HUNGARIAN HELSINKI COMMITTEE

Hungary: Continued Backsliding on Democracy and Rule of Law

Selected Developments and Recommendations for the Council Hearing on 23 May under Article 7(1) TEU

13 May 2022

Contents:

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1. THE GOVERNMENT'S EXCESSIVE REGULATORY POWERS AND THE 10TH AMENDMENT TO THE FUNDAMENTAL LAW

- **How does interfering with a strike of teachers for better working conditions via a special emergency decree contribute to the effective management of COVID-19? What guarantees will be introduced to ensure that the Government is not able to abuse its *carte blanche* emergency mandate in the future and issue decrees that are not related to the management of the pandemic?**
- **What guarantees are in place to ensure that the Government will not use the war in Ukraine as a pretext to keep its excessive regulatory powers and abuse the *carte blanche* mandate foreseen by recently submitted Bills for the instances of a state of danger declared by the Government due to an armed conflict, war or humanitarian disaster in a neighbouring country?**

Background: Since the beginning of the COVID-19 pandemic, the Hungarian Government has ordered a state of danger (a form of special legal order) with a reference to the pandemic three times. The latest one (ordered in February 2021) is still in effect, along with the laws granting the Government a *carte blanche* mandate to suspend or derogate from Acts of Parliament via special emergency government decrees without any parliamentary oversight during. While a good part of the emergency decrees issued during the state of danger were indeed related to the pandemic, the Government has repeatedly used its authorization to adopt decrees that have no relationship whatsoever with the containment of COVID-19, but have a negative effect on human rights or the rule of law. One of the most emblematic examples for this since the last hearing of Hungary under Article 7(1) TEU in June 2021 was the Government's interference with the strike of teachers for better pay and better working conditions in public education. Trade unions of teachers announced plans to strike as of 16 March 2022, and were in negotiation with the respective Ministry about the exact "necessary minimum

services" that must be provided during a strike under the law on strikes. This law prescribes that if the parties cannot agree on the level of such minimum services, they can request the court to establish what services must be provided during the strike. The teachers were about to turn to the court to settle the dispute with the Ministry, when on 11 February 2022, the Government issued emergency decree 36/2022. (II. 11.), which determined the "necessary minimum services" in such a broad manner that made a meaningful and at the same time lawful strike impossible. The decree restricted the rights of teachers without a legitimate aim, in an arbitrary and disproportionate manner, and prevented them from seeking meaningful judicial remedy, as the court could only conclude that since the level of necessary minimum services had been determined in a decree, it was not any more in the position to decide otherwise.

New Bills submitted by the Minister of Justice to the Parliament on 3 May 2022 (once again, without any prior public consultation) suggest that the Government would use the war in Ukraine as a pretext to keep its excessive regulatory powers. Bill T/25 would amend the Fundamental Law for the 10th time, in a way that a state of danger could be declared by the Government in the case of "an armed conflict, war or humanitarian disaster in a neighbouring country". This formulation would clearly allow the Government to declare a state of danger with a view to the ongoing war in Ukraine. This is accompanied by Bill T/26, which would amend the Disaster Management Act (Act CXXVIII of 2011) once again, and would allow the Government to override Acts of Parliament via emergency decrees in basically any area during a state of danger declared due to an armed conflict, war or humanitarian disaster in a neighbouring country, with a potential to suspend or restrict the exercise of fundamental rights (save certain rights) beyond the extent permissible in ordinary circumstances. The new provision is almost a verbatim copy of an earlier amendment of the Disaster Management Act from June 2020, which granted a similar *carte blanche* mandate to the Government during a state of danger declared with a view to a human epidemic causing mass disease outbreaks.

Recommendations:

- ➔ *Refrain from abusing the extremely wide-ranging authorisation the Government received during the state of danger by issuing decrees that are not related to the management of the pandemic.*
- ➔ *Withdraw the proposed 10th Amendment to the Fundamental Law (Bill T/25), along with the proposed amendment of the Disaster Management Act (Bill T/26), which would grant the Government a carte blanche mandate to rule by decree in the case of a state of danger declared due to an armed conflict, war or humanitarian disaster in a neighbouring country.*

2. CHALLENGES TO THE PRIMACY OF EU LAW

- **How does the Government interpret Decision 32/2021. (XII. 20) AB of the Hungarian Constitutional Court? What areas does it consider as such where the exercise of joint competences with the EU is incomplete, i.e. in which areas does it consider Hungary being entitled to exercise the relevant non-exclusive field of competence of the EU on the basis of the Constitutional Court's decision?**

