who was barred from entering a restaurant with a seeing-eye dog.

- Disseminating the experiences of the Anti-discrimination Law Clinic

The experiences of practitioners gained while dealing with discrimination cases in the framework of the legal clinic program are of interest to other practitioners, NGOs and victims of discrimination. Hence, the HHC compiled a [handbook](#) on the special methods applied in the handling of discrimination cases (e.g. situational testing), the way of determining an effective remedy and methods of communicating with clients who are alleged to be victims of discrimination. The publication of the handbook was supported by the Budapest Social Affairs Public Foundation (F városi Szociális Közalapítvány).



4.2. Equal treatment cases

- Discrimination against a trade union representative

The Malév GH Zrt. (the Hungarian airline's ground handling subsidiary) discriminated against one of its employees because of her position in the respective trade union. The Equal Treatment Authority found the violation of the requirement of equal treatment in its [decision EBH/721/11/2010.](#), dated 23 July 2010. The Malév GH Zrt. requested judicial review of the decision. However, on 24 March 2011 the Metropolitan Court rejected the request and decided in favor of the Equal Treatment Authority and the HHC's client. The Malév GH Zrt. challenged the decision of the Supreme Court.

- Harassment on ground of perceived homosexuality

The HHC provided legal representation to a complainant who had been harassed by his employer on the basis of his alleged homosexuality. In October 2009, the employer called him and his colleague to account for why they often go out together, why they quarrel like a married couple at the workplace, and why he wears colourful, feminine-style shirts. A month later, the complainant asked the employer at a staff meeting why he thought that he and his colleague were gay and why he had been treating them unfavourably. The employer's reply, given in front of all the colleagues, was extremely humiliating and degrading. The employee filed a complaint to the Equal Treatment Authority in May 2010, because of the harassment suffered by his employer. Based on a tape recording made at the staff meeting and other evidence, the Equal Treatment Authority established, on 23 August 2010, that

the employer's behaviour amounted to harassment based on the complainant's supposed sexual orientation, ordered the stopping of the violation and that its decision be published on the Authority's website for 90 days and imposed a fine of HUF 1,000,000 on the employer. The employer sought judicial review of the decision, but the Metropolitan Court rejected this on 7 March 2011.

- Inaccessibility of premises open to the public

A wheelchair-bound man parked his car at a parking space reserved for disabled persons, but his permit allowing him to use such reserved parking places had expired a couple of days before. He was fined. When he tried to enter the office of the public parking company to pay the fine, he found that the building was not accessible, so he had to ask a security guard to arrange the payment for him. He submitted a complaint with the Equal Treatment Authority. The Authority refused his complaint, the HHC on his behalf sought judicial review of the decision; the case is still pending at court.

- Anti-Romani statements made by Kiskunlacháza mayor

The HHC filed an *actio popularis* claim with the Equal Treatment Authority concerning statements made by the mayor of Kiskunlacháza. In relation to a murder in the town (which is currently suspected to have been committed by a non-Roma person), the mayor spoke at a public demonstration about the town population having had enough of 'Roma aggression' and made other statements giving the impression that in his view the murder had been committed by Roma people. The HHC's lawyer argued that by doing so, the mayor had committed harassment in relation to the region's Roma population. In its decision of 19 January 2010, the Equal Treatment Authority established that harassment had been committed, forbade the continuation of the violation and ordered that its decision be made public. The mayor requested judicial review. In October 2011, the Supreme Court ordered the Equal Treatment Authority to re-open the case. The case is currently pending before the Authority.

- Intervention on ethnic profiling practices

The HHC was requested to intervene before the Equal Treatment Authority in a case filed by a village notary to the ETA. According to the complaint, local police regularly stop and apply on-the-spot fines against members of the local Roma community in a disproportionate manner, which constitutes unlawful ethnic profiling and a violation of equal treatment. The ETA has already requested documents and statistics from the county police and held a hearing on the site. The HHC was granted leave to intervene as a "third party" at the end of December 2011. (The intervention will be submitted in 2012.)

- Complaint to UN Committee on the Rights of Persons with Disabilities

The Optional Protocol to the Convention on the Rights of Persons with Disabilities was ratified by Hungary in May 2008. Under the Optional Protocol, an individual communication procedure allows individuals (or groups of individuals) who believe that their rights are being violated by a State party to submit a complaint to the UN Committee on the Rights of Persons with Disabilities.

Two blind persons concluded contracts for private current account services with the OTP Bank Zrt., according to which they were entitled to use bank cards. However, they were unable to use the automatic teller machines (ATM) without assistance, as the ATM keyboards were not marked with Braille fonts, and it did not provide voice assistance for bank card operations. The two blind persons had to pay an annual fee for bank card usage and transaction fees equal to those fees paid by other customers, regardless of the fact that they were unable to use these services on a 24-hour basis unlike other, sighted customers. They claimed that they received inferior quality services for the same charges. After exhausting legal remedies, they turned to the HHC for legal support. The HHC submitted a complaint in March 2010 and requested the UN Committee to establish that Hungary has violated its obligations under the Convention. In December 2011, the Hungarian government responded to the complaint. The HHC maintained its claims and provided an opinion on the Government's argumentation. The case is still pending.

5. Assisting victims of human rights violations

5.1. Human Rights Legal Counseling Program

The provision of free legal counseling to victims of human rights violations is one of the HHC's core permanent activities. In addition to providing assistance to individuals, the cases taken by the Helsinki Committee are also of strategic value in our legal analysis and advocacy activities as they highlight gaps in legislation or legal practice.

Over the past decade, the HHC has gained special expertise and developed a profile in the following legal areas:

- immigration law (visas, stay permits, expulsion, deportation, family unification),
- asylum law (granting and withdrawing refugee, subsidiary and other protection status),
- criminal procedures concerning unlawful detention, forced interrogation, abuse during official procedure, assault against an official person,
- civil damages for excessive use of force by law enforcement agencies,
- complaint procedures concerning detention implemented in penitentiary institutions or police jails.

Clients turning to the HHC receive initial legal advice from the HHC'S legal advisor who in turn refers cases which fall within the HHC's profile to attorneys working with the HHC. Other clients are also given basic legal information and advice about where to seek further assistance.

Attorneys dr Tamás Fazekas, dr Gábor Gy z , dr Barbara Pohárnok and dr Aurél Nemesszeghy worked as permanently contracted attorneys in 2011.

