

**Submission of the Refugee Programme of the Hungarian Helsinki  
Committee**  
**for the periodic visit to Hungary by**  
**the European Committee for the Prevention of Torture and Inhuman or  
Degrading Treatment or Punishment (CPT)**

March 2023

*Edited and expanded for public use*

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## 1. The legalisation of push-backs in Hungary in 2016

Hungary, uniquely in Europe, legalised collective expulsions (push-backs) from its territory to Serbia in 2016. An amendment to the Act on State Borders read:

*„The police may, in Hungarian territory, apprehend foreign nationals staying illegally in Hungarian territory, within an 8-kilometre strip from the line of the external border as defined in Article 2(2) of the Schengen Borders Code or from the signs demarcating the border, and escort them beyond the gate of the nearest facility referred to in paragraph 1 [the border fence], except where they are suspected of having committed an offence.”<sup>1</sup>*

This seemingly minor technical change about “escorts” through a gate in the fence opened up the possibility to *de facto* remove third-country nationals without any further procedure, including identification, documentation, to the Serbian side of the fence. The border fence built first at the Hungarian-Serbian border section, then at the Hungarian-Croatian border section lies a few metres inside the international borders, meaning that about 2-3 metres of the external side of the fence is also Hungarian territory. However, there is nowhere to go from there, but to cross (in an unauthorised manner) to Serbia.

There are gates built into the fence at certain intervals, not located at official border crossings. Those who were apprehended were swiftly brought to the closest gate, where they were made to cross to the external side of the fence before the gate was closed again.

Already in the summer of 2016, the HHC has received consistent and worrying reports of violence that took place before the actual push-back or immediately after it, at the external side of the fence. The first case the HHC was able to document in ample detail took place in early August, 2016. What became the *Shahzad v Hungary* case at the European Court of Human Rights, where the Court ruled in 2021 that Hungary violated the prohibition of collective expulsion.<sup>2</sup>

## 2. Key developments since the last visits of the CPT in 2017 and 2018

During the 2017 visit, in the context of allegations of ill-treatment of foreigners by Hungarian Police officers, the CPT recommended *„once again that the Hungarian authorities take steps without further delay to ensure that all police officers are given a clear and firm message, emanating from the highest political level, that any form of ill-treatment of detained persons, including threats of ill-treatment, as well as any tolerance of ill-treatment by superiors, is unacceptable and will be punished accordingly.”<sup>3</sup>*

Following the 2017 visit, the CPT also recommended in general, regardless of whether these are violent in nature, that Hungary ceases carrying out pushbacks to Serbia: *“the Committee recommends that the Hungarian authorities put an end to the practice of push-backs to the Serbian side of the border and take the necessary steps, including of legislative nature, to ensure that all foreign nationals arriving at the border or present in the territory of Hungary are effectively protected against the risk of*

<sup>1</sup> Section 5 (1a) of Act LXXXIX on State Borders

<sup>2</sup> *Shahzad v Hungary*, app no.12625/17, <https://hudoc.echr.coe.int/eng?i=001-210853>

<sup>3</sup> CPT/Inf (2018) 42, p. 15.

*refoulement, including chain refoulement. In particular, they should have effective access to a procedure which involves an individual assessment of the risk of ill-treatment in the case of expulsion, on the basis of an objective and independent analysis of the human rights situation in the countries concerned.*<sup>4</sup>

The report of the 2018 visit noted regarding the above the “outright refusal of the Hungarian authorities to take action in the light of key recommendations made by the CPT.”<sup>5</sup>

- a. Further restrictions on asylum and criminalisation of human rights defenders

On 1 July 2018, a set of amendments entered into force with the aim to a) further curtail access to asylum and to b) criminalise individuals and organisations providing assistance to asylum-seekers and other migrants.

The July 2018 amendments that criminalised providing assistance to asylum-seekers and other migrants outlawed, among others, carrying out border monitoring at the external Schengen borders.<sup>6</sup> According to the amendment of the Penal Code, such activities are punishable up to one year imprisonment.<sup>7</sup> As the Hungarian Helsinki Committee was the only organisation in Hungary carrying out such activities, and until 2017, under a tripartite agreement concluded between the National Police Headquarters, UNHCR, and the Hungarian Helsinki Committee, it was difficult to see this legislation other than specifically targeting the work the organisation has been carrying out in relation to documenting push-backs since their legalisation in July 2016.<sup>8</sup>

Amendments to the Asylum Act<sup>9</sup> and the Fundamental Law (Hungary’s constitution)<sup>10</sup> introduced a new ground of inadmissibility, a hybrid of the concepts of the safe third country and the first country of asylum, without the procedural guarantees attached to those. Regarding the ‘safe third country’ inadmissibility ground, the recast Asylum Procedures Directive provides that the state deemed to be a safe third country in an individual case shall permit the person to enter its territory. In case this permission is not granted, the application must be examined on its merits.<sup>11</sup> Regarding the ‘first country of asylum’, the recast Asylum Procedures Directive similarly requires that the applicant be readmitted to that country, otherwise the application shall be examined on its merits.<sup>12</sup> The new inadmissibility ground did not require either of these guarantees to be present, thereby allowing for the systemic repetition of the violation of Article 3 of the ECHR as it has been established by the time of its introduction by the chamber judgment of 2017 of the *Ilias and Ahmed v Hungary* case.<sup>13</sup> This new inadmissibility ground, taken into consideration that asylum applications could only have been lodged

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<sup>4</sup> Ibid. p. 18.

<sup>5</sup> CPT/Inf (2020) 8, p. 12.

<sup>6</sup> Section 353/A (5) a) of Act C of 2012 on the Penal Code, see an English translation of the entire criminal provision: <https://helsinki.hu/wp-content/uploads/T333-ENG.pdf>

<sup>7</sup> Section 353/A (2) of Act C of 2012 on the Penal Code, see English translation in footnote 10 above.

<sup>8</sup> Hungarian Helsinki Committee, *Latest amendments „legalise” extrajudicial push-back of asylum-seekers, in violation of EU and international law*, 5 July 2016, <https://helsinki.hu/wp-content/uploads/HHC-info-update-push-backs-5-July-2016.pdf>

<sup>9</sup> Newly introduced Section 51 (2) (f), and newly introduced 51 (12) of Act LXXX of 2007 on Asylum (hereinafter: Asylum Act), English translation available <https://www.helsinki.hu/wp-content/uploads/T333-ENG.pdf> p4.

<sup>10</sup> Amended Article XIV of the Fundamental Law, English translation available at <https://www.helsinki.hu/wp-content/uploads/T332-Constitution-Amendment-29-May-2018-ENG.pdf> p3.

<sup>11</sup> Article 38 of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) (hereafter recast Asylum Procedures Directive).

<sup>12</sup> Article 35 of the recast Asylum Procedures Directive.

<sup>13</sup> *Ilias and Ahmed v. Hungary*, app. no. 47287/15 [Chamber], § 125., <https://hudoc.echr.coe.int/eng/?i=001-172091>

at either of the two transit zones located at the Hungarian-Serbian border, resulted in the automatic rejection of all asylum claims.<sup>14</sup>

The quasi-automatic rejection of all asylum applications coupled with a seemingly minor technical amendment introduced on 28 March 2017 resulted in dramatic changes in the transit zones. The large overhaul of the Hungarian asylum system that entered into force on 28 March 2017 introduced the possibility to conduct aliens policing (removal) procedures in the transit zones as well by permitting the immigration and asylum authority to designate either of the two facilities as the compulsory place of stay for those pending removal from Hungary. However, the corresponding government decree setting out the details of implementation, including the services to be provided at various types of facilities where aliens policing procedures are carried out, simply does not include any provision related to the transit zones. According to the immigration and asylum authority, this meant that those placed under aliens policing procedure inside the transit zones were not entitled to any services except for basic, emergency health care.<sup>15</sup> This understanding of the (lack of) obligations of the authority resulted in the deprivation of food of rejected asylum-seekers, except for pregnant or nursing mothers and children. Between August 2018 and May 2020, the HHC had to request interim measures from the European Court of Human Rights in the case of 34 individuals to ensure that meals are provided while they are placed in the transit zones.<sup>16</sup> The longest deprivation of food lasted for eight days.

Another consequence of the above legislation was the “release” of people from immigration (removal) detention upon reaching the maximum time of detention provided by law to the transit zones, where they continued to be de facto detained.

While the authorities never admitted it, the most likely reason for the above policies was to force applicants to leave the transit zones towards Serbia, without individually assessing the applicants’ situation in Serbia, in particular their access to asylum, and without arranging their entry to Serbia with the Serbian authorities. This return practice was found to be in breach of Article 3 of the ECHR in *Ilias and Ahmed v Hungary* (both by the Chamber in 2017 and by the Grand Chamber in 2019).<sup>17</sup>

In May 2020, following a CJEU judgment that ruled, among others, that placement in the transit zone constitutes unlawful detention, the Hungarian government introduced a new asylum system to replace the transit zone regime, in the form of a decree that was later converted into Act LVIII of 2020 (Transitional Act).<sup>18</sup> The new system essentially introduces a purposefully under-regulated externalised pre-screening system for those wishing to seek protection in Hungary.<sup>19</sup>

As a general rule, asylum-seekers are first required to express their intent to seek international protection at the Hungarian Embassy in Serbia or in Ukraine,<sup>20</sup> before they are able to access the asylum procedures in Hungary (embassy system).<sup>21</sup> As a consequence, most foreigners within the territory of Hungary are summarily denied the possibility of submitting an asylum application and are instead

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<sup>14</sup> For details, see the HHC’s briefing paper *One year After – How legal changes resulted in blanket rejections, refoulement and systemic starvation in detention*, 1 July 2019, available at <https://helsinki.hu/wp-content/uploads/One-year-after-2019.pdf>.