Background: On 17 December 2020, the CJEU delivered its judgment in the case C-808/18, which, among others, found that the Hungarian legislation (and practice) regarding push-backs (collective expulsions) violate EU law. However, push-backs have continued to take place, and since the judgment was delivered, over 107,000 push-backs have been carried out. As a result, on 12 November 2021, the European Commission decided to refer Hungary back to the CJEU due to the continued non-compliance with the CJEU's judgment. The Government not only continues to defy the CJEU, but it also looks for ways to do so with the help of Hungary's Constitutional Court: in February 2021, the Minister

of Justice filed a motion requesting the Constitutional Court to assess the compatibility of the judgment with the Fundamental Law and to rule that the judgment of the CJEU cannot be enforced in Hungary. However, the Constitutional Court chose not to give the green light to the Government to disregard this specific CJEU judgment: it ruled in December 2021 in Decision 32/2021. (XII. 20) AB that the abstract interpretation of the Fundamental Law the Minister's motion called for cannot be aimed at reviewing the judgment of the CJEU.

At the same time, the judgment includes a series of highly problematic statements regarding the primacy of EU law and the protection of Hungary's "constitutional identity". Among others, it states that where the exercise of joint competences with the EU is incomplete, Hungary shall be entitled, in accordance with the presumption of reserved sovereignty, to exercise the relevant non-exclusive competence of the EU, until the institutions of the EU take the measures necessary to ensure the effectiveness of the joint exercise of competences. The Constitutional Court further held that changes to the traditional social environment of the individual (by this, the Court seems to mean the traditional ethnic-religious composition of society) can only take place without significant harm to the determining elements of their identity, and where the incomplete effectiveness of the joint exercise of competences results in consequences that raise the potential violation of the right to identity of persons living in the territory of Hungary, the Hungarian state shall be obliged to ensure the protection of this right. Finally, the Constitutional Court held that the protection of Hungary' inalienable right to determine its territorial unity, population, form of government and state structure shall be part of its constitutional identity.

Recommendations:

➔ *Commit to the primacy of EU law and to implementing CJEU judgments without any reservations.*

3. CONTINUED ATTACKS AGAINST THE INDEPENDENCE OF THE JUDICIARY

Stronger political control over administrative adjudication – a system created through the back door

- **The system of administrative adjudication was modified on several occasions in the past ten years, starting with the overall judicial reform introduced in 2012 and continuing with the establishment of the Administrative and Labor Courts in 2013, the adoption of the laws on the separate administrative court system and the modifications introduced by the omnibus acts of December 2019, 2020 and 2021. What was the aim of all these modifications?**
- **If the reason for establishing a separate administrative court system was to reinstate the traditional system of administrative courts, why was it necessary to modify the rules governing administrative adjudication after the idea of establishing a separate court system was abandoned?**
- **Once the idea of creating a separate administrative court system was abandoned in 2019, why was it necessary to dissolve the Administrative and Labor Courts in 2020?**
- **Why was it necessary to modify the rules of appointment of the Kúria President, allowing the election of candidates from outside the judiciary who have never worked as a judge before?**
- **Why is it necessary for an administrative judge to be assigned by the President of the National Office for the Judiciary (NOJ) or the Kúria President in order to adjudicate administrative cases when no similar assignment is necessary for civil and penal judges? Why can such an assignment be revoked unilaterally by the NOJ President or the Kúria President, thus depriving judges of their ability to adjudicate administrative cases?**

Background: In 2018, the ruling majority adopted new laws to set up a separate, heavily government-controlled administrative court system with effect of 1 January 2020. The new administrative courts would have gained exclusive competence in the adjudication of cases related to fundamental rights, such as matters of election, administrative decisions by the police, asylum, or the exercise of the right to peaceful assembly, as well as cases with significant economic relevance, such as disputes over taxation, customs, media, public procurement, land and forest ownership. According to the official explanation provided by the Government, the reason for establishing the new administrative court system was to restore the traditional Hungarian model of a separately organized administrative justice system. In fact, at the time of adopting these laws, Hungary already had a well-working system for the judicial review of administrative decisions, which was not facing any particular problems.