In 2011, 536 persons received legal assistance from the HHC's Human Rights Legal Counseling Program:

- 40 asylum cases (in the Budapest office),
- 54 alien policing cases (visas and residence permits, expulsion, family unification),
- 90 cases relating to detention conditions,
- 28 cases of complaints against police measures,
- 24 inquiries regarding procedures before the European Court of Human Rights,
- 8 cases concerning equal treatment,
- 141 cases concerning pending or closed criminal procedures,
- 11 cases of civil servants dismissed without reasoning,
- 38 cases of persons remaining in the private pension funds,
- 101 miscellaneous cases.

5.2. Applications to the European Court of Human Rights and the Constitutional Court

5.2.1. Since the election of the new Parliament in May 2010, several laws that infringe human rights set out in the European Convention on Human Rights or the Hungarian Constitution have been adopted. In the first half of 2011, the HHC has turned to the European Court of Human Rights and/or to the Constitutional Court in 3 cases relating to the new acts.

- Dismissal of civil servants without reasons

In 2010, Parliament adopted an Act that allowed for the dismissal of civil servants without any reasoning. Following petitions, one of which was prepared and submitted by the HHC, in February 2011 the Hungarian Constitutional Court unanimously ruled that the relevant provisions were unconstitutional. However, the Court's decision took effect only as of 30 May 2011 – this meant that employers (who are all state authorities or agencies) had more than three months to terminate their

employees' contracts without giving any reasons. This effectively deprived civil servants of an effective domestic remedy, because in absence of reasoning, it is almost impossible to prove that dismissal was ill-founded. The concerned civil servants could not challenge their dismissal before Hungarian courts because courts could only apply actual laws in force, which rendered dismissals prior to 31 May 2011 lawful. As this violates the right to a fair trial, the HHC decided to assist 10 civil servants to submit applications to the European Court of Human Rights.

The Court communicated one case (as a leading case) to the Hungarian government, and the HHC submitted observations to the government's response in December 2011. The decision of the Court is likely to be delivered in 2012.

- Nullification of certain court decisions by Parliament

On 15 March 2011, the HHC and the Hungarian Civil Liberties Union submitted [a joint motion to the Constitutional Court](#), requesting the Court to repeal the so-called "nullification law" (Act XVI of 2011), on remedying condemning court decisions brought in connection with crowd dispersals in 2006. In the view of the two NGOs, the law severely violates the rule of law, the division of powers, and the independence of the judiciary.

- Discrimination against private pension fund members

In late 2010, the Hungarian government effectively nationalized the private pension funds, thereby leaving members with the option of either returning to the one-tier state pension scheme or remaining in the private scheme with restricted access to state-paid pensions. Those who decided not to return to the state pension scheme from their private pension funds lost their right to a significant portion of the state pension they would have been entitled to under previous rules based on their future contributions. According to the HHC, this leads to discrimination when read in conjunction with the right to the protection of property of those who decided to remain in the private pension funds. In February 2011, the HHC prepared an actio popularis constitutional court petition and requested the Hungarian Constitutional Court to repeal the legal provisions that discriminate against private pension scheme members. In May 2011, staff members of the HHC and 21 other clients turned to the ECtHR with a sample application written by the HHC.

At the end of 2011, the government amended the law in question. Nevertheless, the law still remained discriminatory in different aspects, as contested in the original application. The ECtHR called upon the HHC to submit whether it upholds the application and, if so, with what content. The deadline for the submission is 15 February 2012.

- Strategic litigation on the early retirement scheme of uniformed services

In 2011, the HHC decided to offer legal assistance in procedures before the European Court of Human Rights to officers of uniformed services (police, military and prison personnel and fire fighters) as at the government's initiative Parliament revoked their right to preferential early retirement retroactively. According to the HHC, this violated the provisions of the ECHR on the right to property and the ban on discrimination. In May 2011, the HHC agreed with the Independent Police Trade Union, the National Alliance of Independent Prison Trade Unions and the Customs and Finance Guard Trade Union to provide legal assistance to officers whose fundamental rights would be violated by the legislation by preparing a sample application to the ECtHR. In autumn, several other trade unions turned to the HHC for legal assistance, hence the HHC is assisting altogether six trade unions and several thousand of their members. In November, the six trade unions submitted a 47-page motion to the Constitutional Court. In December, the HHC prepared a short sample application to the European Court of Human Rights, which nearly 8,000 applicants used to apply to the Strasbourg Court. The full application and a sample constitutional complaint was prepared and submitted in January and February 2012 by tens of thousands of applicants.

5.2.2. The European Court of Human Rights delivered 5 judgments in 2011 where the HHC provided legal representation to the applicants. All decisions established the violation of the European Convention on Human Rights.

- Csüllög v. Hungary (Application no. 30042/08, Judgment of 7 June 2011)

The European Court of Human Rights, in its judgment dated 7 June 2011, established that the Hungarian authorities violated the prohibition on inhuman and degrading treatment (Article 3) concerning a client, represented by an HHC lawyer, for the cumulative effects of being detained in a special security ward within the prison administration. The client, Mr. Zsigmond Csüllög, was detained for the majority of his prison term (approx. 2 years) in the special security ward of the Sátoraljaújhely Prison. Because of the special security regime, he had almost no human contact for a period of nearly two years and was never informed about the reasons for being kept separate from the other inmates (according to the current legislation, no reasoning and right to appeal have to be provided for such decisions). There was only artificial lighting in his cell, ventilation was insufficient, the toilet had neither a seat nor a cover and he had to endure full body cavity searches on a daily basis. In addition, he was always hand-cuffed when he was outside his cell, could not keep a watch, a pen, a comb, plastic cutlery, teabags or stationery, and he could only keep a limited number of books or newspapers.

The ECtHR emphasized that solitary confinement was only appropriate as an exceptional and temporary measure and the Hungarian authorities had given no reasons when applying or extending the solitary confinement of the client, neither during his detention, nor upon his subsequent release in early 2010, nor in the procedure before the ECtHR. He perceived his solitary confinement as an arbitrary decision, which in turn caused feelings of total dependence, powerlessness and humiliation. The cumulative effects of the strict security regime in which Mr. Csüllög had been kept for a long time and the inadequate material conditions in his cell had resulted in inhuman and degrading treatment, in violation of Article 3 of the European Convention on Human Rights. The ECtHR awarded EUR 6,000 as just satisfaction for the HHC's client, along with EUR 2,680 for costs and expenses.

