



## **Submission by the Hungarian Helsinki Committee and Menedék Association for Migrants**

For the third cycle of the

**UPR**

of

**HUNGARY**

**on the rights of migrants**

**The Hungarian Helsinki Committee** is an independent human rights watchdog organisation founded in 1989 in Budapest, Hungary. As a leading Hungarian human rights organisation with a globally recognised reputation, the HHC works towards a world in which everyone's human rights are protected. The HHC focuses on defending the rule of law and a strong civil society in a shrinking democratic space; the right to seek asylum and access protection; the rights to be free from torture and inhuman treatment and the right to fairness in the criminal justice system. The HHC contributes to monitoring Hungary's compliance with relevant UN, EU, Council of Europe, and OSCE human rights standards and cooperates with international human rights fora and mechanisms.

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**Menedék – Hungarian Association for Migrants** is an NGO helping the social integration of immigrants arriving to and departing from Hungary, through a set of social, educational and cultural programs built on more than 25 years of experience. Menedék Association developed a complex system of services to assist refugees and other foreigners in finding a new home in Hungary or returning to their home country. Menedék also offers migrant-specific sensitization trainings for professionals who are in contact with migrants during their work from teachers or social workers to police officers and armed security guards. Menedék cooperates with national and international partners and organisations and participates in national and international research programmes that also support its advocacy for the rights of migrants.

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## I. The destruction of the Hungarian protection sphere since the second UPR cycle

1. The Government's response to the refugee challenge of the summer of 2015 was a complex set of legislative and physical changes, coupled with a strong anti-migrant narrative. The consequences of these are best explained by statistical data<sup>1</sup> on the number of asylum applications allowed to be lodged and the number of positive decisions made:

	<b>Applications</b>	<b>Positive decisions</b>	<b>Rejections</b>	<b>Recognition rate</b>
<b>2016</b>	29 432	425	4 675	8,3%
<b>2017</b>	3 397	1 216	2 880	29,6%
<b>2018</b>	670	350	590	37,2%
<b>2019</b>	468	53	650	7,5%
<b>2020</b>	92	126	346	26,6%

2. Since the second UPR cycle, 5 major changes were introduced without prior consultation, in chronological order:
  - Q1 2016: the termination or shortening of state-funded integration support;<sup>2</sup>
  - July 2016: the legalisation of extrajudicial collective expulsion of unlawfully staying third-country nationals from within an 8-km area of the Serbian-Hungarian and Croatian-Hungarian border sections;<sup>3</sup>
  - March 2017: extension of this 8-km area to the entire territory of the country and limiting the lodging of asylum applications to the two land-border transit zones located at the Hungarian-Serbian border. The new rules also prescribed that with the exception of unaccompanied children under the age of 14, all asylum-seekers are kept in the transit zones until a final decision in their asylum procedure against which no remedy is available is delivered. The changes also permitted keeping rejected applicants indefinitely in these metal container camps pending their removal;<sup>4</sup>
  - July 2018: criminalisation of providing assistance to asylum-seekers and the introduction of a criterion based on which almost all asylum-seekers are to be rejected;<sup>5</sup>
  - May 2020: following a judgment by the Court of Justice of the European Union (CJEU) that ruled that placement in the transit zones under the framework introduced in March 2017 (see above) qualifies as unlawful detention, the transit zones were closed and a new asylum system was hastily introduced whereby asylum applications can only be lodged after a declaration of intent is approved by the asylum authority. Declarations of intent can only be lodged at the Hungarian embassy in Kyiv or Belgrade.<sup>6</sup>
3. These legal changes were accompanied by xenophobic statements of leading figures of the governing majority and the Government, and government-funded advertisement campaigns against migrants.<sup>7</sup>

<sup>1</sup> Source of data: National Directorate-General for Aliens Policing and its predecessors

<sup>2</sup> See the detailed changes <https://www.helsinki.hu/wp-content/uploads/HHC-Hungary-asylum-legal-amendments-Apr-June-2016.pdf>

<sup>3</sup> See the legal background: <https://www.helsinki.hu/wp-content/uploads/HHC-info-update-push-backs-5-July-2016.pdf>

<sup>4</sup> See the detailed changes: <https://www.helsinki.hu/wp-content/uploads/HHC-Info-Update-New-Asylum-Bill-15.02.2017.pdf>

