



**Information note by the Hungarian Helsinki Committee (HHC)
13 June 2023**

The asylum system in Hungary has practically been suspended since May 2020. Neither the legal framework nor its practical implementation offers effective access to the asylum system, thereby emptying out the right to seek asylum. This note provides updates on the litigation struggles of clients represented by the Hungarian Helsinki Committee (HHC) who submitted their intent to apply for asylum at the Hungarian Embassy in Belgrade and were rejected. This note should be read with the previous two info notes published by the HHC: [No access to asylum for 18 months - Hungary's dysfunctional embassy system in theory and practice](#) and [No access to asylum on the territory since 27 May 2020](#).

The embassy procedure introduced by the Hungarian government on 26 May 2020 is still in place. Under this procedure, to apply for asylum in Hungary, an asylum seeker must first submit a “statement of intent for the purpose of lodging an asylum application” at the Hungarian Embassy in Belgrade or Kyiv, and if the statement is assessed favourably by the National Directorate-General for Alien Policing (NDGAP), then the applicant is allowed to enter the country in order to apply for asylum. In case such entry is refused, then the applicant only receives an email informing them of the NDGAP’s decision without providing any factual justification or legal grounds for the decision. For example, in one case, the NDGAP rejected a statement of intent submitted by an Afghan woman who fled the Taliban takeover of her home and intimate partner violence in a third country. It gave no explanation for this decision, leaving the woman and her family in limbo.

The HHC started litigating such cases in mid-2021. Several court judgments have found that rejections sent via email constitute a serious violation of procedural requirements and have ordered the NDGAP to conduct a new procedure.¹ To date, none of these cases have ended.

The NDGAP tried different methods to avoid implementing the judgments in these cases. First, it requested that the Constitutional Court quash the first such judgment and that its request be granted a suspensive effect to the execution of the judgment. Despite the rejection of the request for suspensive effect, the NDGAP did not continue the procedure. In all the other cases, where the court ordered a new procedure, the asylum office ex officio started repeated procedures, but it immediately suspended them based on its pending Constitutional Court complaint procedure. More than half a year later, however, the court annulled these NDGAP suspensions.² Meanwhile, the Constitutional Court dismissed the NDGAP’s application on 24 May 2022, pointing out that the NDGAP did not name any fundamental rights that had been violated by the judgment subject to review.³

The NDGAP finally had to issue new decisions in repeated procedures. Although the NDGAP provided some justification for rejections, it still did not properly meet the requirements set by the courts, so judicial review of its decisions has been initiated again. In one case, the court quashed the NDGAP’s decision again,⁴ while the other cases are still pending either at the courts or within the NDGAP. The

¹ E.g. 11.K.704.266/2021/6, 5 October 2021; 49.K.704.624/2021/16, 3 February 2022; 11.K.704.127/2021/11, 5 October 2021.

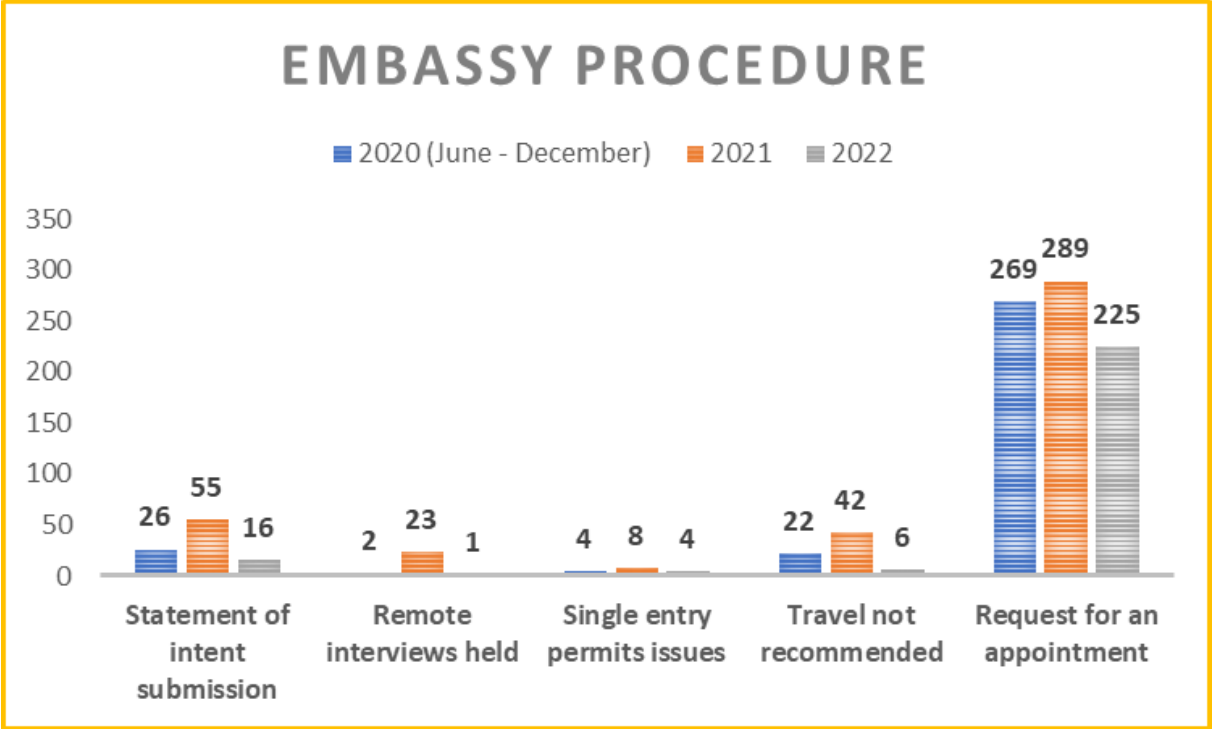
² 49.K.700.743/2022/5, 5 July 2022, see also HHC, *Implementing judgments in the field of asylum and migration on odd days*, 17 October 2022, available at: <https://bit.ly/3IKsB9s>.

³ Ruling of the Constitutional Court IV/3538-1/2021.

⁴ 13.K.703.499/2022, 9 November 2022.

litigation has therefore been ongoing for more than 2 years, a delay that leaves many of the HHC’s clients feeling hopeless.

Only 4 families have so far been granted permission to enter Hungary to apply for asylum since the establishment of the embassy procedure. Last year’s statistics also show that there was a significant decrease in the number of submissions of statements of intent at the Embassy in Belgrade. This is because the system is not effective, hardly anyone receives permission to enter Hungary to apply for asylum, and those willing to challenge rejections are engaged in seemingly never-ending litigation.



Source: Ministry of Foreign Affairs

On a positive note, the infringement procedure started by the European Commission against Hungary for unlawfully restricting access to asylum will soon come to an end. The CJEU will deliver its judgement on 22 June 2023.⁵ This remains so far the only hope for restoring access to asylum in Hungary.

⁵ C-823/21 Commission v Hungary, <https://tinyurl.com/3yf6zrtd>.