The case also had an important impact in terms of domestic legislation. In November 2011, the problem of placing detainees into a special security cell or unit in an arbitrary manner (i.e. without giving any reasons for their placement and not ensuring the right to appeal), criticized by the ECtHR in the above decision, was addressed by Parliament as it adopted an amendment that ensures the right to appeal against decisions on placement in a special security cell or unit.

- Darvas v. Hungary (Application no. 19547/07, Judgment of 11 January 2011)

Mr. Darvas was arrested on 5 December 2004 on charges of drug abuse. He was placed in pre-trial detention and released on 13 April 2005. On 20 May 2005, he was arrested in another case, on charges of aggravated drug trafficking, essentially because substantial amounts of various drugs and packaging material had been found in a garage of which he had been the tenant. On 22 May 2005, his pre-trial detention was ordered in the case on the ground of the risk of collusion with the presumed drug network's other members. Afterwards, his detention was subsequently prolonged at the statutory intervals in decisions which included rather stereotypical references to the risks of absconding and collusion with no detailed reasoning as to his individual circumstances or the evidence obtained against him. The investigation in the case was terminated on 12 June 2006, and on 10 August 2006 a bill of indictment was filed, that combined the facts of the two criminal proceedings outlined above. His pre-trial detention was prolonged, and he remained there until 30 November 2006, when he was released on bail and was placed under house arrest. In April 2008, the court found Mr. Darvas guilty of the charge relating to the offence for which he had been arrested on 5 December 2004, but was acquitted in respect of all the remaining charges. He spent altogether 18 months in pre-trial detention.

Mr. Darvas – represented by the HHC's attorney – turned to the European Court of Human Rights regarding his pre-trial detention. As regards his detention subsequent to the termination of the investigation and in particular to the indictment, the ECtHR ruled that the manner in which the question of prolongation of the detention was dealt with by the courts – which had little or no regard to the particular elements of the case and the personal circumstances of the applicant, and did not consider less intrusive means of intervention or provide convincing reasons for the assumption that the applicant would abscond – effectively deprived this period of the applicant's detention of the

justification required for the purposes of Article 5(1)(c) of the European Convention on Human Rights. Thus, Hungary violated the Convention, and the applicant was awarded a just satisfaction of EUR 5,000, along with EUR 3,500 for costs and expenses. The judgment was widely covered by the Hungarian media.

- Gubacsi v. Hungary (Application no. 44686/07, Judgment of 28 June 2011)

In August 2006, Mr. Gubacsi was involved in a minor car accident at a parking lot in the town of Siófok. Two patrolling police officers administered an alcohol test on him and since it clearly indicated that he was heavily drunk, he was taken to a medical centre for a blood and urine test. After the examination, he was driven back to the parking lot because the officers had to take photographs of the scene. When Mr. Gubacsi was informed that afterwards he would be taken to the police station to fill in certain papers, he attempted to escape. While running past the officers, he knocked over one of them, who suffered superficial abrasions. Mr. Gubacsi was finally caught and taken to the Siófok Police Station, where he was four police officers severely ill-treated him in the corridor of the custodial unit. He was kicked and/or hit all over his body and was made to stand up against the wall and was ordered to spread his legs, following which a police officer kicked him in the testicles. On the day following the ill-treatment Mr. Gubacsi was examined by a general practitioner, who established injuries on his whole body, some of them being rather serious. An investigation was launched, in the course of which he recognized two of the four police officers who were present during his ill-treatment in the custodial unit. However, even though the Prosecutor's Office established that the injury to Mr. Gubacsi's testicles was caused by ill-treatment that might have been inflicted during his detention, the investigation was terminated. The Prosecutor's Office claimed that it was not possible to establish the identity of the perpetrators, since the police officers concerned all denied responsibility and corroborated each other's statements.

Mr. Gubacsi – represented by the HHC's attorney – turned to the European Court of Human Rights. In its decision of June 2011, the ECtHR noted that in the prosecutor's decision terminating the proceedings it was recognized that ill-treatment might have been inflicted on the applicant while he had been in detention. Moreover, the Government also acknowledged in its own observations that the investigation had established that ill-treatment had occurred. The ECtHR reiterated that where an individual is taken into police custody in good health but is found to be injured at the time of release, it is incumbent on the state to provide a plausible explanation of how those injuries were caused, but the Hungarian authorities were not able to provide that. Accordingly, the ECtHR concluded that the applicant had been subjected to inhuman and degrading treatment and thus Hungary has violated Article 3 of the European Convention on Human Rights. The applicant was awarded a just satisfaction of EUR 10,500, along with EUR 3,750 for costs and expenses. This case also received wide media coverage.

- Lokpo and Touré v. Hungary (Application no. 10816/10, Judgment of 20 September 2011)

Mr. Lokpo and Mr. Touré from Ivory Coast were held in immigration detention in Hungary in March 2009, where they applied for asylum. Hungarian legislation then in force stipulated that asylum-seekers who had been admitted to the in-merit phase of the asylum procedure should be released from immigration detention upon the initiative of the asylum authority. However, the Office of Immigration and Nationality (OIN) failed to initiate their release. The two Ivorian nationals challenged their detention order before the Nyírbátor City Court, which rejected their motion with merely purely formal reasoning and without examining the lawfulness of detention in the broader context of human rights obligations.

Mr. Lokpo and Mr. Touré, represented by the HHC's attorney, filed an application with the European Court of Human Rights. In its decision, the ECtHR held that the applicants' 5-month long detention was the disproportionate result of the Hungarian authorities' attempt to expel the Ivorian asylum-seekers. The ECtHR held that the applicants' deprivation of liberty, by virtue of the mere silence of an authority (i.e. the OIN's refusal to initiate the release), "verged on arbitrariness" because they were not incarcerated based upon a reasoned decision, thus they had been deprived of the possibility of obtaining a legal remedy. The ECtHR concluded that Hungary had violated its obligation to avoid

arbitrary detention under Article 5 of the European Convention on Human Rights. The applicants were awarded a just satisfaction of EUR 10,000 each and EUR 3,000 jointly for their costs and expenses.

The significance of this case goes far beyond the arbitrary detention of two asylum-seekers; it indicates grave and systemic shortcomings concerning immigration detention in Hungary. The case was also widely covered internationally.

In February 2011, the HHC undertook to represent two further cases of unlawful detention of Iraqi and Palestinian asylum seekers. These applications have been registered by the ECtHR, but they were not communicated yet to the Hungarian Government.