While the reasons for establishing the separate administrative court system were rather symbolic, its detrimental consequences to the independence of the judiciary were quite concrete as confirmed by several international stakeholders. As the Venice Commission warned, "very extensive powers are concentrated in the hands of a few stakeholders and there are no effective checks and balances to counteract those powers". As a result of the strong international criticism, in the summer of 2019, the Parliament decided to postpone the entry into force of the laws enacting the new court system, and later, in November 2019, the Government stated that it had abandoned the idea of introducing the separate administrative courts.

Today it is clear that the official justification for reinstating "the traditional separate organization of administrative courts" was just a façade for gaining a stronger political control over the administrative section of adjudication. In reality, the Government did not at all abandon the idea of capturing the court system, and instead of a one-off legislation, the same goal was finally achieved "through the back door", by a series of legislative amendments adopted between 2019–2021, as shown by the table below.

The fact that the planned administrative high court was finally set up "integrated" within the Kúria (the supreme court of Hungary) was publicly confirmed on several occasions by András Zs. Varga, the Kúria President, who – as a result of the modifications – was elected as Kúria President in 2020, and holds the most important powers regarding the administrative branch of the judiciary.

Problematic elements of the abandoned legislation on the separate administrative court system	**Implementation of the problematic elements via the series of amendments in 2019–2021**
The Administrative and Labor Courts (20 of them, one for each county) would have been dissolved as of 1 January 2020.	The Administrative and Labor Courts were dissolved as of 1 April 2020.
Judges working at dissolved courts would have been transferred to the separate administrative court system or to the ordinary court system, depending on their request.	All judges working at dissolved courts got transferred to the ordinary court system by the force of the law, but the legislation did not guarantee that a judge formerly working as an administrative judge would continue to work in the same section.
Two levels of administrative courts would have been established: (i) the Supreme Administrative Court and (ii) administrative courts.	Two levels of court were entrusted with administrative cases: (i) the Kúria and (ii) eight designated regional courts.

Decision on key personnel matters would have been transferred into the hands of the Minister of Justice and the President of the Supreme Administrative Court.	Decisions on key personnel matters are made by political appointees; the President of the NOJ is exclusively entitled to assign judges to become administrative judges with respect to regional courts; the Kúria President (with respect to the Kúria) is exclusively entitled to assign judges to become administrative judges with respect to the Kúria.
The President of the Supreme Administrative court could have been elected without at least five years' experience as a judge.	The rules of electing the Kúria President were amended to allow for the President to be elected without five years of experience as a judge (this was achieved through recognizing membership of the Constitutional Court as judicial experience).
The president of the administrative court would have held the exclusive power to determine the composition of court chambers and the case-allocation scheme.	The rules governing case allocation were modified granting unlimited power to court presidents – including the Kúria President – to determine the composition of court chambers and the case-allocation scheme of the court.

Recommendations:

- ➔ *Amend the law so that administrative judges are selected and appointed in the same manner as judges of other sections of adjudication (civil or criminal). Abolish the right of the NOJ President and the Kúria President to assign judges dealing with administrative cases and their right to unilaterally withdraw the assignment.*
- ➔ *Abolish court presidents' exclusive power to modify the case-allocation scheme and the composition of chambers.*

Extra rapid establishment of a new administrative court of appeal having a state-wide competence

- **The provisions setting up the new Administrative Court of Appeal (*Fővárosi Ítélőtábla Közigazgatási Kollégiuma*) with a general national competence to adjudicate in administrative cases were submitted to the Parliament by a parliamentary committee dominated by governing party MPs. At the same time, according to the public statement of the Kúria, the relevant amendments were prepared by the Ministry of Justice. Why has the Ministry of Justice prepared the amendment but not submitted it to the Parliament? Were these provisions backed up by an impact study? Was there a public consultation process regarding the re-organization of the judiciary?**

Background: With effect of 1 March 2022, the system of administrative adjudication was modified, once again. A new administrative court level was introduced (formally, a new administrative college of the already existing Metropolitan Court of Appeal was established, hereinafter referred to as: Administrative Court of Appeal) with the aim of creating a general court of second instance for first instance judgments handed down in administrative cases, instead of the Kúria that acted as a court of second instance in such cases starting with 1 April 2020.