<sup>5</sup> See details of the new criterion here: <https://www.helsinki.hu/wp-content/uploads/Denial-of-food-for-inadmissible-claims-HHC-info-update-17August2018.pdf>; details on the criminalisation of assistance here: <https://www.helsinki.hu/en/hungarian-government-marks-world-refugee-day-by-passing-law-to-jail-helpers/>. See also the submission of Ökotárs Alapítvány, Amnesty International, Hungarian Civil Liberties Union, Hungarian Helsinki Committee, Power of Humanity Foundation to the UPR of Hungary (third cycle), pp. 12-13 also available at [https://www.helsinki.hu/en/wp-content/uploads/sites/2/2021/03/UPR\\_submission\\_3rdcycle\\_civilspace.pdf](https://www.helsinki.hu/en/wp-content/uploads/sites/2/2021/03/UPR_submission_3rdcycle_civilspace.pdf)

<sup>6</sup> See details of the new system: <https://www.helsinki.hu/wp-content/uploads/new-Hungarian-asylum-system-HHC-Aug-2020.pdf>

<sup>7</sup> See in detail in the Hungarian Helsinki Committee'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, especially pp 6-10. on dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination and on dissemination of xenophobic ideas, anti-migrant

#### 4. Recommendations:

5. Refrain from commissioning anti-migrant public campaigns<sup>8</sup>
6. Repeal restrictive legislation concerning CSOs and those assisting asylum-seekers<sup>9</sup>

## II. Cooperation between the authorities and civil society, access to migrants in asylum and immigration (removal) facilities

7. As anti-migrant policies and statements have remained at the top of the political agenda, the cooperation between state authorities and CSOs became difficult. In 2017, following the adoption of Lex NGO, a stigmatising piece of legislation affecting organisations funded from outside of Hungary,<sup>10</sup> authorities either terminated or did not renew their cooperation agreements with service providing CSOs.<sup>11</sup> This had detrimental effects on those accommodated or detained in facilities pending their asylum or aliens policing (immigration) procedures. The free-of-charge services NGOs provided included social assistance and complex integration support; psycho-social and therapeutic treatment; general legal counselling and legal representation. The previously existing reliable and regular presence of civil society service providers was never fully replaced by other service providers; instead, the authorities responsible for managing asylum and immigration facilities (the Police and the asylum authority, the National Directorate-General for Aliens Policing, NDGAP) sporadically contracted social workers and a psychologist (for those held in the two transit zones). Before the COVID pandemic, the authorities allowed the social workers of Menedék Association to enter the only open asylum reception facility.
8. Revoking NGOs' right to entry to asylum and immigration facilities (especially detention facilities) put an end to regular human rights monitoring as well. Consequently, the civilian, independent control and the possibility of wide-ranging counselling were annihilated in these facilities. The National Preventive Mechanism<sup>12</sup> at the Office of the Commissioner for Fundamental Rights (NPM) is mandated with the monitoring of hundreds of institutions, yet, capacity and resources needed for regular control prescribed by law are lacking. According to the UN Human Rights Committee, "the Committee is concerned about reports that the Commissioner lacks the human and financial resources necessary to effectively carry out its mandate."<sup>13</sup>

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campaigns: [https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/HUN/INT\\_CERD\\_NGO\\_HUN\\_34524\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/HUN/INT_CERD_NGO_HUN_34524_E.pdf) and the 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%2bma7tJoQMjUUGralEB8ByvxCL0FoA9GiWZtIFxmGLZ0Z5RlyIPqxMdgHU%2fDYqBmwR9tn1ICAcCkuH7c4tnI3ILV67wG%2bLp%2fhzF32ijIT5zLhayJVnZvXW MJL1ThA%3d%3d>

<sup>8</sup> See also the recommendation made in UN Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined eighteenth to twenty-fifth periodic reports of Hungary*, 6 June 2019, CERD/C/HUN/CO/18-25, para. 17 and in See also recommendations made in in UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his visit to Hungary*, Forty-fourth session, 11 May 2020, A/HRC/44/42/Add.1, paras. 70-71.