- Ferencné Kovács v. Hungary (Application no. 19325/09, Judgment of 20 December 2011)

In March 2009, the Tatabánya City Court ordered the pre-trial detention of Mrs Ferenc Kovács, an ill, 83 year-old lady in her absence in the course of a criminal investigation that had been ongoing for almost eight years. Her pre-trial detention was ordered despite the fact that the provision of the Code of Criminal Procedure, that allowed arrest in the absence of the accused, had been found to be unconstitutional and was nullified with immediate effect by the Constitutional Court of Hungary, in accordance with the practice of the ECtHR and international standards. Thus the arrest of Mrs Kovács – who had been transported to the penitentiary from a hospital – should not even have been ordered in the first place. The pre-trial detention order was appealed, but the second instance court rejected the appeal. The client was apprehended on 17 March 2009, although according to medical reports, she suffered from a serious heart condition, and was released only on 17 April 2009 following a motion by the HHC's lawyer aimed at the revoking the pre-trial detention order.

The clients, represented by the HHC's attorney, filed a complaint to the European Court of Human Rights concerning the decision ordering her pre-trial detention. The ECtHR concluded that the Code of Criminal Procedure, as in force at the material time, did not provide a legal basis for ordering the applicant's pre-trial detention in absentia, thus there had accordingly been a violation of Article 5(1) of the Convention in the case. The applicant was awarded a just satisfaction of EUR 5,000, along with EUR 1,500 for costs and expenses.

5.3 Select cases represented before domestic courts

- Case of T.L. (ill-treatment)

A convicted inmate in solitary confinement was allegedly ill-treated in the Budapest Maximum and Medium Security Prison by a prison guard. The inmate claimed he had been ill-treated as a threat to prevent him from making allegations concerning the prison guard's involvement in prohibited activities within the prison (such as smuggling in cell phones for inmates). He reported the ill-treatment when he was taken back to his original cell after the solitary confinement was served. The Prison Governor ordered a thorough medical examination, had photos taken of the injuries, and filed a report with the military prosecutor's office on the very same day. The military prosecutor finished the investigation within a couple of months and submitted a bill of indictment against the prison guard. The inmate was relocated to another prison after a couple of months upon the Prison Governor's initiative to protect him. The inmate turned to HHC after the indictment, so the HHC's lawyer acted as a victim's representative alongside the prosecution.

Following a thorough trial procedure, in November 2010, the first instance military criminal court convicted the prison guard for having ill-treated the inmate. The court sentenced the guard to a suspended prison term, but also applied advance clearance of his criminal record (by which, in principle, he would not be considered as convicted, so might not be dismissed from service). He was also sentenced to an extended waiting period to reach the next military rank. Upon appeal in March 2011, the second instance military criminal court aggravated the sentence by removing the advance clearance of criminal record and sentencing the guard by stripping him of all military ranks. In contrary to the first instance court's findings, the second instance court ruled that, considering the nature and the circumstances of the crime, the guard no longer deserves to serve as a prison guard.

Mr T. L., represented by the HHC's attorney, has also submitted an action for tort claims, which procedure is pending.

- The Miskolc case (Roma people as perpetrators of violence against a member of a community)

Miskolc is a city in northeast Hungary with a high Roma population. In March 2009, text messages began to circulate among members of the Roma community, alleging that skinheads were planning to attack local Roma people. This happened only three weeks after the killing of two Roma persons in Tatárszentgyörgy and after members of the extreme right-wing group, the Hungarian Guard ('Magyar Gárda', a paramilitary organization closely affiliated to Jobbik and dissolved by the Supreme Court for carrying out racist activities) were holding rallies in different villages. These were times when widespread ethnic conflict seemed possible. One day at around 1 a.m., two cars unfamiliar to the local Roma people turned up and drove along streets where Roma lived several times. Between 25 and 40 Roma people attacked the cars, assuming that people in the cars were skinheads or members of the Hungarian Guard who had been planning to attack them. The Roma had no firearms and they used wooden sticks and stones. No one was injured in the attacks; the material damage caused to the cars was HUF 104,000 (approx. EUR 400). The police caught eleven of the attackers who were taken into pre-trial detention by the court; others fled and were never identified. In the criminal trial, the first instance court found all the defendants guilty of violence against a member of a community (Article 174/B of the Penal Code): the attack (which the Roma believed to be self-defense) was qualified by the court as a violent hate crime committed by an armed group. The harshest sentence the court handed down was 6 years imprisonment. Altogether, the eleven Roma perpetrators were sentenced to 41 years of imprisonment.

The verdict was not clear whether the court considered the Romas' attack against the victims as an act against a member of the Hungarian ethnic group, the group of skinheads or the group of the Hungarian Guard. Nevertheless, the Roma were found guilty of committing violence against a member of a community. The court established the facts of the case based on a wooden stick found at the scene with the carving 'Death to Hungarians', and on the statement of a defendant claiming that one of his accomplices made some remarks in this sense during the attack.

The HHC provided free defense counsel to one of the defendants in the second instance court procedure. The second instance court repealed the first instance verdict and instructed the first instance court to hold a re-trial, as it found several procedural errors in the first instance decision, including lack of a proper and logical reasoning and omissions in its fact-finding. According to the second instance ruling, a more detailed investigation is required concerning the motivation of each defendant, whether they were acting out of fear of being attacked or they were acting intentionally against a member of a community (and in this case, against which community). In the second instance procedure, defense counsel provided evidence that at least one of the victims could be linked to various skinhead organizations; it will be the obligation of the first instance court to find facts considering these circumstances as well.

The repeated first instance procedure is still pending. All pre-trial detentions were terminated in December; instead, defendants are restricted in their movements to their area. The victim linked to skinhead organizations has been heard: among others, he stated that the raising of his right arm (typical Nazi salute) appearing on one of his photos (along with various Nazi insignia) does not mean anything. The repeated first instance judgment is expected in the spring 2012.

- Helping organizers to challenge police ban on 2011 Budapest Pride march

The Rainbow Mission Foundation, the organizer of the Budapest Pride March, announced the 2011 March to the Police already in September 2010, indicating that the march would follow the route from Heroes' Square to Erzsébet Square in Budapest. The Police accepted the announcement. In February 2011 the organizers announced that they would like to continue to march from Erzsébet Square to the Parliament building, in protest to the proposed discriminative rules of the new Constitution (marriage between same-sex couples will not be possible and sexual orientation is not listed explicitly as a

protected characteristic with regard to the ban of discrimination), the Police banned the entire Budapest Pride March 2011, citing the impacts of the extended route on Budapest traffic. The HHC and the Hungarian Civil Liberties Union helped the organizers of the Budapest Pride march to successfully [challenge the police ban before the court](#). Eventually the Budapest Pride March took place on 18 June 2011 as planned.