<sup>15</sup> Government Decree No. 114/2007 (V. 24) on the implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals

<sup>16</sup> See list of all cases here:

[https://docs.google.com/spreadsheets/d/10V84xAVREKScFwz4ME\\_2kfpBRV\\_CPqCr7SUKitE2o8/edit#gid=0](https://docs.google.com/spreadsheets/d/10V84xAVREKScFwz4ME_2kfpBRV_CPqCr7SUKitE2o8/edit#gid=0)

<sup>17</sup> *Ilias and Ahmed v. Hungary*, app. no. 47287/15 [GC], § 164 <https://hudoc.echr.coe.int/eng/?i=001-198760>

<sup>18</sup> Government Decree No. 233/2020 (V. 26.), later converted into Act LVIII of 2020 on the transitional rules and epidemiological preparedness related to the cessation of the state of danger (Transitional Act).

<sup>19</sup> For a detailed description of this new system, see HHC’s note *Hungary de facto removes itself from the Common European Asylum System*, 12 August 2020, <https://helsinki.hu/wp-content/uploads/new-Hungarian-asylum-system-HHC-Aug-2020.pdf>

<sup>20</sup> Section 1 of Government Decree No. 292/2020 (VI. 17.).

<sup>21</sup> Sections 267 and 268 of the Transitional Act.

directed to travel to either Serbia or Ukraine,<sup>22</sup> regardless of whether they have the legal right to enter those countries. Only people belonging to the following categories are not required to go through this process:<sup>23</sup>

- Those having subsidiary protection status and are staying in Hungary;
- Family members<sup>24</sup> of refugees and those having subsidiary protection who are staying in Hungary;
- Those subject to forced measures, measures or punishment affecting personal liberty, except if they have crossed Hungary in an illegal manner.

The embassy system does not ensure an effective and genuine access to the asylum procedure in Hungary.<sup>25</sup> Such view is also expressed by UNHCR<sup>26</sup> and the European Commission, which already referred Hungary to the Court of Justice of the European Union (CJEU) in July 2021, arguing that the new embassy procedure is in breach of EU law.<sup>27</sup> The CJEU has already held a hearing on 9 February 2023.<sup>28</sup>

- b. Relevant legal challenges against various elements of the changes to the asylum system

### *Against the new inadmissibility ground*

In a case where the HHC provided legal representation to the applicant, the judge submitted a preliminary ruling request to the Court of Justice of the European Union (CJEU) on the compatibility of the new inadmissibility ground, described above, with EU law. The CJEU ruled on 19 March 2020 that the 2018 amendment to the Asylum Act that introduced a hybrid ground of inadmissibility was in breach of EU law.<sup>29</sup> This judgment put a final end to the automatic rejection of asylum applications and the consequent removals of rejected applicants from the transit zones to Serbia in breach of Article 3 of ECHR.

### *Against the criminalisation of assistance*

The European Commission decided to launch an infringement procedure against Hungary for the criminalisation of assistance. As Hungary refused to repeal the legislation, the European Commission took Hungary to the CJEU which issued its judgment in November 2021.<sup>30</sup> The Court found the Hungarian legislation to be incompatible with EU law, but the government had not acted until December 2022 when it amended the legislation. The completely rewritten section of the Criminal Code continues

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<sup>22</sup> Ukraine is currently not applicable in practice and the HHC is not aware of any statement of intent ever being submitted at the Hungarian Embassy in Ukraine.

<sup>23</sup> Section 5(1) of Government Decree 233/2020. (V. 26.) and Section 271(1) of the Transitional Act.

<sup>24</sup> According to the Section 2(j) of the Asylum Act, family members are only spouses, minor children and children's parents or an accompanying foreign person responsible for them under Hungarian law. Adult children for example, are therefore excluded.

<sup>25</sup> Hungarian Helsinki Committee, *No access to asylum for 18 months. Hungary's dysfunctional embassy system in theory and practice*, 15 December 2021: <https://helsinki.hu/en/wp-content/uploads/sites/2/2021/12/No-access-to-asylum-1.11.2021.pdf>.

<sup>26</sup> UNHCR, Position on Hungarian Act LVIII of 2020 on the Transitional Rules and Epidemiological Preparedness related to the Cessation of the State of Danger, June 2020: [www.refworld.org/docid/5ef5c0614.html](http://www.refworld.org/docid/5ef5c0614.html).

<sup>27</sup> C-823/21, Commission v. Hungary, see also the press release: European Commission, Commission refers Hungary to the Court of Justice of the European Union for unlawfully restricting access to the asylum procedure, 15 July 2021: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_21\\_3424](https://ec.europa.eu/commission/presscorner/detail/en/ip_21_3424).

<sup>28</sup> See the factsheet of case C-823/21: <https://bit.ly/3T9ue3M>.

<sup>29</sup> LH v Bevándorlási és Menekültügyi Hivatal, C-564/18, judgment of 19 March 2020:

<https://curia.europa.eu/juris/document/document.jsf?jsessionid=12E5A3DCB5FC4011E97C1A3FFDB190E9?text=&docid=224585&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=80904>

<sup>30</sup> Judgment of the Court of 16 November 2021 in case C-821/19, *European Commission v Hungary*

to have a chilling effect on providing legal counselling and assistance to asylum-seekers, but the specific mention of border monitoring as a criminal activity has been repealed as of 1 January 2023.<sup>31</sup>

#### *Against the de facto detention in transit zones*

##### European Court of Human Rights

Hungary has requested the referral of the *Ilias and Ahmed* case to the Grand Chamber of the ECtHR. In its judgment, the Grand Chamber turned around the findings of the chamber judgment in relation to Article 5 and found that the placement of the applicants in the Röszke transit zone for less than a month in September 2015 was not in breach of the Convention.<sup>32</sup> However, the Court did find a violation of Article 3 in relation to the removal of the applicants to Serbia.<sup>33</sup>

The ECtHR, following a judgment of the CJEU (see below), assessed the question of detention differently in 5 cases concerning families with children and found a violation of Article 5(1) and (4).<sup>34</sup>

##### Court of Justice of the European Union

In a judgment issued in the preliminary ruling requests where the applicants were represented by the HHC, the CJEU held, among others, that placement in the transit zone as regulated after the changes that entered into force on 28 March 2017<sup>35</sup> (i.e. after the material time of the *Ilias and Ahmed* case of 2015) are in breach of the EU asylum *acquis* and the Charter of Fundamental Rights.<sup>36</sup>

In response to this CJEU judgment, the government, instead of bringing the transit zone system in line with EU law, decided to shut down the facilities using its authorization to rule-by-decree obtained as a result of the COVID pandemic.<sup>37</sup> On 26 May 2020, through a government decree, a completely new system to access the protection determination procedure was introduced (more on this system below).<sup>38</sup>

#### *Against collective expulsions (push-backs)*

##### Court of Justice of the European Union

The European Commission launched an infringement procedure against Hungary as various elements of its asylum system breached EU law. In 2017, the European Commission decided to include in this procedure the amended legalisation of push-backs.

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<sup>31</sup> For more on the amended criminal section, including an unofficial English translation, see HHC's briefing note *Criminalisation continues – Hungary fails to implement CJEU judgment*, 21 December 2022, <https://helsinki.hu/en/wp-content/uploads/sites/2/2022/12/Criminalisation-continues.pdf>

<sup>32</sup> *Ilias and Ahmed v. Hungary*, app. no. 47287/15 [GC], § 249 <https://hudoc.echr.coe.int/enq?i=001-198760>

<sup>33</sup> *Ilias and Ahmed v. Hungary*, app. no. 47287/15 [GC], § 164 <https://hudoc.echr.coe.int/enq?i=001-198760>

<sup>34</sup> On why the 28 March 2017 changes must have prompted the ECtHR to assess the issue of detention differently than in the *Ilias and Ahmed* case, see HHC's note *Findings of the Grand Chamber Judgment of the ECtHR in the Ilias and Ahmed v. Hungary case in light of the current legal framework*, 27 November 2019, <https://helsinki.hu/wp-content/uploads/Ilias-and-Ahmed-GC-in-2019-legal-framework.pdf>. In 2022 alone, the ECtHR ruled that placement in the transit zone constitutes detention, in the following cases concerning families with minor children: *M.B.K. and Others v. Hungary*, appl.no. 73860/17, 24 February 2022, *A.A.A. and Others v. Hungary*, appl. no. 37327/17, 9 June 2022, *W.O. and Others*, appl.no. 36896/18, 25 August 2022 and *H.M. and Others v. Hungary*, appl. no. 38967/17, 2 June 2022.

<sup>35</sup> For a summary of the key changes, see HHC's briefing note *Law on automatic detention of all asylum seekers in border transit zones enters into force*, 28 March 2017, <https://helsinki.hu/wp-content/uploads/HHC-Info-Update-rule39.pdf>

<sup>36</sup> Judgment of the Court of 14 May 2020 in joint cases C-924/19 PPU and C-925/19 PPU, *FMS, FNZ, SA, SA junior v Országos Idegenrendészeti Főigazgatóság Dél-Alföldi Regionális Igazgatóság, Országos Idegenrendészeti Főigazgatóság*, <https://curia.europa.eu/juris/document/document.jsf?text=&docid=226495&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=2912028>

<sup>37</sup> For more on this authorization see HHC's note *Background note on Act XII of 2020 on the Containment of the Coronavirus*, 31 March 2020, [https://helsinki.hu/wp-content/uploads/HHC\\_background\\_note\\_Authorization\\_Act\\_31032020.pdf](https://helsinki.hu/wp-content/uploads/HHC_background_note_Authorization_Act_31032020.pdf)

<sup>38</sup> Government Decree 233/2020. (V. 26.) on the rules of the asylum procedure during the state of danger declared for the in Hungarian: [http://njt.hu/cqi\\_bin/njt\\_doc.cgi?docid=219700.383485](http://njt.hu/cqi_bin/njt_doc.cgi?docid=219700.383485). An unofficial English translation: [https://www.helsinki.hu/wp-content/uploads/Government-Decree-no.-233\\_2020-on-the-rules-of-the-asylum-procedure-during-the-state-of-danger.pdf](https://www.helsinki.hu/wp-content/uploads/Government-Decree-no.-233_2020-on-the-rules-of-the-asylum-procedure-during-the-state-of-danger.pdf)