<sup>9</sup> See also recommendations in UN Human Rights Committee, *Concluding observations on the sixth periodic report of Hungary*, 9 May 2018, CCPR/C/HUN/CO/6, paras. 54 and 56 and in See also recommendations made in in UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his visit to Hungary*, Forty-fourth session, 11 May 2020, A/HRC/44/42/Add.1, para. 67

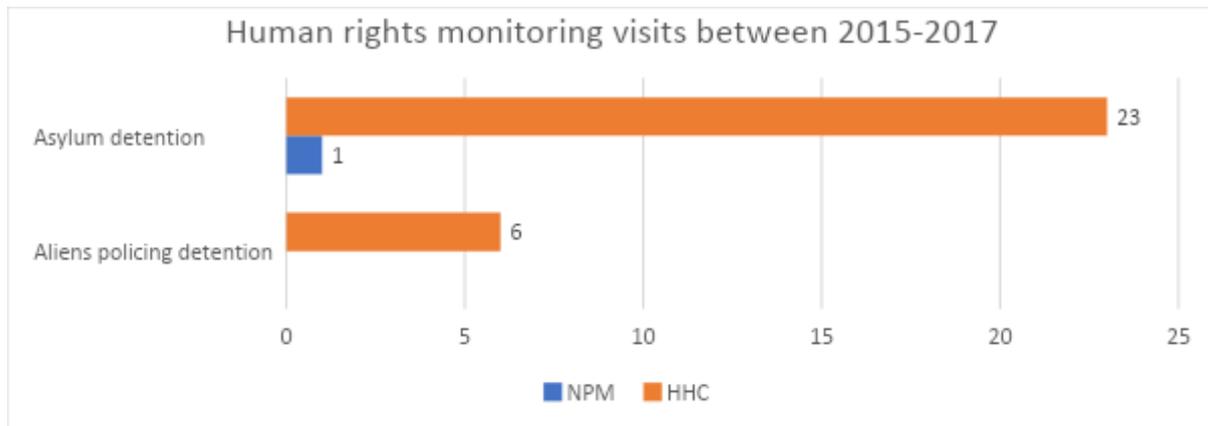
<sup>10</sup> Act LXXVI of 2017 on the Transparency of Organisations Supported from Abroad, for details see e.g. Hungarian Helsinki Committee, *Hungary: Illiberal Highlights of 2020*, 1 December 2020, [https://www.helsinki.hu/wp-content/uploads/HHC\\_Illiberal\\_Highlights\\_of\\_2020.pdf](https://www.helsinki.hu/wp-content/uploads/HHC_Illiberal_Highlights_of_2020.pdf), pp. 12–13.

<sup>11</sup> See for example: HHC, *National authorities terminated cooperation agreements with the Hungarian Helsinki Committee*, 20 October 2017, <https://www.helsinki.hu/wp-content/uploads/termination-of-agreements-summary.pdf>

<sup>12</sup> Article 3 OPCAT

<sup>13</sup> UN Human Rights Committee, *Concluding observations on the sixth periodic report of Hungary*, CCPR/C/HUN/CO/6, 9 May 2018,

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRICAqhKb7yhsnm97%2bRfSonZvQyDICMC7to7IkIHViiwiffCrixVJVYr7AYGd1bD3LqWwx7fjwdowp0XO09j1KeHx2S0%2be4%2fGUZf4WEtz0X6rsDTNt6FAcrQ>, para. 1



9. The insufficient number of visits and the lack of preventive activities closely relate to the lack of adequate resources and funding. The UN SPT expressed its concern that “only nine staff members have been assigned to perform tasks related to the [NPM’s] mandate, a situation that affects the ability of the mechanism to fully carry out its mandate under the Optional Protocol.”<sup>14</sup> The SPT was “also concerned that a lack of financial resources presents a major obstacle to the effective and efficient functioning of the national preventive mechanism.”<sup>15</sup> The situation has not improved since then. This results in leaving human rights monitoring of these sites to international monitoring bodies such as the CPT of the Council of Europe or the UN Working Group on Arbitrary Detention. Notwithstanding the fact that these bodies also have limited resources and cannot conduct regular visits in Hungarian facilities, their access to sites is also challenged. In 2018, the Hungarian authorities denied access to the transit zones to the UNWGD which led to the Working Group’s unprecedented step of suspending its official visit.<sup>16</sup>

#### 10. Recommendations:

11. Ensure regular and regulated access of service providers to asylum and immigration facilities in line with EU law<sup>17</sup> and UN standards<sup>18</sup> and recommendations<sup>19</sup>
12. Reintroduce regular human rights monitoring by independent civil society organisations
13. Ensure adequate financing of the NPM<sup>20</sup>
14. Involve independent civil society organisations and experts in NPM visits to multiply capacities

<sup>14</sup> UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Report of the Subcommittee on its visit to Hungary undertaken from 21 to 30 March 2017: observations and recommendations addressed to the national preventive mechanism*, (Advanced unedited version), CAT/OP/HUN/2., para. 21.