- Final decision after four years on the closing off of Kossuth Square

On 23 October 2006, the police cordoned off a significant part of the large open square in front of the Parliament building as part of a measure to protect the building and persons from demonstrators. The HHC did not consider this action unlawful, given the circumstances at that time (demonstrations that frequently turned violent). However, when the police decided to extend this measure indefinitely on 22 November (releasing the reasoning of their decision only in January 2007 on the website of the National Police Headquarters), the HHC was of the view that maintaining the fence around the square was no longer justified and was thus unlawful. In order to have legal standing to start a complaints action, on 26 January 2007, HHC staff members approached the fence and were prevented by police from crossing the square. Subsequently the HHC filed a complaint against the police measure at the Budapest Police Headquarters. After a series of appeals to different forums, including the Supreme Court, on 11 November 2010, the Metropolitan Court annulled the National Police Headquarters' decision rejecting the complaint, and established that the police could not substantiate the necessity of maintaining the fence after the end of November 2006, which in turn disproportionately restricted the complainant's freedom of movement. The Police had to reconsider their decision, and finally, in a decision taken on 4 April 2011, the Budapest Police Headquarters acknowledged that restricting access to the square after November 2006 was disproportionate. The decision states that since the court found -- on the basis of evidence submitted by the Police -- before that the measure in question had been disproportionate, and no new evidence could have been acquired, the complaint shall be accepted. Thus, the Police acknowledged the unlawfulness of prolonging the use of the fence in November 2006, and the case finally ended after four years of legal procedures.

The procedure described above was cited in two recent cases before the European Court of Human Rights: *Szerdahelyi v. Hungary* (Application no. 30385/07, Judgment of 17 January 2012) and *Patyi v. Hungary* (Application no. 35127/08, Judgment of 17 January 2012). The applicants in question announced their intention to organize demonstrations on Kossuth Square while it was fenced off; the police rejected their announcements. The ECtHR argued in both cases that the court rulings in the procedure initiated by the HHC "have effectively, if retroactively, removed the legal basis of the impugned [police] measure" (i.e. the fencing off), thus there had been a violation of Article 11 of the Convention in both cases.

- Legal assistance to protesting opposition party activists

On 23 December 2011, MPs and activists of the opposition party *Lehet Más a Politika* (LMP, Politics Can be Different) formed a human chain around the Parliament building, chaining themselves to objects at the entrances of the parking lot of the building in protest against Government bills threatening democracy, that were scheduled for a plenary vote in Parliament that day.. The demonstrators were detained by the Police on charges of suspicion of "violation of personal liberty", a criminal offense that is defined as being committed by a person "who denies someone their personal liberty", carrying a sanction of up to 3 years of imprisonment. Shortly thereafter, the HHC issued a press release, stating that criminal charges on account of "violation of personal liberty" against protesting MPs and activists run counter to human logic, since no one's freedom of movement has been violated and anyone could freely access and leave the Parliament building. The HHC called on the Police and the Prosecutor's Office to review the obviously absurd qualification of the protesters' action and to stop the criminal procedures, and stated that an inquiry should also look into the lawfulness of police actions taken against the MPs and other demonstrators.

The HHC offered free legal assistance to activists detained by the Police: its attorneys represented activists in the course of the hearings until late into the night on 23 December 2011.

On 5 January 2012, the HHC and the Hungarian Civil Liberties Union reacted in a [press release](#) to the government proposal to grant an amnesty to the protesters. The NGOs argued that the proposal is grotesque in the light of the fact that no criminal offence was committed by the demonstrators.

- Right to family reunification of an Afghan unaccompanied minor refugee

Zia, a 16-year-old Afghan refugee, turned to the HHC to seek legal assistance to reunite with his family members who remained in Pakistan. However, the Hungarian consul in Islamabad, Pakistan refused three times to accept the application forms of his two parents and six siblings based on technicalities and administrative obstacles. Consequently, the family could not initiate the family reunification procedure within six months after the eldest son was recognized as a refugee in Hungary. According to Hungarian immigration law, favorable rules apply to family reunification if the family members start the procedure within six months after the recognition of the refugee family member. Due to the inaction of the Hungarian consul, this family had to prove that they were not responsible for the delay, which instead was the result of the consul's failure to process the case adequately to the OIN (which was the responsible authority).

The case was of high importance as practice shows that the family members of refugees stuck outside the country often have difficulties in initiating the family reunification procedure, mainly due to the reluctance of the consular personnel to cooperate with them.

In February 2011, the Fejér County Court agreed with the HHC lawyer's arguments. The court found that the procedure and the authorities' failure to react was in violation of the law and granted the applicant's motion for justifying the delay in complying with the 6-month deadline. The OIN contested the judgment and the case is now pending before the Supreme Court.

- Right to family life for non-nationals

In 2011, the HHC's attorneys represented several foreign nationals who were facing expulsion due to various reasons and had Hungarian national family members.

Diatta Bouba Fall, from Senegal, sought asylum in Hungary after his whole family was killed in tribal clashes; he received a "tolerated" status. He married a Hungarian woman and they had two small girls. Some years later, he was facing expulsion because he did not receive a negative decision concerning his residence permit, which was posted by the Office of Immigration and Nationality (OIN) to a wrong address. This resulted in Bouba staying illegally in without him being aware of it. Furthermore, the OIN reviewed his "tolerated" status and ordered him to return to Senegal. The Metropolitan Court also decided that he should leave the country. However, as a result of the HHC's efforts, the OIN finally revoked the expulsion order on 3 June 2011, after one year of legal proceedings, and Diatta Bouba Fall finally received a residence card.

Furthermore, the HHC's attorneys provided legal assistance to two Nigerian nationals, who both had a Hungarian wife and a little child and who tried to obtain a Hungarian visa and a residence card. Both cases ended with positive decisions. The HHC's attorney will provide legal representation to Egyptian, Iranian and Nigerian clients in four similar cases in 2012. In the case of a Syrian national who has a Hungarian partner and two little children, the HHC is working to stop an expulsion ordered in the course of a criminal procedure.