Originally introduced on 5 July 2016, the law prescribed that any unlawfully staying third-country national (with the exception of those who are suspected of having committed a criminal offence) found within an 8-km zone from the border fence (built on the Hungarian-Serbian and Hungarian-Croatian border sections) are to be immediately “escorted” to the external side of the fence without any individualised procedure or formal decision.<sup>39</sup> Amendments that entered into force on 28 March 2017 extended the area from which these push-backs can be carried out to the entire territory of Hungary<sup>40</sup> once the government declared a “state of crisis due to mass migration”.<sup>41</sup>

On 17 December 2020, the CJEU delivered its judgment in the infringement procedure, ruling, among others, that the legalisation of collective expulsions from the entire territory of Hungary breach EU law.<sup>42</sup>

Following the judgment, the Minister of Justice, acting on behalf of the Hungarian Government, turned to the Hungarian Constitutional Court requesting the abstract interpretation of the European clause (Article E (2)) and Article XIV (4) of the Fundamental Law (the Hungarian Constitution).<sup>43</sup> The motion argues that the implementation of the CJEU judgment would breach the Hungarian Fundamental Law, as in practice it would result in unlawfully staying foreigners remaining on the territory of Hungary for an indefinite period of time, thereby becoming a part of the population. According to the motion, this is in violation of Hungary’s sovereignty and its self-identity based on the historical constitution. The HHC submitted an *amicus curiae* arguing that the motion shall be dismissed.<sup>44</sup> The Constitutional Court ruled in December 2021 that “where the joint exercise of competences is incomplete, Hungary shall be entitled, in accordance with the presumption of reserved sovereignty, to exercise the relevant non-exclusive field of competence of the EU, until the institutions of the European Union take the measures necessary to ensure the effectiveness of the joint exercise of competences.”<sup>45</sup>

The European Commission decided to bring Hungary back to the CJEU for not implementing the December 2020 judgment, requesting the Court to impose fines, on 12 November 2021.<sup>46</sup> The case is pending at the CJEU at the time of the submission of this report.

#### European Court of Human Rights

The HHC represents a number of applicants at the ECtHR related to their collective expulsion from Hungary. Until the submission of this report, the Court has ruled in three such cases. It found a violation of Article 4 Protocol 4 in two:

- *Shahzad v Hungary*, application no. 12625/17<sup>47</sup>;
- *H.K. v Hungary*, application no. 18531/17<sup>48</sup>

<sup>39</sup> For more on the so-called ‘8-km rule’, see HHC’s note *Latest amendments legalise extrajudicial push-back of asylum-seekers in violation of EU and international law*, 5 July 2016, <https://helsinki.hu/wp-content/uploads/HHC-info-update-push-backs-5-July-2016.pdf>

<sup>40</sup> See footnote 21 above.

<sup>41</sup> For more on this semi-special legal order introduced in 2015, see HHC’s background note on the various semi- and real special legal orders declared by the Hungarian government since 2015, *Government gains excessive powers from forever renewable state of danger*, 24 February 2023, [https://helsinki.hu/en/wp-content/uploads/sites/2/2023/02/HHC\\_Hungary\\_state\\_of\\_danger\\_24022023.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2023/02/HHC_Hungary_state_of_danger_24022023.pdf), p5.

<sup>42</sup> Judgment in case C-808/18, *European Commission v Hungary*, § 315, <https://curia.europa.eu/juris/document/document.jsf?text=&docid=235703&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=251689>

<sup>43</sup> Case X/00477/2021, see the official English summary of the case and the decision on the Constitutional Court’s website: <http://public.mkab.hu/dev/dontesek.nsf/0/1DAD915853CBC33AC1258709005BB1A1?OpenDocument&english>

<sup>44</sup> See the English translation of the submission: [https://helsinki.hu/en/wp-content/uploads/sites/2/2021/12/Amicus\\_curiae\\_EN\\_final.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2021/12/Amicus_curiae_EN_final.pdf)

<sup>45</sup> Decision of the Constitutional Court in case X/477/2021, of 7 December 2021, official English translation: [https://hunconcourt.hu/uploads/sites/3/2021/12/x\\_477\\_2021\\_eng.pdf](https://hunconcourt.hu/uploads/sites/3/2021/12/x_477_2021_eng.pdf) p1.

<sup>46</sup> Case C-123/22, casefile on the Court’s website: <https://curia.europa.eu/juris/liste.jsf?num=C-123/22> Press release of the European Commission of 12 November 2021 on referral to Court: [https://ec.europa.eu/commission/presscorner/detail/EN/IP\\_21\\_5801](https://ec.europa.eu/commission/presscorner/detail/EN/IP_21_5801)

<sup>47</sup> Judgment in case 12625/17 of 8 July 2021, becoming final on 8 October 2021 after the Government’s request of referral to the Grand Chamber was refused: <https://hudoc.echr.coe.int/eng?i=001-210853>

<sup>48</sup> Judgment in case 18531/17 of 22 September 2022, <https://hudoc.echr.coe.int/eng?i=001-210853>



It found one case inadmissible on the lack of evidence substantiating that the applicant has ever been to Hungary.<sup>49</sup>

The Committee of Ministers examines the execution of *Shahzad* judgment together with the *Ilias and Ahmed* judgment (see above). In their latest decision, the Deputies have “strongly reiterated their call on the [Hungarian] authorities to terminate the practice of removing asylum-seekers to Serbia pursuant to Section 5 of the State Borders Act without their identification or examination of their individual situation” and invited the Hungarian government to submit an updated action plan by 31 March 2023.<sup>50</sup> At the time of the submission of this report, no updated action plan has been published.

### 3. *The situation of people fleeing from Ukraine*

The Russian invasion of Ukraine took place in the context of the embassy system on the one hand, and the legalisation of collective expulsions on the other hand, as described in details above. In order to tackle this untenable situation at least related to those fleeing from the war, the government issued a decree on 24 February 2022 that entered into force at 10 pm the same day, declaring that those meeting either of the following criteria can enter Hungary directly from Ukraine and request temporary protection:<sup>51</sup>

- Ukrainian citizens regardless of the documents they possess directly entering Hungary from Ukraine;
- Third-country nationals who stay lawfully in Ukraine and directly enter Hungary from Ukraine.

This government decree ensured that while applying for asylum remained impossible for those fleeing Ukraine, their entry and stay was lawful and could be regularized, thus avoiding the collective expulsions to Serbia.

On 7 March 2022 this government decree was repealed with retroactive effect and replaced by another one,<sup>52</sup> supposedly aimed at implementing the Implementing Decision of the Council of the European Union of 4 March 2022 that triggered the EU Temporary Protection scheme.<sup>53</sup> However, the decree defined the personal scope of the EU temporary protection in a narrower manner than the Council Implementing Decision and excluded those non-Ukrainian citizens with a valid long-term residency permit in Ukraine who cannot return to their country of origin.<sup>54</sup>

Based on the HHC’s information from monitoring visits and providing legal counselling and representation, those fleeing from Ukraine but not clearly falling under the personal scope of the government decree are provided with a humanitarian residence permit valid for 30 days after registration by the Police. In case the person does not leave Hungary and an aliens policing (removal) procedure is initiated against them, the National Directorate-General for Aliens Policing (NDGAP) may

<sup>49</sup> Decision of the Court (First Section) of 9 March 2023, R.D. v Hungary, applicatino no. 17695/18: <https://hudoc.echr.coe.int/eng?i=001-223622>

<sup>50</sup> 1443<sup>rd</sup> meeting of the Committee of Ministers, 20-22 September 2022, <https://hudoc.exec.coe.int/eng?i=004-54279>

<sup>51</sup> Government Decree 56/2022. (II. 24.) on derogations from the temporary rules on asylum procedures set out in Act LVIII of 2020 on Transitional Provisions related to the Termination of the State of Danger and on Epidemiological Preparedness, available in Hungarian: <https://net.jogtar.hu/jogszabaly?docid=A2200056.KOR&dbnum=1>

<sup>52</sup> Government Decree 86/2022 (III. 7.) on emergency rules for persons recognised as beneficiaries of temporary protection and on the different application of the rules of Act CVI of 2011 on public employment and amending other acts related to public employment, available in Hungarian: <https://njt.hu/jogszabaly/2022-86-20-22.1#SZ2@BE2>

<sup>53</sup> Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/EC, and having the effect of introducing temporary protection, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022D0382>

<sup>54</sup> For a detailed comparison, see HHC’s note *War in Ukraine – Protection Situation in Hungary, update of 8 March 2022*, [https://helsinki.hu/en/wp-content/uploads/sites/2/2022/03/War-in-Ukraine\\_0803update.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2022/03/War-in-Ukraine_0803update.pdf) pp. 1-2.

find that their return to their country of origin would be in breach of the prohibition of *refoulement* and grant them tolerated stay. Neither the 30-day humanitarian residence permit nor the tolerated stay status grants access to services (e.g. to education or health care apart from emergency care) or the right to work.

For the most part of 2022, the Hungarian authorities allowed anyone to enter Hungary at official border crossing points between Hungary and Ukraine, regardless of the migratory status of the person, their citizenship, or the documents they possessed, if any. However, the HHC is aware of a number of cases where Ukrainian Roma were (attempted to be) turned back, mainly at the train station at the Záhony border crossing. In several instances, the HHC monitoring teams on site successfully intervened in such incidents to stop the returns to Ukraine.

In late January 2023, practice has changed at border crossings: the HHC is aware of an increasing number of cases where non-Ukrainian citizens not in possession of a permanent Ukrainian residence permit attempting to enter at one of the official border crossing points at the Ukrainian-Hungarian border received refusal of entry decisions. Moreover, the HHC is aware of a case where a person was refused entry despite holding a valid permanent residence permit. What seems to be the practice is that regardless of being in possession of a valid permanent residence permit, if the person has left Ukraine after 24 February 2022 and went back there again, and does not fulfil the regular entry requirements to Hungary, is refused entry at the border. The HHC attempted several times to clarify the new practice and its legal basis, but the Police rejected the requests.

On 16 March 2023, the HHC has received a copy of a response received by a client of ours, issued by the head of the Záhony Border Outpost of the Police. According to the letter, non-Ukrainian citizens fleeing from Ukraine who do not meet the general requirements of entry set out in the Schengen Borders Code,<sup>55</sup> must “certify” that they resided lawfully in Ukraine on or before 24 February 2022 and that they have not left Ukraine following 24 February 2022 and must be in possession of valid travel documents.<sup>56</sup> The letter does not refer to any change in legislation or to the existence of internal memorandums or orders that would provide the basis for this change of practice.