[https://tbinternet.ohchr.org/Treaties/CAT-OP/Shared%20Documents/HUN/CAT\\_OP\\_HUN\\_2\\_30577\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CAT-OP/Shared%20Documents/HUN/CAT_OP_HUN_2_30577_E.pdf)

<sup>15</sup> Ibid, para. 22.

<sup>16</sup> OHCHR, *UN human rights experts suspend Hungary visit after access denied*, 15 November 2018, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23879>

<sup>17</sup> Article 16 (4) of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, Article 8 (2) of the 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); Articles 10 (3), 10 (4) and 18 (2) Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast);

<sup>18</sup> UNHCR Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention, Guideline 10, 2012, paragraph 66 <https://www.refworld.org/docid/50348953b8.html>; Report of the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment, A/56/156, 3 July 2001, paragraph 39 (e), <https://undocs.org/A/56/156>; Report of the Working Group on Arbitrary Detention Addendum Mission to Hungary, Addendum, UN Human Rights Council, 27th session, A/HRC/27/48/Add.4, 3 July 2014, paragraph 42 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/072/58/PDF/G1407258.pdf?OpenElement>

<sup>19</sup> See UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his visit to Hungary*, Forty-fourth session, 11 May 2020, A/HRC/44/42/Add.1, para. 65(g).

<sup>20</sup> See also recommendation made in UN Human Rights Committee, *Concluding observations on the sixth periodic report of Hungary*, 9 May 2018, CCPR/C/HUN/CO/6, para 14.

### III. Access to territory and procedure

#### III.a. Legalisation of push-backs<sup>21</sup>

15. After the 2015 criminalisation of unlawful entry, in breach of the Refugee Convention, created unsustainable pressure on detention facilities,<sup>22</sup> new measures were introduced to hinder access to territory and procedure. Amendments entered into force on 5 July 2016<sup>23</sup> prescribe that third-country nationals found within an 8 km zone from the border fence at the Hungarian-Serbian or the Hungarian-Croatian border are to be removed to the external, Serbian side of the border fence. The law does not prescribe any procedure to be conducted; no identification or documentation is required before or after the removal. Those removed to the Serbian side of the border fence do not have the right to seek asylum before or during the removal and are not handed over to the Serbian authorities; gates are built into the fence at certain intervals (not at international border crossings) and those pushed back are made to cross these in the direction of Serbia.
16. On 28 March 2017, further amendments were introduced,<sup>24</sup> extending the area whence push-backs can take place to the entire territory of Hungary while a so-called “state of crisis due to mass migration” is in force. Such a state of crisis can be declared by the Government for 6 months and can be extended with a further 6 months without any limitations. The Government declared a state of crisis on 9 March 2016<sup>25</sup> and has prolonged it since then every six months. It is currently in place until 6 September 2021.<sup>26</sup>
17. Neither the relevant legislation nor the practical implementation differentiate among third-country nationals to be removed from the territory based on vulnerability, age, gender, status of health, protection needs, or any other aspect; they are often violent and are carried out with impunity.<sup>27</sup> Push-backs are to be applied indiscriminately. The only exception to this blanket authorisation of push-backs is if authorities suspect that the individual committed a criminal offence, in which case a criminal procedure would begin.
18. Those arriving to an international airport unlawfully and seek asylum are also “pushed back” to Serbia.
19. Since the legalisation of push-backs, the Police publish related daily statistics:<sup>28</sup>

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<sup>21</sup> For more on this, see the Hungarian Helsinki Committee’s submission to the UN Special Rapporteur on the rights of migrants in response to the call for input of the Special Rapporteur, to inform his report to the 47<sup>th</sup> session of the United Nations Human Rights Council on push-backs, 1 February 2021, [https://www.helsinki.hu/wp-content/uploads/HHC\\_UNSR-migration\\_pushbacks.pdf](https://www.helsinki.hu/wp-content/uploads/HHC_UNSR-migration_pushbacks.pdf)

<sup>22</sup> See the joint submission of the Global Detention Project and the Hungarian Helsinki Committee to the UPR of Hungary (third cycle)

<sup>23</sup> Section 3 of Act XCIV of 2016 introducing new subparagraph 1a to Section 5 of Act LXXXIX of 2007 on State Borders: “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, except where they are suspected of having committed an offence.” The facility referred to here is the border fence erected at the Hungarian-Serbian border.