6. Other activities

6.1. Influencing law and policy-making

6.1.1. Commenting on draft legislation

In 2011, the HHC mostly focused its activities regarding legislative changes on the framing and adoption of the new Constitution (Fundamental Law) of Hungary. However, there were also further legislative changes to react to, including cardinal acts (i.e. acts whose adoption requires a 2/3 majority vote and touch upon fundamental issues). The HHC was not formally invited by the Government or Parliament to comment on Bills. This task proved to be particularly difficult. Amendments and entire bills were submitted typically as motions of individual MPs, in which case the rules on legislation do not require public consultation. Deadlines set by ministries for commenting were very tight (sometimes only a few days), and some laws were adopted in an extremely short period. Despite these obstacles, the HHC managed to issue statements and prepare opinions on legislative steps -- in certain cases together with the other members of the human rights NGO platform (see 6.1.2.), i.e. the Hungarian Civil Liberties Union (HCLU) and the Eötvös Károly Institute (EKINT).

- On 23 February 2011, the HHC issued a statement saying that the planned “nullification law” (Bill no. T/2227.) would violate the separation of powers and the rule of law. According to the Bill and the law adopted by Parliament, condemning court judgments taken in connection with the riots in Fall 2006 that were based solely on police reports and testimonies of police officers, were nullified by the Act of Parliament itself.
- On 16 May 2011, the HHC issued a statement regarding Bill no. T/3199., aimed at amending the Constitution in such a way that would allow the reduction, curtailing or altering of special pension schemes with retroactive effect. The HHC warned the Hungarian Parliament that this would violate the right to property under the European Convention on Human Rights.
- On 15 June 2011, the HHC issued a statement warning Hungarian MPs that the provisions of Bill no. T/3522., which allowed 120-hour long custody without judicial review, interrogations in the first 48 hours of detention in absence of defense counsel, and the withholding of information regarding the reasons for the arrest, violate the European Convention on Human Rights and the new EU directives to be adopted in the near future. (A [detailed opinion](#) citing the Convention and the EU directives was also prepared.) On 22 June 2011, the HHC and the EKINT issued a joint statement in response to János Lázár’s, the leader of the Fidesz-KDNP faction, statements on 20 June in which he asserted that depriving defendants of the possibility to contact their defense counsel during their first interrogation while under arrest is necessary because “the aim of criminal defense lawyers is to achieve that politician criminals get away with their crimes”. The HHC and the EKINT held this statement to be unacceptable as it completely ignored the fundamental right to defense.
- On 4 July 2011, the HHC issued a press release emphasizing that the Government should take the Venice Commission’s opinion into account, just before the opinion of the Venice Commission on the new Constitution of Hungary, and the planned cardinal acts therein, was debated in the European Parliament. The HHC warned the Government that cardinal acts should be adopted taking into account the opinion of the Venice Commission; otherwise Hungary will isolate itself from other democratic European states.
- On 14 September 2011, the HHC and the HCLU issued a [joint opinion](#) on the draft Bill modifying the Criminal Code, the Code of Criminal Procedure and laws on the enforcement of punishments. The NGOs welcomed e.g. that the Bill ensured the right of

appeal against the placement in a special security cell or unit (this amendment was the consequence of the Csüllög v. Hungary case, see 5.2.2.1.). However, they strongly criticized the Bill for allowing the prosecutor to prohibit defense counsels from attending witness interrogations.

- On 7 October 2011, the HHC and the HCLU published a joint opinion on [the Bill on petty offences](#), the petty offence procedure, and the petty offence registry system. The two NGOs pointed out that a number of provisions in the draft are unconstitutional or violate international standards, and criticized that the Bill made it possible to order confinement for the second petty offence within a 6-month period and provided for the detention of juveniles.
- On 21 October 2011, the HHC submitted its comments on the Bill ratifying the Optional Protocol to the UN Convention of Torture ([OPCAT](#)) and designating the national preventive mechanism. The HHC welcomed the ratification, but stated that the planned provisions are unsatisfactory and do not fulfill all the requirements set out by the OPCAT (see also 1.5.). The HHC has also issued a press release, criticizing the Bill's hasty adoption process that lacked meaningful consultation with civil society and other stakeholders.
- On 28 October 2011, the HHC, the HCLU and the EKINT issued a [joint analysis on the Bill on the Constitutional Court](#) that was to be adopted under the new Hungarian Fundamental Law. The three NGOs found that under the proposed new rules, the Constitutional Court would only be able to ensure respect for constitutional provisions to a limited extent. In turn, the powers of Parliament would increase and fundamental rights protection would weaken. (An [English-language analysis](#) of the adopted Constitutional Court Act was prepared in January 2012).
- On 14 December 2011, the HHC, the HCLU and the EKINT issued a [joint analysis](#) of laws on the new system of judicial administration, the legal status of judges and the prosecution service.

6.1.2. Rule of Law Defenders – human rights NGO platform

In June 2010, the HHC, the Hungarian Civil Liberties Union (HCLU) and the Eötvös Károly Institute (EKINT) decided to establish an ad hoc platform to act as a more effective counterweight to the increasingly unrestricted power of the Hungarian state. The platform was initiated and is coordinated by the HHC. The activities of the platform consist of the following: a) regular scrutiny of legislative developments; b) regular and coordinated, and in certain cases joint, commenting on new bills; c) press events for domestic and international media; d) issuing individual and joint press releases to object to governmental decisions and legislative steps; e) submitting applications to the Constitutional Court, to the European Court of Human Rights and other international forums; f) advocacy using international human rights forums and other international and European institutions.

As a result of this cooperation, the NGOs reacted to legislative changes in a more coordinated manner (see 6.1.1.). However, in the first half of 2011, the activities of the ad hoc platform were focused on the problems related to the new Constitution of Hungary. (The draft "Fundamental Law", i.e. the draft of the new Constitution of Hungary, was submitted to Parliament on 14 March 2011, adopted on 18 April 2011, and entered into force on 1 January 2012.)

In 2011, the platform's activities were:

- In the beginning of January 2011, platform members turned to Viviane Reding, the European Commission's Vice-President in charge of Justice, Fundamental Rights and Citizenship. In their [letter sent to Vice-President Reding](#), the NGOs expressed their grave concerns regarding recent legislative developments in Hungary, which threaten the full and proper implementation of the values enshrined in Article 2 of the Treaty on European Union. A similar joint letter was sent to the presidents of the parliamentary groups of the European Parliament.