Finally, on 27 March 2023, the Police admitted that new rules are in place, but failed to reference the legal basis of the introduction of those changes. Based on the letter, besides the criteria mentioned above, regardless of their citizenship and type of document they might possess, those having an entry ban issued by another EU member state, as well as those who received an entry ban from the Hungarian authorities for national security or public safety reason.

The letter also states that in case a person who otherwise would not be allowed to enter based on the above signals their wish to seek asylum or temporary protection and the risk of *refoulement* is established by the asylum authority, the person must be transferred to the asylum detention facility in Nyírbátor.

In case a non-Ukrainian third country national crosses the border illegally, an aliens policing procedure must be conducted. If the *non-refoulement* assessment permits their return to Ukraine, the person must be handed over to the Ukrainian authorities under the EU-Ukraine readmission agreement. A Ukrainian citizen “*must*” be returned to Ukraine under the EU-Ukraine readmission agreement in case

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<sup>55</sup> Article 6 of Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32016R0399>

<sup>56</sup> In case the CPT requests, the letter can be shared with the delegation



the *non-refoulement* assessment permits so, and the person received an entry ban from another EU member state, or from Hungary for national security or public safety reason.

The risk of *refoulement* to Ukraine is present for Ukrainian citizens who arrived to Hungary prior to the start of the war as they are ineligible for temporary protection as well. The HHC is aware of cases where the NDGAP assessed that there is no risk of *refoulement* present in returning people to Ukraine whose residence permit applications have been rejected. In one such case, the person was supposed to return to the Crimean peninsula while holding Ukrainian citizenship.

#### 4. Relevant official statistical data

##### a. On the embassy system

Month	Statements of intents submitted in Belgrade <sup>13</sup>	Statements of intent received by NDGAP from the embassy	Positive "recommendations"	Negative "recommendations"	Pending (at the end of the month)
<b>May 2020</b>	0	0	0	0	0
<b>June</b>	0	0	0	0	0
<b>July</b>	7	7	0	0	7
<b>August</b>	7	7	0	7	7
<b>September</b>	3	8	0	7	8
<b>October</b>	4	4	0	0	12
<b>November</b>	0	0	4	4 <sup>57</sup>	12 <sup>58</sup>
<b>December</b>	0	0	0	4	4
<b>January 2021</b>	0	0	0	0	0
<b>February</b>	11	15	0	0	15
<b>March</b>	13	9	0	0	24
<b>April</b>	2	2	4	10	11
<b>May</b>	11	11	0	10	12
<b>June</b>	5	5	0	12	4
<b>July</b>	4	4	0	4	4
<b>August</b>	5	5	0	0	9
<b>September</b>	1	1	4	0	6
<b>October</b>	2	0	0	6	0
<b>November</b>	1	1	0	0	25 <sup>59</sup>
<b>December</b>	0	0	0	0	25
<b>January 2022</b>	2	2	0	0	2
<b>February</b>	1	1	0	0	3
<b>March</b>	0	0	0	0	0
<b>April</b>	2	2	0	0	1
<b>May</b>	0	0	0	1	0
<b>June</b>	0	0	0	0	0
<b>July</b>	4	3	0	0	n.d.
<b>August</b>	0	0	0	0	n.d.
<b>September</b>	4	5	0	0	n.d.
<b>October</b>	0	0	0	0	n.d.
<b>November</b>	3	3	0	4	n.d.
<b>December</b>	0	0	4	1	2
<b>TOTAL<sup>60</sup></b>	<b>92</b>	<b>95</b>	<b>16</b>	<b>70</b>	n.a.

<sup>57</sup> The National Directorate-General for Aliens Policing provided the data for November and December 2020 in bulk, without monthly breakdown.

<sup>58</sup> The NDGAP provided the number of pending statements for the first day of the month as opposed to the last day of the month in all other cases

<sup>59</sup> Data provided for 1 November and 1 December respectively

<sup>60</sup> The HHC is not in a position to explain the discrepancies in the data provided by the Ministry of Foreign Affairs and Trade and the NDGAP. The HHC does not have an answer to the difference between the total number of statement of intents received by the NDGAP (95) and the total number of „recommendations” it issued (16+70=86).



b. On registered asylum applications and granted protection statuses<sup>61</sup>

Year	Registered first-time asylum applications	Granted protection statuses	Rejections
2017	3397	1216 (106 refugee, 1110 subsidiary protection)	2880 (58%)
2018	671	350 (70 refugee, 280 subsidiary protection)	590 (62%)
2019	468	53 (22 refugee, 31 subsidiary protection)	650 (92%)
2020	92	126 (83 refugee, 43 subsidiary protection)	346 (73%)
2021	38	38 (21 refugee, 17 subsidiary protection)	19 (33%)
2022	44	30 (10 refugee, 20 subsidiary protection)	8 (21%)

c. On temporary protection<sup>62</sup>

Temporary protection applications	Granted temporary protection	Rejected
33 273	29 847	1 157

d. On readmissions to Serbia<sup>63</sup>

Year	Readmissions under the readmission agreement
2017	279
2018	333
2019	236
2020	280
2021	506
2022	399

e. Push-backs<sup>64</sup>

Year	Push-backs from Hungary to Serbia
2017	9 142
2018	4 285
2019	13 170
2020	29 643
2021	72 787
2022	158 565
<b>Total</b>	<b>287 662</b>

<sup>61</sup> Source: the asylum authority (NDGAP and its predecessors), in response to HHC's freedom of information requests

<sup>62</sup> Source: NDGAP in response to HHC's freedom of information request, until 31 December 2022.

<sup>63</sup> Source: Police, data pertains to readmissions carried out under the official readmission agreement. Note that Serbia refuses to readmit non-Serbian citizens since September 2015, except in cases where the person possess valid travel documents and meet the entry requirements to Serbia. See also the submission of the minister of justice to the Constitutional Court: [http://public.mkab.hu/dev/dontesek.nsf/0/1dad915853cbc33ac1258709005bb1a1/\\$FILE/X\\_477\\_3\\_2021\\_%C3%A1II%C3%A1sfoglal%C3%A1s\\_IM.002.pdf/X\\_477\\_3\\_2021\\_%C3%A1II%C3%A1sfoglal%C3%A1s\\_IM.pdf](http://public.mkab.hu/dev/dontesek.nsf/0/1dad915853cbc33ac1258709005bb1a1/$FILE/X_477_3_2021_%C3%A1II%C3%A1sfoglal%C3%A1s_IM.002.pdf/X_477_3_2021_%C3%A1II%C3%A1sfoglal%C3%A1s_IM.pdf) p.2.

<sup>64</sup> Source: Police

## 5. Typology of push-backs

Because Hungary legalised push-backs, all third-country nationals found to be staying unlawfully on the territory of the country are to be pushed “back” to Serbia. This means in practice that those pushed back are not necessary migrants who entered the country from Serbia or that they were pushed back to Serbia practically immediately after they entered Hungary unlawfully. Thus, apart from the distinction between violent and non-violent push-backs, other distinctions can be made based on

- the location where apprehensions resulting in push-backs take place;
- whether the person removed from Hungary has been to Serbia prior to their push-back; and
- whether the person has had any prior procedures (asylum or aliens policing) in Hungary
- whether the person arrived lawfully to Hungary.

Below are indicative examples of cases where the push-back took place in circumstances other than the almost immediate apprehension of the affected person following their crossing of the Hungarian-Serbian border.

### (1) Chain push-back from Austria to Hungary then to Serbia

The HHC is representing a person, at the time of the events an unaccompanied minor, who was chain pushed back from Austria to Serbia. The unaccompanied minor was handed over by the Austrian police to their Hungarian counterparts at the Austrian-Hungarian border after he asked for asylum and was told that he was being taken to a childcare facility. The young boy was then briefly detained by the Hungarian authorities close to the Austrian-Hungarian border. During his brief detention, he was identified as an unaccompanied minor by the Police, and he wrote down in broken English that he wants to seek asylum. Nonetheless, he was removed to the Serbian side of the border fence, despite him never being in Serbia before.<sup>65</sup>

### (2) Push-back from the international airport in Budapest

The HHC is representing several people who arrived to the Budapest airport with forged passports from war-zones. Upon arrival, they immediately sought asylum. After a brief period of detention at the airport, they were all removed to the Serbian side of the border fence, despite never having been there previously. One of the families consisted of a single mother with small children, one of them with visible disability. This particular family was removed to the Serbian side in the middle of the night and spent over a day and an entire night wandering in the forests before they found a city.<sup>66</sup>

### (3) Push-back after failed official deportation to the country of origin

The HHC is representing several people whose asylum applications were rejected and who were issued with a deportation order to their country of origin. After their deportation failed, the authorities removed them from the facilities where they were kept and transferred them to one of the gates of the border fence and subsequently pushed them back to Serbia.<sup>67</sup>

### (4) Push-back after having arrived lawfully on the territory

The HHC is representing for example a young man from Afghanistan who arrived to Hungary on a student visa. His visa expired not long before the fall of Kabul to the Taliban in August 2021. As close family members held high-ranking positions in the Ghani government, he feared of being returned to Afghanistan and thus went to the asylum authority’s office in Budapest to submit an asylum application. The authority took the man’s asylum application and passport as per a regular asylum procedure. The next day, he was requested to appear at the same office the day after. He arrived at the designated

<sup>65</sup> See a short documentary on his case in English: [https://www.helsinki.hu/en/world-refugee-day-1-out-of-40000-karox/Communicated case of K.P. v. Hungary, application no. 82479/17](https://www.helsinki.hu/en/world-refugee-day-1-out-of-40000-karox/Communicated%20case%20of%20K.P.%20v.%20Hungary,%20application%20no.%2082479/17)

<sup>66</sup> Communicated cases *S.S. and Others v. Hungary*, application no. 56417/19 and *F.W. and Others v. Hungary* 44245/20

<sup>67</sup> See a UNHCR statement on such a push-back at UNHCR, *Hungary’s coerced removal of Afghan families deeply shocking*, 8 May 2019, <https://www.unhcr.org/news/press/2019/5/5cd3167a4/hungarys-coerced-removal-afghan-families-deeply-shocking.html>, communicated case of *Arab v. Hungary*, application no. 60778/19

time only to be informed that his application was rejected without an in-merit examination and he was immediately handed over to the Police. The Police, on the same day, pushed him “back” to Serbia, a country he has never been before.<sup>68</sup>

#### (5) Push-back from a medical institution

The HHC is representing a number of people who, following a serious incident, were taken to hospital in Hungary. After receiving emergency care, people are released “to their home” according to medical files seen and obtained by the HHC. However, these people are obviously unable to recover “at home” as they are immediately removed to Serbia. The HHC represents for example a young man from Morocco who had to undergo, among others, skin replacement surgery on one of his thighs following a hit-and-run accident in Hungary. When he was released from hospital, he still could not walk on his own. According to his testimony, he was made to crawl through the gate in the fence during his push-back. He was treated subsequently in the hospital in Subotica (Serbia) after not being able to change bandages for days. This particular man entered Hungary from Romania where he was registered and his fingerprints were recorded. Had the Hungarian authorities perform any individual procedure, this information would have come to light.