<sup>24</sup> Section 11 of Act XX of 2017 introducing new subparagraph 1b to Section 5 of Act LXXXIX of 2007 on State Borders: “In a crisis situation caused by mass immigration, the police may, in Hungarian territory, apprehend foreign nationals staying illegally in Hungarian territory and escort them beyond the gate of the nearest facility referred to in paragraph 1, except where they are suspected of having committed an offence.”

<sup>25</sup> Government Decree no. 41/2016. (III. 9.).

<sup>26</sup> Government Decree no. 93/2021. (II. 27.)

<sup>27</sup> See for example *Khurram v. Hungary*, app. no. 12625/17, and *H. K. v. Hungary*, app. no. 18531/17, and Hungarian Helsinki Committee’s submission to the UN Special Rapporteur on the rights of migrants in response to the call for input of the Special Rapporteur, to inform his report to the 47<sup>th</sup> session of the United Nations Human Rights Council on push-backs, 1 February 2021, [https://www.helsinki.hu/wp-content/uploads/HHC\\_UNSR-migration\\_pushbacks.pdf](https://www.helsinki.hu/wp-content/uploads/HHC_UNSR-migration_pushbacks.pdf) pp. 6-7. See also the Hungary chapter of the two-volume *Black Book of Pushbacks*, that spans over 95 pages and includes detailed testimonies pertaining to over 1000 affected persons, Border Violence Monitoring Network, *the Black Book of Pushbacks*, Volume I, <https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:3f809f15-bada-4d3f-adab-f14d9489275a#pageNum=312>

<sup>28</sup> Daily statistical update of 30 January 2021 pertaining to 29 January 2021: <http://www.police.hu/hu/hirek-es-informaciok/legfrissebb-hireink/helyi-hirek/orszagos-osszesito-2368>. These daily reports are saved in a database by the HHC, which is shared upon request.

YEAR	PUSH-BACKS REPORTED BY THE POLICE
<b>2016 (5 JULY – 31 DECEMBER)</b>	8 466
<b>2017</b>	9 259
<b>2018</b>	4 151
<b>2019</b>	11 101
<b>2020</b>	25 603
<b>2021 (1 JANUARY – 15 MARCH)</b>	8 703

20. That the legalisation of push-backs not only hinders access to the territory and the asylum procedure but practically makes it impossible, is clear when push-backs are compared to the number of asylum applications authorities allowed people to lodge.

YEAR	PUSH-BACKS REPORTED BY THE POLICE	FIRST-TIME ASYLUM APPLICATIONS REGISTERED <sup>29</sup>
<b>2016 (5 JULY – 31 DECEMBER)</b>	8 466	11 080 <sup>30</sup>
<b>2017</b>	9 259	3 115
<b>2018</b>	4 151	635
<b>2019</b>	11 101	465
<b>2020</b>	25 603	92

21. In an infringement procedure, the CJEU ruled in December 2020 that Hungary's legalisation of push-backs breaches EU law.<sup>31</sup> The Government refuses to implement the judgment and push-backs continue to take place.<sup>32</sup>

## 22. Recommendations:

23. Immediately stop collective expulsions and repeal the legislation legalising push-backs<sup>33</sup>

24. Enforce the prohibition of *refoulement*<sup>34</sup>

25. Bring the Criminal Code in line with Article 31 of the Refugee Convention<sup>35</sup>

### III.b. New asylum system introduced temporarily in 2020 in lieu of the transit zones<sup>36</sup>

26. Due to legislative changes introduced in March 2017, the lodging of asylum applications was restricted to the two land-border transit zones, except for those having the right to stay.<sup>37</sup> This legal

<sup>29</sup> Source: Eurostat

<sup>30</sup> Refers to 1 July – 31 December 2016

<sup>31</sup> C-808/18,

<https://curia.europa.eu/juris/document/document.jsf?text=&docid=235703&pageIndex=0&doclang=EN&mode=reg&dir=&occ=first&part=1&cid=6265268>, see HHC's statement: <https://www.helsinki.hu/en/hungarys-legalisation-of-push-backs-in-breach-of-eu-law-according-to-the-court-of-justice-of-the-european-union/>