- On 16 March 2011, a [joint analysis on the process of framing the new Constitution of Hungary](#) was published (in English and in Hungarian). The three NGOs submitted their comments to the Venice Commission, the Council of Europe's advisory body on constitutional matters, which later formed an opinion regarding the process of framing the new Constitution of Hungary that reaffirmed the criticisms made by the platform. According to the analysis, the way new Constitution was designed raises doubts as to whether this document is worthy of being called the Constitution of Hungary. The NGOs claimed that inadequate arguments have been put forward in support of the need for a new Constitution, it has been prepared in secret, there was no open debate in public or by experts, and due to the procedural rules of adopting it, the new Constitution would be the product of a single political party.
- In the end of March 2011, platform members submitted [background materials concerning the draft Constitution of Hungary](#) to the leaders of European Parliament groups, which contained e.g. a list of the most problematic substantive issues of the draft, a document drawing attention to those instances of erroneous or missing English translations of the draft text that concern the issues that are of the gravest concern for human rights and the rule of law, and [comments on the background materials distributed to MEPs by the Hungarian Government](#). (A [document listing all omissions and mistranslations](#) was also prepared and submitted.) The platform also prepared a translation of the Fundamental Law and sent it to European Parliament political groups. This translation was later used as the basis of the official translation, and József Szájer, MEP of the Fidesz and person responsible for drafting the Fundamental Law, turned to the HCLU seeking permission to use the translation, admitting it was of good quality. (It should be added that Mr Szájer claimed in a blog post on 29 March 2011, that the original English translation was prepared in a period of four days, referring to this fact as a justification for the text's poor quality. The platform members issued [an open letter to Mr Szájer](#) on 5 April 2011, pointing out that the pace of the constitution-making process was decided on by the governing party, and the pace of the process cannot justify serious omissions and mistakes in the translation.)
- On 12 April 2011, the platform members published [an analysis on the draft of the new Constitution](#) (prepared both in English and Hungarian). They argued that the draft Constitution undermines democratic political competition and makes political change more difficult by transforming institutional structures, weakening the system of checks and balances and altering the framework of the political community by extending the right to vote. Furthermore, the draft Constitution decreases the level of protection of fundamental rights and significantly limits the enforceability of those rights by curbing the Constitutional Court's powers. The platform members have also stated that since there is no information available on the planned content of the acts of Parliament requiring a two-third majority to be adopted, it may be stated that the adoption of the new Constitution will only be the beginning of the constitution-making process, not the end of it.
- On 8 March 2011, platform members met of the delegation of the Venice Commission of the Council of Europe, and submitted their concerns related to the process of framing the new Constitution of Hungary.
- On 19 June 2011 the HHC attended an informal meeting organized by the Alliance for Liberals and Democrats for Europe, to exchange information with MEP Sophie in't Veld, Vice Chair of the LIBE Committee in the European Parliament, on the latest Hungarian human rights developments and the NGO concerns related to the new Constitution.
- On 7 July 2011, platform members met the co-rapporteurs of the Parliamentary Assembly of the Council of Europe (PACE), who had made a fact-finding visit to Hungary after being appointed to assess the request for the opening of a monitoring procedure in the country.
- The Venice Commission issued an opinion on the Fundamental Law of Hungary in June 2011. Due to the lack of an official Hungarian translation and the misleading statements of

government party representatives, the public may have been given a false impression of the content of the opinion. Therefore, the HHC, the HCLU and the EKINT issued a [joint analysis on the reactions of the Government](#) in light of the Venice Commission's opinion in July 2011. Platform members emphasized that instead of praising the Fundamental Law, as it had been communicated by the government, the Venice Commission gave a critical review of it; and that contrary to the Government's standpoint, the opinion of the Venice Commission makes it clear that democratic structures are endangered by several provisions of the Fundamental Law. The full analysis was published by the Budapesti Könyvszemle (BUKSZ).

- In October 2011 the HHC, the HCLU and the EKINT [turned to the President of the European Commission](#), warning that Hungarian legal provisions on the Data Protection Authority are in breach of the relevant EU directives. The NGOs suggested that the Commission initiate infringement proceeding against Hungary, since, in their view, the new Act CXII of 2011 on Informational Self-Determination and Freedom of Information fails to satisfy the fundamental requirement of independence of the national authority supervising the processing of personal data under Directive 95/46/EC. (The Act states that the Data Protection Commissioner is to be replaced on 1 January 2012, years before the end of the fixed six-year term.) In her [response](#), Vice-President Reding fully agreed with the NGOs that "the establishment in Member States of supervisory authorities, exercising their functions with complete independence, is an essential component of the protection of individuals with regard to the processing of personal data", and indicated that she had instructed her services to investigate the NGOs' complaint. (In fact in January 2012, the European Commission launched three infringement proceedings against Hungary, one of which concerns the data protection authority's independence.)
- On 29 December 2011, platform members sent an [alternative answer](#) to Viviane Reding, Vice-President of the European Commission, Commissioner in charge of Justice, Fundamental Rights and Citizenship), providing detailed answers to the questions previously posed by the Commissioner to the Hungarian Government concerning the reduction of the mandatory retirement age of judges, the reorganization of the judiciary, and the termination of the Data Protection Commissioner's mandate. The NGOs emphasized that the Hungarian Government failed to prove its commitment to democracy, and the measures questioned by the EU proved to be professionally unjustifiable. The alternative answers were also sent to the European Parliament's Committee on Civil Liberties, Justice and Home Affairs on 11 January 2012, in preparation of the Committee's meeting on the situation in Hungary.
- Call for human rights short films: In November 2011, the platform issued an invitation to media students and professionals to submit treatments for video animations and short films about the values of constitutional democracy and the risks of abandoning them. A professional jury consisting of acclaimed professionals (György Báron film critic, László Majtényi (president of the EKINT), Antónia Mészáros journalist and Ferenc Török film director) will decide on the applications in spring 2012.

The Open Society Institute Emergency Fund supported the NGO platform's activities in fall 2011.

6.2. Actions concerning paramilitary right-wing groups patrolling in towns

In March 2011, members of the Civil Guard Association for a Better Future (Szebb Jöv ért Polgár r Egyesület), a paramilitary radical right-wing group, started "patrolling" and marching in towns with significant ethnic tensions (including Gyöngyöspata and Hajdúhadház), claiming that they are providing citizens of Hungarian origin with protection against "Gypsy criminality". Unimpeded by local police, the Civil Guard members reportedly threatened Roma residents. In April 2011, another paramilitary right-wing group called Defence Force (Véder) set up a training camp in Gyöngyöspata, as a result of which around 250 Roma women and children were transferred from the town by the Red Cross on 22 April 2011. The Police seemed to be unable to handle the problem of paramilitary groups and to find the adequate legal solutions.