#### (6) Push-back from the Ukrainian border to Serbia

The HHC has been informed from four separate sources that occasionally, non-Ukrainian citizens fleeing Ukraine were pushed back to Serbia. The HHC has been unable to independently verify any of these claims. However, based on the diversity of the sources and the detailed description of facilities, as well as images of the persons taken in Ukraine and posted on social media make at least the likelihood of such incidents high.

### 6. Violent push-backs

Since the legalisation of push-backs in July 2016, the HHC has been receiving testimonies of violence perpetrated by law enforcement agents during (and in some cases, immediately after) collective expulsions were carried out. Until the summer of 2018, when border monitoring became a crime punishable up to 1 year imprisonment, the HHC meticulously collected evidence in individual cases before filing a criminal complaint on behalf of the victim(s). Not a single one of these investigations resulted in pressing charges and eventually, all were terminated by the prosecution.

The HHC is representing applicants at the ECtHR for the ineffectiveness of the investigation in a number of cases. Chronologically, the first such case originates just from before push-backs were legalised in Hungary. In *Alhowais v Hungary*, the Court held that the investigation into the death of the applicant’s brother was inadequate.<sup>69</sup> That there are systemic problems with investigations into allegations of police ill-treatment is attested by the status of the implementation of the *Gubacsi* groups of cases.<sup>70</sup>

This track record of investigations into police ill-treatment coupled with the dehumanising narrative<sup>71</sup> surrounding migrants in general and refugees in particular since 2015 is a hotbed of violence, particularly violence with impunity.

<sup>68</sup> See an article in English on this case: <https://telex.hu/english/2021/09/30/english-refugee-afghanistan-taliban-hungarian-helsinki-committee>, communicated case of *H.Q. v. Hungary*, application no. 46084/21.

<sup>69</sup> Application no. 59435/17, <https://hudoc.echr.coe.int/eng?i=001-222791>

<sup>70</sup> See the case file at <https://hudoc.exec.coe.int/eng?i=004-10515> For detailed statistical data, see the HHC’s latest Rule 9 submission to the Committee of Ministers of 26 October 2022, [https://helsinki.hu/en/wp-content/uploads/sites/2/2022/10/HHC\\_Rule\\_9\\_Gubacsi\\_v\\_Hungary\\_26102022.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2022/10/HHC_Rule_9_Gubacsi_v_Hungary_26102022.pdf)

<sup>71</sup> For a number of examples of government-sponsored campagings against refugees, see the HHC’s submission to regarding the 18th to 25th periodic reports of Hungary to the UN Committee on the Elimination of Racial Discrimination at its 98th session (April-May 2019), <https://helsinki.hu/wp-content/uploads/HHC-submission-to-CERD-2019.pdf> pp. 9-10., as well as he

a. Potential perpetrators

#### Hungarian Defence Forces

The state of crisis due to mass migration allows the deployment of the Hungarian Defence Forces (HDF) to assist the Police with border and migration management with the right to bear arms. The HDF is deployed at the Serbian-Hungarian border since the autumn of 2015. Following the Russian invasion of Ukraine in February 2022, their presence was reduced in order to transfer troops elsewhere, but military units remain serving at the Serbian border.

Until 2021, the HHC has received only sporadic claims of violence perpetrated by officers of the HDF. On the contrary, many victims of violence claimed that if officers of the HDF appeared at the site of violence, the perpetrators stopped. This has changed during late autumn 2021: since then, claims of violence committed by officers of the HDF is rising. During the latest visit of the HHC to Northern Serbia in early March 2023, victims of violence claiming to have been severely beaten by officers of the HDF, when providing very detailed descriptions of the uniforms and answering specific follow-up questions, seem to have described a uniform consistent with field guards of *Ásotthalom* (see below) and not with the HDF.

#### Police

Hungary does not have an independent border police, it was integrated into the Police during Hungary's accession to the European Union. As push-backs (and consequently, violence during those measures) can take place from the entire territory of Hungary, it is not possible to limit perpetrators of violence to certain sub-units or departments. However, one sub-unit is worth special mention for their lack of training as well as for their specific duties related to migration management and border control.

Border hunters ("*határvasász*") units were set up in September 2015, first consisting of units of the Rapid Response and Special Police Service ("*készenléti rendőrség*") deployed in the countryside and students of police training high schools who successfully concluded their first-year exams.<sup>72</sup> Original plans included the recruitment (that is, placement of first year students) of almost 4 000 border hunters. In August 2016, the government decided to recruit 3 000 border hunters: first, new recruits had to undergo a six-months basic training before being allocated to patrols of the Rapid Response and Special Police Service carrying out border protection. However, within 14 months, less than 4 000 people applied, out of which 1 132 finished the six-months training successfully.<sup>73</sup> The simplified and shortened training made the border hunter position popular in areas of high unemployment rate being one of the very few opportunities to find employment.<sup>74</sup> Border hunters had no specific insignia to distinguish them from regular police members of the Rapid Response and Special Police Service until 2022, thus the HHC cannot provide irrefutable evidence of them being more violent than other members of the law

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Concluding observations on the combined 18th to 25th periodic reports of Hungary of the Committee on the Elimination of Racial Discrimination, 6 June 2019, CERD/C/HUN/CO/18-25, especially paras 8-9, 16-17 and 22-23.:

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsnBPZR%2bma7tJoQMjUUJGralEB8ByvxCL0FoA9GiWZtIFxmGLZ0Z5R1yIPqxMdqHU%2fdYqBmwR9tn1ICAcCkuH7c4tnI3ILV67wG%2bLp%2fhzF32jiiT5zLhayJVnZvXW MJL1ThA%3d%3d>

<sup>72</sup> <https://infostart.hu/belfold/2015/08/26/rendeszeti-szakkozepiskolasok-lesznek-a-hatarvasaszok-752186#>

<sup>73</sup> Response of the Minister of Interior to a question of a Member of Parliament, 6 October 2017, available on the Parliament's website: <https://www.parlament.hu/irom40/17456/17456-0001.pdf>

<sup>74</sup> For a study on this, see Dsupin, O. *Határvasászok toborzása és képzése*. [Recruitment and training of border hunters] *Hadtudomány* [Military Science], 2017. 3-4., p. 86., DOI 10.17047/HADTUD.2017.27.3-4.85



enforcement. However, consistent anecdotal evidence the HHC obtained from sources within the law enforcement agencies strongly suggest so.

In 2022, the legal framework regulating border hunters has changed: the government, using its authorization obtained through the special legal order, issued a decree establishing border hunter companies,<sup>75</sup> then another one on the specific entry requirements<sup>76</sup> and training requirements.<sup>77</sup> One of the most important changes was the weakening of certain requirements to apply for becoming a border hunter, most notably, that only the successful completion of elementary school is necessary.<sup>78</sup> Since this legal formalisation of border hunters, a specific uniform was also introduced for those serving in the border hunter companies. Previously, border hunters assigned to patrol with members of the Rapid Response and Special Police Service wore the same uniform. Although the difference in the uniforms is not significant, but may allow for better identification of perpetrators in the future.

#### Foreign law enforcement officers

Since CPT's last visit, under various agreements in different formats, non-Hungarian law enforcement officers continue to participate in border protection measures. There is no publicly available data on the actual number or citizenship of such foreign officers, nor information available on the precise mandate and modalities of their activities in Hungary. While retaining sensitive information for the purposes of security can be justified, the total lack of transparency does not contribute to activities that are in compliance with the Convention.

Following the CJEU judgment regarding Hungary's breach of EU law by legalising push-backs, the HHC pushed successfully for the suspension of Frontex activities.<sup>79</sup> Until the Agency's decision to pull out of land operations in Hungary, the HHC has not received complaints specifically against Frontex officers. However, a small number of testimonies claimed that Frontex officers were present during or immediately after violence took place. Due to lack of further details, the HHC could not formally follow-up any of these cases.

Apart from Frontex officers, based on media reports, government statements, testimonies and evidence collected in individual cases, as well as the personal observation of HHC staff, a number of countries provide patrols to assist border protection efforts in Hungary. Common to these is the absolute lack of transparency surrounding the deployments and mandates and the actual modalities (e.g. are these foreign patrols assigned to Hungarian counterparts or they act alone; are they participating in transfers to the Serbian border; etc.). For example in the *Shahzad* case, 2 Slovak officers participated at the actual push-back, according to video evidence obtained during the criminal investigation into the ill-treatment.

Currently, the HHC is aware of the following international presence:

- A special tripartite agreement between Hungarian, Austrian, and German (or potentially only Bavarian) police officers patrolling specifically the Budapest-Vienna train line. A HHC member of staff traveling on the train in November 2022 saw how a group of officers acting together from these countries requested travel documents only from passengers with a darker skin. One man was identified as unlawfully staying in Hungary and was removed from the train with the assistance of Austrian and German patrols.