The Administrative Court of Appeal was created by Act CXXXIV of 2021 in an extremely speedy manner, just a couple of weeks after the Venice Commission repeatedly warned that "the adoption of legislative changes without public consultation is contrary to both domestic and international rules and standards and is, therefore, worrisome". The original text of Bill/17438 as prepared by the Ministry of Justice and submitted to the Parliament on 2 November 2022 did not contain any provisions related to the organization of courts. The provisions on restructuring the system of administrative courts only appeared in the form of a comprehensive modification submitted by the Parliamentary Committee on Legislation (a committee with a majority of governing party MPs) on 9 December 2021, five days before the final vote in the Parliament. Although the modification was formally submitted by a parliamentary committee, a press release issued by the Kúria reveals that the text of the modification was in fact prepared by the Ministry of Justice (having the committee submit the proposed modification instead of the Ministry is a way to circumvent the statutory obligation for consulting about drafts with both the public and representatives of the concerned professionals).

The Act was passed on 14 December 2021, published on 17 December 2021, and entered into force on 1 January 2022. This means that it took less than 23 calendar days (including Christmas holidays) to adopt the legislation on establishing a wholly new Administrative Court of Appeal having a general national competence to adjudicate administrative cases as a second instance court, without any meaningful consultation or an impact study to rely on. Not even the National Judicial Council, the self-governing representative body of the Hungarian judiciary, had the possibility to comment on the legislation.

Recommendation:

➔ *Ensure that any modifications affecting the organization of the judiciary and the status of judges are passed in accordance with the Hungarian laws and international standards, providing a possibility for a meaningful consultation with the public, including judges and judicial councils, and are backed by an impact study.*

Appointment of judges to the Administrative Court of Appeal circumventing the appointment procedure

- **How can secondment serve as a tool to fill up vacant positions at the newly established Administrative Court of Appeal, if the law only allows for secondment to distribute workload?**

Background: Act CXXXIV of 2021 vested the NOJ President with all powers in determining the number of judicial posts at the Administrative Court of Appeal and authorised the NOJ President to open new application procedures for the vacant positions. Although the NOJ President established 18 judicial posts at the new Administrative Court of Appeal, not a single application procedure was open until 1 March 2022. Instead, judges were transferred to the Administrative Court of Appeal by two means. On one hand, judges were transferred based on the legislation which provided an opportunity for judges who formerly served as administrative judges at the Kúria or at a court of appeal to request by a unilateral declaration their transfer to the Administrative Court of Appeal. The time-limit for submitting the declaration requesting the transfer was open for only 10 days and lapsed on 10 January 2022. According to the information available publicly, only two judges requested their transfer to the Administrative Court of Appeal, both of them from the same court. On the other hand, instead of opening application procedures, the NOJ President decided to fill in some of the vacant positions by the temporary secondment of judges.

According to the pertaining resolutions of the NOJ President on the secondments, the reason for these secondments was to distribute the caseload evenly. Filling up a vacant position by secondment instead

of an application procedure allows the NOJ President to circumvent the guarantees attached to an application procedure, and to handpick the judges to serve on the court instead of being, at least to some extent, bound by the results of an open and fair competition.

Recommendations:

- ➔ *Prevent the NOJ President from postponing the opening of an application procedure for an indefinite period of time.*
- ➔ *Prescribe that the NOJ President shall justify its resolutions in order to eliminate abusive practices for example in ordering the secondment of judges to another court.*

4. ELECTIONS AND REFERENDUM MARRED BY THE ABSENCE OF A LEVEL PLAYING FIELD

- **What steps will the Government take to address the concerns raised by the OSCE/ODIHR full election observation mission in relation to the fairness of the parliamentary elections and the national referendum held on 3 April 2022, and to comply with respective OSCE/ODIHR recommendations, in particular regarding the prevention of the misuse of administrative resources and the blurring of state and party functions, media freedom, and campaign finance?**