Human rights NGOs, including the HHC, have repeatedly urged the Hungarian authorities to respond to the events in an adequate manner:

- On 12 March 2011, the HHC, the Hungarian Civil Liberties Union and the Legal Defence Bureau for National and Ethnic Minorities (NEKI) sent a [joint letter](#) to Minister of Interior Sándor Pintér, requesting him to immediately instruct Police to fulfill its tasks concerning the “patrolling” activities of the right-wing groups in Gyöngyöspata, and to restore rule of law and provide protection for Roma inhabitants.
- On 14 April 2011, six human rights NGOs, including the HHC, issued an [open letter](#) urging the authorities to instruct the Police to swiftly intervene to prevent and investigate any actions in violation of Hungarian law committed by members of the Civil Guard Association for a Better Future in Hajdúhadház. The NGOs stressed that the group’s activities appear to violate several provisions of the Hungarian criminal code and constitute e.g. violence against a member of a community, harassment and public nuisance.
- At a demonstration on 4 May 2011, human rights NGOs called on Hungarian authorities to protect Hungarian citizens of Roma origin against paramilitary groups. The HHC’s staff member gave a [short speech](#) at the public rally.

In May 2011 a parliamentary inquiry committee was set up to investigate the above events. At the request of MP chairing the parliamentary committee, the HHC submitted its [comprehensive opinion](#). The HHC pointed out that – besides extremists having interest in generating ethnic tensions – failures of the Government and the Police have also contributed to the situation in Gyöngyöspata and that the mandate of the parliamentary committee raises concerns as it fails to cover crucial issues. At the committee’s session on 26 October 2011, the HHC’s co-chair and one of its attorneys presented the HHC’s conclusions and its recommendations aimed at the adequate handling and prevention of similar cases.

6.3. Human rights trainings

The HHC continued to give presentations on human rights issues at the Budapest-based International Law Enforcement Academy (ILEA) for mid-career police and other law enforcement agency officers from Central and Eastern Europe and Central Asia. In 2011, altogether 4 training sessions were held at the ILEA (in March, June, August and October).

The HHC delivered a course at the Corvinus University in the autumn semester of 2011/2012 academic year, which focused on how to enforce the principle of equal treatment. On 11 October 2011, an HHC staff member gave a lecture at the Faculty of Social Sciences of the ELTE University on the role and means of NGOs in monitoring law enforcement.

(See Section 2.6. for training activities on asylum and international protection issues.)

6.4. Judicial practices on “violence against a member of a community” - hate crime research

Spurred by critical voices from several international organizations (OHCHR, ECRI, Amnesty International, etc.) and – among other similar incidents – the “Miskolc case” (see under 5.3.), the HHC decided to launch a research project into judicial practices regarding the felony of “violence against a member of the community”.

The research aimed to analyze the application of Article 174/B of the Criminal Code (violence against a member of a community, i.e. hate crime), particularly how courts evaluate the motive of violence or

the attack, how the description of the victim's affiliation with a community or social group is described as well as sentencing practices.

In order to obtain standard research aspects and results, the HHC formulated a set of questions to base the case file analysis on. Attorneys dealing with cases related to this particular criminal act were involved in preparing a list of questions that focus on the elements suspected to be the most problematic in practice.

In May, the HHC requested research permission from each county court (incl. in Budapest) to have access to those case files in which the prosecutor submitted a bill of indictment, or the court issued a decision on the basis of Article 174/B of the Criminal Code. Because courts do not maintain overall statistics, the Prosecutor General's Office was requested to provide the registration number of all the files based on which the HHC could carry out the research.

Finally, the HHC received information of 22 relevant cases that were examined by two researchers. As an advocacy tool for the lawyers acting as defense counsels in the Miskolc case, a preliminary study was carried out based on observations made from the first five cases. A more extensive report was drafted in late 2011. The final, approximately 60-page long study examining the application of Article 174/B will be published in 2012.

6.5. Reports for the EU Fundamental Rights Agency

The European Union Agency for Fundamental Rights (FRA) contracted the HHC in summer 2011 to provide country-specific information on developments in the area of Multi-annual Framework of the FRA to contribute to its Annual Report.

In the second half of 2011, the HHC provided the FRA the following reports:

- border control and visa policy;
- information society and data protection;
- the rights of the child and protection of children;
- equality and non-discrimination;
- racism and ethnic discrimination;
- participation of EU citizens in the Union's democratic functioning;
- access to efficient and independent justice and protection of victims.

The reports will serve as background material for the FRA, which will use them in the process of making its own public reports.

6.6. Universal Periodic Review of Hungary

- On 28 April 2011, in advance of the Universal Periodic Review of Hungary, the HHC organized [a briefing for Budapest-based embassies](#) (Austria, Belgium, Denmark, Finland, France, Germany, the Netherlands, South Africa, Sweden, the United Kingdom, and the United States) on Hungary's human rights performance and presented its shadow report. The HHC also submitted comments to the National Report and prepared fact sheets on the following topics: (i) The new Constitution of Hungary, (ii) Removal of checks and balances from the constitutional framework, (iii) Criminal policy and issues related to detention, (iv) Rights violations by officials, (v) Right to fair trial, (vi) Situation of the Roma minority with regard to law enforcement, (vii) Asylum seekers and refugees, and (viii) Alien policing detention. In May 2011, the HHC also participated in a press conference organized by Amnesty International to provide information about Hungary's human rights performance and on NGOs' shadow reports prepared for the Universal Periodic Review.
- On 21 September 2011, representatives of 12 human rights NGOs, including the HHC, met with the Hungarian Government to discuss future steps to implement recommendations

accepted by the Government in the Universal Periodic Review (UPR). The NGOs were critical about the Government's demonstrated unwillingness to have effective and meaningful consultation with civil society prior to deciding about the list of recommendations to accept and decline in the UPR process. NGOs raised further concerns about some of the recommendations that were rejected by the government. NGOs proposed that the government set up working groups, consisting of NGO and government representative that would regularly convene to develop measures required to implement recommendations accepted by the government, and to monitor the implementation process. The government representatives indicated that they would respond to this proposal by the end of October. The NGOs released a related [joint press release](#) on the matter on 22 September 2011.