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<sup>75</sup> Government decree 244/2022 (VII. 8.) on the rules pertaining to border hunter companies belonging to the ranks of agency established for the purposes of general policing

<sup>76</sup> Decree of the Ministry of Interior 19/2022 (VII. 15.) on the contracted border hunters

<sup>77</sup> Decree of the Ministry of Interior 23/2022 (VII. 29.) on the training and exams of contracted border hunters

<sup>78</sup> See the detailed list of requirements on the Police's website:

[https://www.police.hu/sites/default/files/3.%20Jelentkez%C3%A9si%20felt%C3%A9telek\\_0.pdf](https://www.police.hu/sites/default/files/3.%20Jelentkez%C3%A9si%20felt%C3%A9telek_0.pdf)

<sup>79</sup> <https://www.politico.eu/article/eu-border-agency-frontex-suspends-operations-in-hungary-migration/>



- Turkish, Czech, Polish, Austrian, Italian police officers patrolling in Southern Hungary together with Hungarian police officers.
- Austrian police officers being present at the immediate vicinity of the border fence at the Hungarian-Serbian border.
- Austrian and Hungarian police officers jointly patrolling at the Hungarian-Austrian green border.

The above information is based on media reports, testimonies (cross-checked through different visits) and individual observations. The Hungarian Police officially admitted to the presence of Turkish police officers at the Southern border sections in September 2022.<sup>80</sup>

#### Field Guards

Field guards ("mezőőr") are a special law enforcement unit that can be established by local municipalities. The law strictly specifies the purposes of establishing such units as well as the limits of the scope of their activities: protection of agricultural land within the administrative boundaries of the municipality, excluding fishing lakes and forests.<sup>81</sup> Field guards are tasked with the protection of agricultural lands, including valuables, animals, food and goods belonging to those lands.<sup>82</sup> Field guards must notify the police in case a crime or a misdemeanour, falling outside the scope of their above described duties, comes to their notice but are not entitled to carry out any policing measures.<sup>83</sup>

The previous mayor of Ásotthalom, Mr László Toroczkai (currently a member of Parliament for far-right party Mi hazánk of which he also serves as its president) regularly documented how field guards of Ásotthalom are apprehending and detaining migrants on his social media page, until it was deleted and his page was banned.<sup>84</sup> In fact, the HHC is representing an applicant at the ECtHR where the evidence that the then-unaccompanied minor, prior to suffering serious injuries to his head, had been apprehended by and was in the custody of field guards, comes from this now defunct social media site.<sup>85</sup> That field guards of Ásotthalom continue to unlawfully carry out apprehensions and actively participate in border protection measures is also clear from a 17 minute video, posted by Mr Toroczkai on his Youtube channel on 12 September 2021.<sup>86</sup>

As noted above regarding the potential participation of HDF officers in violence against migrants, the uniform worn by field guards, also seen in this video, is very similar to those of the HDF, especially for people who are not familiar with the differences and meet people wearing either of these uniforms during the dark, while in distress. A so-called public interest complaint was filed following the publication of the video, arguing that field guards do not have the right to carry out border protection measures. On second instance, the Szeged Court changed the first instance decision that imposed fines on the field guards for violating section 171 of the Act on Infractions.<sup>87</sup> The Court issued a warning (the weakest possible punishment), arguing that "it is impossible not to take into account that illegal migration poses a serious problem for years in Hungary, there is strong migration protection (*sic!*) at the Hungarian-Serbian border section" which can "significantly effect" in its vicinity "persons acting on

<sup>80</sup> <https://hang.hu/belfold/tobb-mint-felmilliard-forintert-szallasolnak-el-torok-rendoroket-szegeden-145306>

<sup>81</sup> Section 16 (1) of Act CLIX. of 1997 on armed security guards, and on field guards and natural reserve guards

<sup>82</sup> Section 20 (1) of Act CLIX. of 1997.

<sup>83</sup> Section 23 (2) of Act CLIX. of 1997.

<sup>84</sup> See this report on one of his posts for example:

[https://hvg.hu/itthon/20170625\\_Toroczkai\\_menekultek\\_kenyszeritesevel\\_buszkelkedik\\_rajongoi\\_lincshanqultatban](https://hvg.hu/itthon/20170625_Toroczkai_menekultek_kenyszeritesevel_buszkelkedik_rajongoi_lincshanqultatban)

<sup>85</sup> *R.N. v. Hungary*, application no. 71/18

<sup>86</sup> Full video available at: <https://www.youtube.com/watch?v=-OdGbyPaJ88&t=336s>

<sup>87</sup> Section 171 of Act II. of 2012 on infractions, infraction procedure and the infraction records system.

„Unauthorized public safety activity: A person who, in a public space or public place, carries out, without authorisation by law, an activity aimed at maintaining public safety or public order or gives the appearance of carrying out such an activity commits an infraction.” Official English translation: <https://njt.hu/jogszabaly/en/2012-2-00-00>

behalf of authorities.” As such, the unlawful activities of the field guards posed limited risk to society, hence the lowering of the punishment.<sup>88</sup>

It was in this context that the Government has decided to provide additional funding for existing field guards as well as for the establishment of new field guard units in the vicinity of the Serbian-Hungarian border.<sup>89</sup> The decision was issued based on the authorisation the government received to rule-by-decree during a special legal order<sup>90</sup> and established that field guard units operated by municipalities that are within a 20-km range from the external Schengen borders of Hungary shall be financed from the central budget up to 50% of their expenses.<sup>91</sup> As the decree expired once the special legal order declared due to the pandemic was terminated,<sup>92</sup> the government issued another one with the exact same contents, this time, based on the special legal order declared due to the Russian aggression against Ukraine.<sup>93</sup> While the relevant laws regulating the scope of activities of field guards has not been amended, the decision that additional funding is only available to those municipalities that are found at the external Schengen borders suggests the government itself is encouraging the participation of field guards in border protection activities.

Due to the wide publicity field guards of Ásotthalom have been showing since the summer of 2015 and their relatively low number, the HHC is able to show images of their faces to victims of violence who claim to have been apprehended in the vicinity of the settlement. During the latest visit to Northern Serbia in March 2023, HHC monitors have spoken to two separate groups describing in detail one of the most notorious persons (also visible in the video found in footnote 81) and upon showing a series of images of similarly looking men, positively identified him as one of the perpetrators.

#### Civil guards

Civil guards (“*polgárőr*”) have been operating in most settlements in Hungary for decades. Unlike field guards, civil guards cannot carry weapons and do not have to undergo any compulsory trainings either. Their main task is to prevent crimes and misdemeanours through visible presence in public places and to assist Police patrols through joint participation.<sup>94</sup> Civil guards do not have the right to request identification from individuals and cannot use coercive measures.<sup>95</sup> They are entitled to stop an individual if they are caught in the act of committing a crime or a misdemeanour but must immediately hand them over to a relevant authority, in case that is not possible, then immediately notify the relevant authority.<sup>96</sup> Their standard uniform has a similar colour to that of the Police, but clear distinctive marks include the sign “*polgárőr*” as opposed to “*rendőrség*” (police), the lack of epaulets and name tags/numerical identifiers.

Despite these strict limitations, civil guards have participated in apprehensions since at least the summer of 2018.<sup>97</sup> However, their national umbrella organisation, the National Alliance of Civil Guards has already published a specific plan of action to address the participation of civil guards in border protection measures in July 2016, shortly after the legalisation of push-backs. In it, among others, the fact that civil guards do not have the right to use coercive measures against migrants is also

<sup>88</sup> See the decision and its background: <https://444.hu/2022/12/20/megusztak-figyelmeztetessel-toroczka-laszlo-mezoorei>

<sup>89</sup> Government decree 18/2022 (I. 24.)

<sup>90</sup> For further details on the different special legal orders in force as well as the content of the authorization the government has obtained to rule-by-decree, see footnote 39 above.

<sup>91</sup> Section 1 of Government decree 18/2022 (I. 24.)

<sup>92</sup> Section 4(2) of Government decree 18/2022 (I. 24.)

<sup>93</sup> Government decree 481/2022 (XI. 28.)

<sup>94</sup> Section 3 (1) and (2) of Act CLXV of 2011 on Civil Guards and the Rules of the Activities of Civil Guards

<sup>95</sup> Section 15 (1) of Act CLXV of 2011

<sup>96</sup> Section 18 of Act CLXV of 2011.

<sup>97</sup> The first time the HHC has recorded a testimony of a group of people who claimed to have been apprehended by people who were driving a car with the sign „*polgárőr*” (civil guard) on its hood, were handcuffed with plastic zip ties, then beaten, before the Police arrived and they were removed to the Serbian side of the fence.

highlighted.<sup>98</sup> Their participation in border protection measures was formalised by the government in 2022, although the above described legal framework has not changed. Government Decision no. 1036/2022 states that the Government “agrees with the involvement of the staff of the member associations of the National Alliance of Civil Guards in the management of the migratory pressure at Hungary’s southern border.”<sup>99</sup> In September 2022, this decision was amended to specify that the government envisions the involvement of civil guards in border protection tasks until the specifically allocated cca. EUR 1 million funds can cover the costs, but no later than 31 December 2022.<sup>100</sup> The president of the National Alliance of Civil Guards admitted in an interview in early March 2023 that civil guards continue to participate in border protection despite that currently its costs are not covered by the central budget.<sup>101</sup>

#### Para-military vigilante groups

Unlike in some other countries in the region, most likely due to low bar to enter the various field and civil guard groups, the HHC has not received information on the presence of para-military vigilante groups at the border.

#### b. Where violence and push-backs occur

In the majority of violent push-backs, violence occurs during apprehension or shortly after that, while apprehended migrants are made to wait in desolated areas to be transferred to the border fence. Since the delivery of the judgment in case C-808/18, the HHC puts all individual push-back reports published on the Police’s website on a map.<sup>102</sup> As it becomes clear when looking at the map, apprehensions indeed take place everywhere in Hungary. While some are happening in inhabited areas, including in cities or on public transport, the vast majority of apprehensions that lead to push-backs occur in desolated areas, far from possible witnesses. Based on testimonies, those people apprehended in areas where there is a likelihood of civilian witnesses are not abused, at least not at the spot of apprehension. Violence usually occurs in desolated areas and/or immediately at the gate of the fence where people are then consequently pushed back.