Background: OSCE/ODIHR deployed a full-scale election observation mission to Hungary for the parliamentary elections and the national referendum held on 3 April 2022, a rare occurrence in relation to an EU country. In its Statement of Preliminary Findings and Conclusions, OSCE/ODIHR concluded that while the elections and the referendum were well administered, they were "marred by the absence of a level playing field", the campaign was "characterized by a pervasive overlap between the ruling coalition and the government", and "[t]he bias and lack of balance in monitored news coverage […] significantly limited the voters' opportunity to make an informed choice". In addition, the "lack of transparency and insufficient oversight of campaign finances further benefited the governing coalition". OSCE/ODIHR also noted in relation to the electoral legal framework that "many prior ODIHR recommendations to strengthen the legislation largely remain[ed] unaddressed, including on suffrage rights, prevention of the misuse of administrative resources and blurring of state and party functions, media freedom, campaign finance, and citizen observation". As far as the legal framework for the referendum is concerned, OSCE/ODIHR concluded that it is "largely inadequate for the conduct of a democratic referendum and does not provide for a level playing field for referendum campaigns. The law does not guarantee equal campaign opportunity for the supporters and opponents of the referendum proposals and does not prescribe neutrality of public authorities, nor does it ban the authorities' use of public funds for referendum campaigns or require impartial voter education on the choices." OSCE/ODIHR stated as well that the "manner in which many election disputes were handled by election commissions and courts fell short of providing effective legal remedy".

Recommendation:

- ➔ *Comply with prior and upcoming OSCE/ODIHR recommendations pertaining to the legal framework of parliamentary elections and national referendums, and address concerns raised by the OSCE/ODIHR Statement of Preliminary Findings and Conclusions in relation to the national elections and referendum held on 3 April 2022.*

5. VIOLATING THE RIGHTS OF CIVIL SOCIETY ORGANISATIONS

- **When will the Government comply with the judgment of the CJEU in case C-821/19, and initiate the abolishment of the "Stop Soros" law that criminalises assistance to asylum-seekers in submitting an asylum claim?**

- **Why did the Government, yet again, fail to consult civil society before the adoption of the 2021 version of the LexNGO?**
- **How does the Government justify those elements of the 2021 LexNGO that violate certain fundamental rights of the concerned CSOs by making the subject of audits by the State of Audit Office without adequate justification and legal safeguards, and how can the respective 2021 law be reconciled with the constitutional mandate of the State Audit Office?**

Background: On 18 June 2020, the CJEU declared that Act LXXVI of 2017 on the Transparency of Organisations Supported from Abroad ("LexNGO 2017"), which stigmatised certain civil society organisations (CSOs) as "foreign-funded organisations", violated EU law. However, for over ten months, the governing majority have failed to comply with the judgment, and repealed the LexNGO 2017 only in May 2021, as of 1 July 2021. However, at the same time, it adopted Act XLIX of 2021 on the Transparency of Organisations Carrying out Activities Capable of Influencing Public Life ("LexNGO 2021"), which entered into force on 1 July 2021. The adoption of the new law was not preceded by any public consultation or direct consultation with CSOs.

The LexNGO 2021 and accompanying amendments made CSOs operating as an association or a foundation whose annual balance sheet total in a given year amounts to at least HUF 20 million subject to inspection/audit by the State Audit Office (with certain exceptions). The State Audit Office shall audit these CSOs from the aspect of lawfulness, and shall disclose its conclusions in a public report, the content of which cannot be challenged before the court even if it contains unfounded conclusions. In addition, the audit may impose excessive administrative burden on targeted CSOs, and can extend to all documents and data, including sensitive information (such as documents otherwise falling under attorney-client privilege), which may be acceptable when the State Audit Office inspects authorities exercising public power, but not when it audits CSOs. The regulation is also discriminatory, as – without any meaningful justification – it exempts certain entities whose activities are also capable of influencing public life, including religious associations, minority organisations and trade unions. Finally, the LexNGO 2021 violates the constitutional provisions pertaining to the mandate of the State Audit Office, given that under the Fundamental Law the State Audit Office is mandated to audit the administration and use of public finances.

Furthermore, the "Stop Soros" law that criminalises assistance to asylum-seekers in submitting an asylum claim if that proves to be unfounded later (i.e. it turns out that the person does not fulfil the national criteria for granting international protection) remains in effect, even though on 16 November 2021 the CJEU ruled that the provisions in question violate EU law. The law prescribing a special 25% immigration tax on donors if they provide funds for "activities facilitating immigration" also remains in effect.

Recommendations:

- ➔ *Repeal Act XLIX of 2021 on the Transparency of Organisations Carrying out Activities Capable of Influencing Public Life, making certain CSOs subject to audit by the State Audit Office.*
- ➔ *Implement the CJEU judgment in case C-821/19 and repeal the "Stop Soros" law, criminalising assistance to asylum-seekers in submitting an asylum claim; and repeal the law prescribing a special 25% immigration tax on donors if they provide funds for "activities facilitating immigration".*

6. NON-COMPLIANCE WITH EU LAW CONCERNING ACCESS TO INTERNATIONAL PROTECTION

- **Why does the Government refuse to provide access to temporary protection or guarantee other adequate protection under Hungarian law for third country nationals other than Ukrainians who can prove that they were legally residing in Ukraine before 24 February 2022 on the basis of valid permanent residence permit, and who are unable to return in safe and durable conditions to their country or region of origin?**

Background: Government Decree 86/2022. (III. 7.), which was meant to transpose Council Implementing Decision (EU) 2022/382 on the introduction of a common EU temporary protection regime, narrowed the personal scope of temporary protection status and consequently excluded third country nationals other than Ukrainians who resided legally in Ukraine before 24 February 2022, including those who cannot return in safe or durable conditions to their country of origin. Nor has there been any other adequate protection under Hungarian law provided for third country nationals fleeing Ukraine which is in contradiction with Article 2(2) of the Council Decision. The adverse consequences of barring third country nationals from temporary protection are aggravated by the fact that according to the general rules of the current Hungarian asylum system, it has been almost impossible to apply for asylum on the territory or at the border of Hungary since May 2020 (see in detail below). Thus, the current Hungarian legislative framework is at odds with the Council Decision and leaves several groups who had to flee from Ukraine without any valid protection alternatives. These include non-refugee stateless residents of Ukraine (including those under a formal statelessness determination procedure and those already received stateless status in Ukraine) and other third country nationals who were not granted international protection in Ukraine, but who cannot return to their country of origin for having fear of persecution or serious harm or for any other pressing legal or durable practical reason.

Recommendation:

➔ *Incorporate third country nationals who legally resided in Ukraine before 24 February 2022, and who are unable to return in safe and durable conditions to their country or region of origin into the personal scope of temporary protection status or provide other adequate protection for this group of persons of concern under Hungarian law by due legislative transposition of Council Implementing Decision (EU) 2022/382.*

- **How does the Government plan to provide adequate international protection for those persons of concern who are not eligible for temporary protection status pursuant to the Hungarian transposition of the Council Implementing Decision (EU) 2022/382?**

Background: Pursuant to the currently applicable legal framework on accessing the asylum procedure, there is a compulsory precondition for those seeking asylum to submit a statement of intent at the Hungarian embassy in Belgrade or Kyiv. Depending on the approval of the statement of intent, the would-be asylum-seeker is issued with a special travel permit allowing them to travel to Hungary and submit an asylum application there. The European Commission is of the view that by introducing this "embassy system", Hungary unlawfully restricted access to the asylum procedure, and in July 2021, it decided to refer Hungary to the CJEU over it. The case is still pending at the CJEU, and there have been no legislative measures taken by the Government to bring the Hungarian asylum system in line with EU law, which has led to a tangible threat of forced expulsion concerning third country nationals fleeing the war in Ukraine, since those who enter Hungary without an approved statement of intent can be subjected to immediate forced expulsion (push-back) to Serbia.

Push-backs continue despite the CJEU's judgment in case C-808/18 issued in December 2020, stating that the Hungarian legislation and practice regarding push-backs violate EU law, and the European Commission referring Hungary to the CJEU in November 2021 due to the continued non-compliance with judgment. Since the original CJEU judgment was delivered in December 2020, over 107,000 push-backs have been carried out.

As a general practice, third country nationals fleeing the war in Ukraine who are (pursuant to the Hungarian implementation of the Council Decision) not eligible for temporary protection status are granted a 30-day temporary residence permit (renewable for a maximum of 90 day). As soon as the temporary residence permit expires, those who are unable to leave Hungary within the given time frame, are exposed to potential forced expulsion to Serbia according to Hungarian law. Furthermore, given that it is almost impossible to seek international protection in Hungary as a consequence of the currently applicable embassy system, those Ukrainian nationals who resided in Hungary before 24 February 2022 cannot apply for asylum within the territory of Hungary. As a general practice, these Ukrainian nationals are granted tolerated stay (*befogadott*), which entails less rights than the status of any other conventional international protection.

Recommendation:

- ➔ *Take legislative and administrating measures to bring the Hungarian legal framework on accessing the asylum procedure in line with EU law.*
- ➔ *Implement the CJEU's judgment in case C-808/18, and cease push-backs (immediate forced expulsions) to Serbia.*