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<sup>98</sup> Action Plan to strengthen the civil guard associations active in areas of deep borderlands (*sic!*) in Csongrád and Bács-Kiskun counties, 21 July 2016, [https://opsz.hu/wp-content/uploads/belso-normak/intezkedesiterv\\_hatarszakaszra.pdf](https://opsz.hu/wp-content/uploads/belso-normak/intezkedesiterv_hatarszakaszra.pdf)

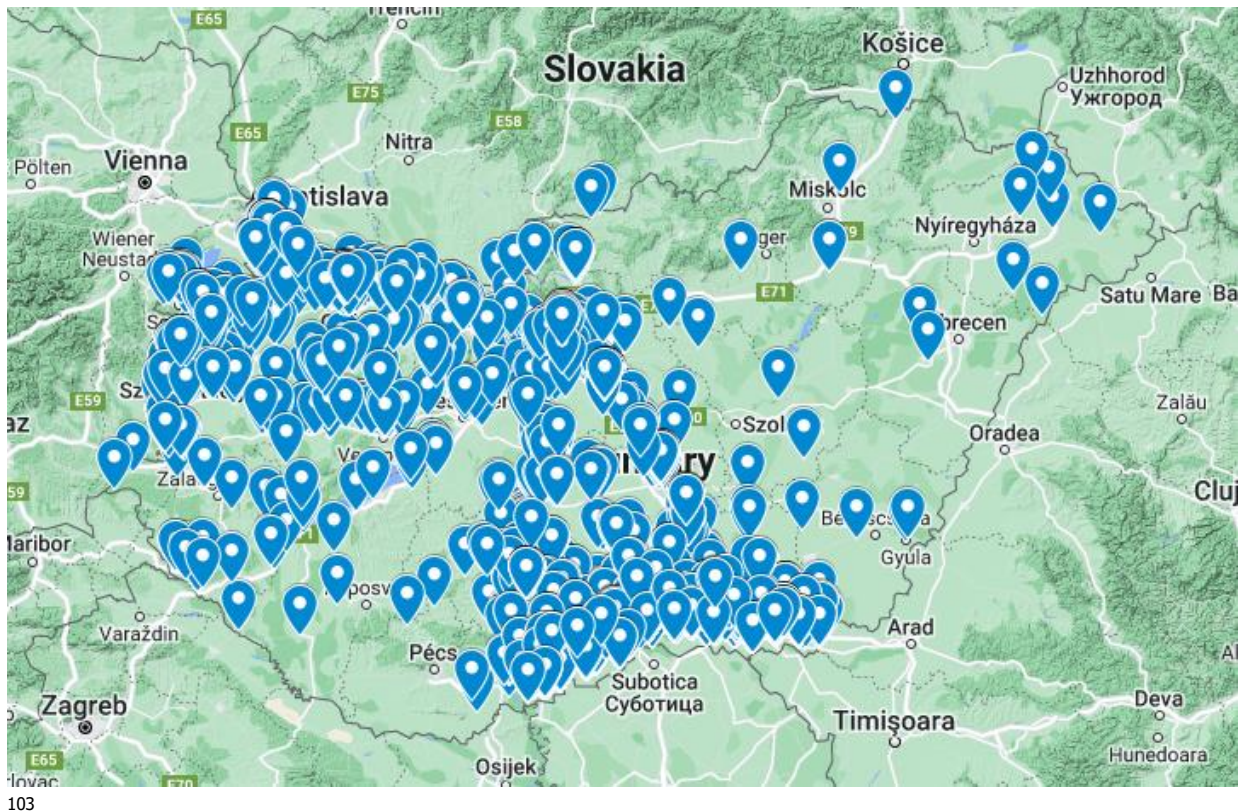
<sup>99</sup> Section 1 of Government decision 1036/2022. (II. 2.) on the enhanced involvement of the staff of the member associations of the National Alliance of Civil Guards in border protection tasks and the provision of related financial resources

<sup>100</sup> Section 2 of Government decision 1437/2022 (IX. 7.) on the amendment of Government decision 1036/2022 (II. 2.)

<sup>101</sup> <https://infostart.hu/belfold/2023/03/04/meglepo-informacio-a-magyar-hatart-orzokrol>

<sup>102</sup> The map is available online at

<https://www.google.com/maps/d/u/0/edit?mid=1CUNIBcJj0RCAL0iOPxqLrBorJdM7qXJY&ll=47.21965784953932%2C17.731689829687504&z=7> It is being updated continuously by individually identifying related news items, locating the event on the map and adding a separate point for each apprehension. The first item on the map is from 18 December 2020, the day after the judgment in case C-808/18 was delivered finding that pushbacks are in breach of EU law.



Despite the magnitude of individual spots on the above map, there are a number of locations that deserve closer scrutiny, listed below.

## Sector 2

The HHC received a complaint in November 2021 that after people were apprehended, they were transferred to a metal container somewhere very close to the border fence. According to the statement from one of the victims, the Police told people to enter the empty container then locked its door from the outside. About an hour later, the Police opened the door and another group of people were made to enter the container. At this point, 21 people were locked inside the container, making it extremely crowded, not allowing people to sit. Sometime after the second group of people were forced inside the container, the Police attempted to place an additional couple of people inside. According to the statement, those already locked up started shouting and tried to resist the entry of additional people. The Police sprayed gas at them, pushed those standing outside into the container, then locked the door again. The person providing the statement could not recall how long they were coughing inside, but according to him, at least two people fainted. The door was suddenly opened at people were quickly pushed back through a nearby gate. The person providing this information could not recall where the container was and the HHC had no means to verify the claims.

In February 2022, the HHC was alerted through a partner organisation in Serbia of a similar case: people were placed in a metal container somewhere close to the border fence on the Hungarian side and were kept there for an entire night. As there was no food or water available and the empty metal container did not provide for any possibility to create privacy when people had to relieve themselves, they started banging on the closed door. At some point, a police officer opened the door and sprayed the people before shutting the door again. This happened several times during the same night, until the door was opened and people were pushed back during dawn.

<sup>103</sup> Screenshot of HHC's push-back map of 10 March 2023.

The HHC, using Google Earth, identified a number of potential locations that fit the description and attempted to contact the second group to verify the place, but none of the available contact details worked. Throughout the spring of 2022, the HHC received several similar claims but could not carry out a personal follow-up meeting with any of the victims. Together with partner organisations, the HHC managed to identify the most likely location, tagged as "2-es szektor" (sector no. 2).<sup>104</sup> There are a few reviews provided by registered Google users. Upon closer scrutiny, those that are writing about migrants and border protection also provided reviews of uniform shops and the Szeged headquarters of the Rapid Response and Special Police Service, a possible sign that they are related to law enforcement.

Sector 2 is located about 2,5 km west from the Rösztke transit zone.



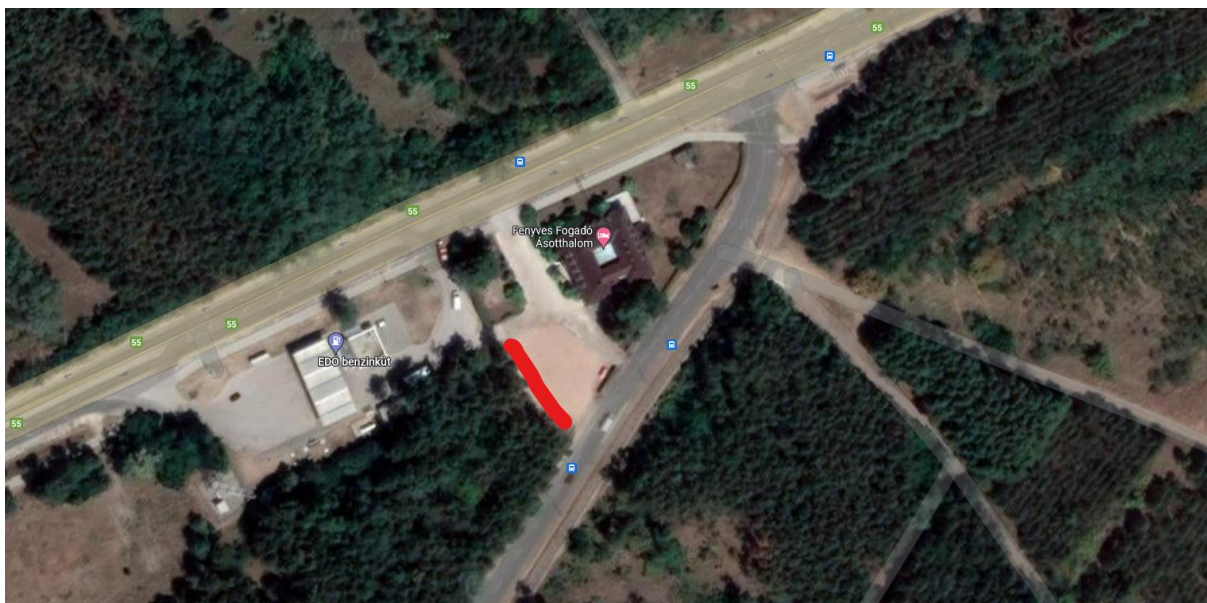
While the metal containers at "Sector 2" are identical to the ones used in the transit zones, victims with whom the HHC could communicate immediately clarified that they were not subject to deprivation of liberty and were not sprayed by the Police inside the transit zone, but were consistently and clearly claiming to have been kept at a location where the container was not part of a facility.

The HHC has not received reports about this facility since August 2022.

<sup>104</sup> <https://www.google.com/maps/place/2-es+Szektor/@46.1763737,19.9396934,17z/data=!4m8!3m7!1s0x474483698d74c8d3:0xd9df89621d2d021618m2!3d46.1763714d19.9422683!9m1!1b1!16s%2Fg%2F11gbk51cbt>

### EDO petrol station, Ásotthalom

Behind the petrol station at the intersection of the road that connects to the border through the town and Route 55 is a small empty plot, only partially visible from the main road.<sup>105</sup> The place became an unofficial collection point of apprehended people sometime in 2022. The practice seems to be that smaller groups of apprehended people are brought to the parking lot by the Police where field guards and/or civil guards assist the Police in guarding them. At some point, a large Police transport bus arrives to collect the apprehended people and bring them to the border to push them back. While being kept at the parking lot, many people claimed to have been zip tied while made to squat or stand in front of the tree line (see below with red marking). There are no facilities that people could use, and occasionally they are kept there for long hours (claims range up to six hours), including in harsh weather conditions. During the monitoring visit carried out in early March 2023, HHC monitors collected dozens of zip ties and sim card sockets from the dirt at the edge of the parking lot.



### Transit zones

Following the closure of the transit zones in Röszke and Tompa in May 2020, the facilities became a key location for push-backs. Until then, Police used one of the hundreds of gates built into the border fence to remove people to the Serbian side of the fence, practically across the entire Hungarian-Serbian border section. There has been no public explanation of the change and to a freedom of information request of the HHC, the Police denied detaining people in the transit zones. However, the first clear evidence that the Röszke transit zone is in fact used for push-backs originates in August 2021. The American TV host Tucker Carlson visited Hungary as a guest of the Hungarian government. During his visit, he was taken to the Röszke transit zone where he happened to witness a push-back of two Syrians who tried to claim asylum according to the TV personality. He recorded it all.<sup>106</sup> The political director of the Prime Minister, Mr Balázs Orbán (not a relative of the Prime Minister Viktor Orbán) posted additional images from Mr Carlson's visit, showing the moment before the two Syrian men are pushed back through what used to be the main exit gate of the Röszke transit zone to Serbia,<sup>107</sup> when they are searched by an officer (most likely for the pure benefit of taking such a picture as they were clearly not

<sup>105</sup> <https://www.google.com/maps/@46.2132053,19.795185,241m/data=!3m1!1e3>, red line on the image shows where HHC monitors found zipties and sim card sockets and where, based on images, people are lined up or made to squat.

<sup>106</sup> Video will start at the relevant part: <https://youtu.be/VXujFNBV63I?t=40>

<sup>107</sup> <https://www.facebook.com/photo.php?fbid=471772180984823&set=pcb.471773110984730&type=3&theater>

apprehended inside the transit zone),<sup>108</sup> as well as Mr Carlson looking through one of the gates somewhere outside of the transit zone where otherwise people are pushed back.<sup>109</sup>

The actual procedure taking place within the transit zones is unclear. Some of those apprehended describe very short stays, sometimes less than a few minutes inside the facility prior to their push-back, while others claim to have been detained in locked containers for hours.

By now, based on testimonies, the transit zones became the most frequent places of push-backs, with occasional removals still taking place at random gates built into the fence.

#### Budapest Airport Police Directorate

The Directorate became responsible, at least in practice, for the short term detention of those apprehended in and around Budapest pending their push-back as well as for those who arrive at the Budapest International Airport and are pushed "back" to Serbia. The HHC has not received complaints of ill-treatment at the facility, but based on a high number of testimonies collected and individual cases where the HHC provides legal representation to victims of push-backs, the detention facility of the Directorate is regularly used for holding people for a few hours before their transfer to the Serbian border is arranged.

#### Hospitals

With access to territory and status determination procedure becoming illusory after the introduction of the embassy system in May 2020, there has been a clearly visible spike in the number of smugglers caught and serious injuries people smuggled through Hungary suffered. With the growing number of serious injuries (and deaths) due to reckless driving of smugglers trying to evade police patrols, the number of people who physically cannot be pushed back immediately after their apprehension also grew. Unlike during the previous visit of the CPT, in recent years, the Police has been referring seriously injured individuals to the geographically responsible ER department of hospitals. The following hospitals are known to treat third country nationals with serious injuries prior to their push-back:

##### Budapest:

- National Institute of Traumatology (Országos Baleseti Intézet), Fiumei út 17.;
- Péterfy Sándor street Hospital, Traumatology, Alsó erdősor utca 7.;
- Health Centre of the Hungarian Defence Forces (also a civilian medical institution), Traumatology, Róbert Károly körút 44.;

##### Győr:

- Petz Aladár County Teaching Hospital, Traumatology, Vasvári Pál utca 2-4, building C;

##### Baja:

- Saint Roch Hospital (Szent Rókus Kórház), Traumatology, Pokorny János utca 10.;

##### Szeged:

- University Hospital, Traumatology Department, Semmelweis utca 6.

##### Kecskemét:

- Bács-Kiskun County Hospital, Traumatology, Csabay Géza körút 21.

<sup>108</sup> <https://www.facebook.com/photo.php?fbid=471772057651502&set=pcb.471773110984730&type=3&theater>

<sup>109</sup> <https://www.facebook.com/photo.php?fbid=471772320984809&set=pcb.471773110984730&type=3&theater>



c. Types of ill-treatment

The most comprehensive collection of individual cases is found in the first<sup>110</sup> and second edition<sup>111</sup> of the Black Book of Pushbacks, published by the Border Violence Monitoring Network (BVMN) with whom the HHC is closely working on since their founding in 2016. The following trends and general characteristics are based on the cases the HHC is representing at domestic and international procedures, on testimonies collected by HHC monitors in Northern Serbia, and by cases featured in BVMN's two publications.

Physical violence and inhuman treatment

Similarly to what HHC reported to the CPT in 2017, a large number of people the HHC has interviewed over the past two years suffered physical violence during push-backs from Hungary. A clear difference is that violence is markedly less visible on victims of violence; in fact, many people described incidents where they were hit while standing in specific parts of the body that caused immense pain but left little or no marks, mainly in the abdomen and/or around the spleen.

Since around 2020, a growing number of injuries (mainly broken legs, ankles) are a result of jumping off the fence. However, a number of people claimed to have been caused additional pain (and potentially, injuries) after they were apprehended in an injured state. For example, one man the HHC met in October 2022 claimed to have been dragged by two Police officers from the fence after he fell off as he could not stand on his legs. While two officers pulled him towards a Police car by his arms, a third one kicked both of his legs and ankles several times and laughed at him screaming in pain. He was not taken to a hospital but was pushed back immediately.

The use of police dogs remain regular at the immediate vicinity of the fence and reports on using dogs with a leash are recurring. However, in 2022-23, injuries that seem consistent with dog bites have receded and the HHC met only 3 people who claimed to have been injured by police dogs that were not muzzled.

The (unnecessary) use of tear gas and pepper spray is also regularly reported, for example after the apprehension of people who were fully cooperative during the entire procedure and were waiting to be transported back to the fence. Apart from the use of spray in the metal container of Sector 2 (see above), the HHC collected testimonies in 2022 where people claimed to have been locked up in Police vans during their transport to the border and where, after the last person boarded the back of the van, officers sprayed inside the windowless holding and shut the back of the door.

People regularly mention the use of sticks, police batons, as well as branches picked up in wooden areas by the Police during beatings. For example in June 2021, a group of 7 men from Afghanistan aged 16-24 claimed that after their apprehension, their hands were zip tied in their back. Out of the cca. 10 officers present at the point of apprehension, two held each of them briefly by their arms, and a third officer hit them specifically in the crotch area with a thick wood branch the officer randomly picked up.

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<sup>110</sup> Border Violence Monitoring Network. *Black Book of Pushbacks*, Volume I. 2020, online: <https://acrobat.adobe.com/link/track?uri=urn%3Aaaid%3Ascds%3AUS%3A3f809f15-bada-4d3f-adab-f14d9489275a&viewer%21megaVerb=group-discover>, Hungary chapter written by the HHC, pp. 310-405.

<sup>111</sup> Border Violence Monitoring Network. *Black Book of Pushbacks*, Volume III. 2022, online: <https://acrobat.adobe.com/link/track?uri=urn%3Aaaid%3Ascds%3AUS%3Acb5a9aaa-ee62-3286-a505-0d9122b69b8f&viewer%21megaVerb=group-discover>, Hungary chapter written by the HHC, pp. 17-245.

Some of the testimonies collected by HHC monitors speak of particularly gruesome violence bordering torture. This includes a case from October 2018 where a man who suffered electric burns after accidentally coming into contact with both palms with the electrocuted fence. He claims to have been in extreme pain and was trying to ask for medical assistance after the apprehension. He was showing his fresh injuries with his palms open toward the officers. In response, one of the officers hit his palm with a chain or keychain, causing great pain to the person. He was immediately pushed back to Serbia without any medical treatment.

Another case from February 2023 was of a man who already had frostbite injuries on his toes. He claimed that he and his group was made to undress and take off their shoes as well during a push-back at the end of February. While already standing in nothing but his underwear, he tried to point to his injured toes to one of the police officers, hoping that he could at least put his socks and shoes back on. He claims that in response, the officer stepped on this feet.

Undressing during winter has been mentioned by those pushed back for years. In some extreme cases, people claim to have been spilled with the water they had on themselves in their bags, and were then pushed back to Serbia in nothing else than their underwear.

Although consequences might be less severe, a recurring claim since the summer of 2021 is the abusive use of air conditioning/heating in police vans: people claim that air condition is turned on during winter, while heating is turned on during summer in police vans and larger transport vehicles and that windows cannot be opened from the inside. On several occasions HHC monitors were told that people were kept standstill inside a vehicle for long hours while the air conditioning was turned on in winter or the heating in summer, that they were banging on the doors or the windows of the van but nothing happened.

In July 2021, the HHC met a Syrian man who was still having difficulties coping with his push-back the day before. He claimed to have been caught shortly after having crossed alone the night before by 3 people, one wearing a blue uniform and two wearing camouflage. He was handcuffed and made to kneel while keeping his hands behind his head. In the meantime, the men in camouflage threw out the contents of his bag and went through his mobile phone. He repeatedly said that he is from Syria and he is a refugee to which at one point the man in blue uniform pulled his gun out of its holster and slowly walked behind his back. He said that the man shouted at him from his back to "shut the fuck up", to which he started to scream for help. The men in camouflage stopped going through his belongings and tried to shush him, but he was really scared and continued asking for help. He was kicked over by the man in blue uniform and when he was on his back, he saw the man pointing the gun at him. The men in camouflage said something to the man in blue uniform and an argument started. At some point, the man in blue uniform put the gun back in his holster and left. About 15 minutes later, two men in blue uniform arrived, took him to a police car and pushed him back to Serbia.