<sup>32</sup> See the submission of the Minister of Justice to the Constitutional Court of 25 February 2021, challenging the judgment of the CJEU: : <http://public.mkab.hu/dev/dontesek.nsf/0/09E9E8D16D403300C1258695004AEF0A?OpenDocument>

<sup>33</sup> See also recommendations made in UN Human Rights Committee, *Concluding observations on the sixth periodic report of Hungary*, 9 May 2018, CCPR/C/HUN/CO/6, para 48, in UN Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined eighteenth to twenty-fifth periodic reports of Hungary*, 6 June 2019, CERD/C/HUN/CO/18-25 para. 25. and in UN Committee on the Rights of the Child, *Concluding observations on the sixth periodic report of Hungary*, 3 March 2020, CRC/C/HUN/CO/6, para. 39 (c), taking into consideration the CRC's request to Hungary that this must be addressed urgently (para. 4.)

<sup>34</sup> See also recommendations made in UN Human Rights Committee, *Concluding observations on the sixth periodic report of Hungary*, 9 May 2018, CCPR/C/HUN/CO/6, para 48, in UN Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined eighteenth to twenty-fifth periodic reports of Hungary*, 6 June 2019, CERD/C/HUN/CO/18-25 para. 25, and in UN Committee on the Rights of the Child, *Concluding observations on the sixth periodic report of Hungary*, 3 March 2020, CRC/C/HUN/CO/6, para. 39 (c), taking into consideration the CRC's request to Hungary that this must be addressed urgently (para. 4.), and in UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his visit to Hungary*, Forty-fourth session, 11 May 2020, A/HRC/44/42/Add.1, para. 66

<sup>35</sup> See also recommendations made in UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his visit to Hungary*, Forty-fourth session, 11 May 2020, A/HRC/44/42/Add.1, para. 66

<sup>36</sup> For more information on the new system, see Hungarian Helsinki Committee, *Hungary de facto removes itself from the Common European Asylum System*, 12 August 2020, <https://www.helsinki.hu/wp-content/uploads/new-Hungarian-asylum-system-HHC-Aug-2020.pdf>

<sup>37</sup> See the detailed description in Section 1 and in footnote 4 above.

framework has been temporarily suspended and replaced with an equally unlawful one<sup>38</sup> following a judgment of the CJEU in May 2020 that ruled placement in the transit zones qualifies as unlawful detention.<sup>39</sup> At the core of the new system is a compulsory precondition for lodging an asylum application in Hungary: to first submit a “declaration of intent” (DoI) at the Hungarian embassy in Belgrade or Kyiv. Depending on the approval of the “DoI”, the would-be asylum-seeker is issued with a special travel permit allowing him/her to travel to Hungary and submit an asylum application. This is in breach of the Fundamental Law,<sup>40</sup> the EU asylum *acquis*,<sup>41</sup> the Refugee Convention,<sup>42</sup> as well as the European Convention on Human Rights (ECHR) and its Fourth Protocol.<sup>43</sup> The new system *de facto* removed Hungary from the Common European Asylum System and further restricted the already extremely limited access to the asylum procedure. The new system is envisioned as “temporary”: its application is currently extended to 30 June 2021. The European Commission launched an infringement procedure, pending at the time of this report, because of these changes in October 2020.<sup>44</sup>

27. According to the new system, those wishing to seek asylum in Hungary, except for a few exceptions noted below, must go through the following prior to being able to register their asylum application:

- Personally submit a “DoI” at the Embassy of Hungary in Belgrade or in Kyiv.<sup>45</sup>
- The DoI must be forwarded to the asylum authority, the NDGAP, which examines it within 60 days.<sup>46</sup>
- The NDGAP makes a suggestion to the embassy whether to issue a special, single-entry permit to enter Hungary for the purpose of lodging an asylum application.<sup>47</sup>
- In case the permit is issued, the person must travel on his/her own to Hungary and upon arrival, immediately avail themselves to the border guards.<sup>48</sup>
- The border guards must then present the person to the NDGAP.<sup>49</sup>
- The person can then formally register their asylum application with NDGAP, thereby entering the official asylum procedure.

28. The provisions also prescribe the automatic “placement of the applicant in a closed facility” for 4 weeks following the registration of their asylum application without any available remedy to challenge the placement.<sup>50</sup>

29. Only people belonging to the following categories are not required to go through this process:<sup>51</sup>

- Those having subsidiary protection status and are staying in Hungary

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<sup>38</sup> „[the government has] decided to abolish the transit zone in a physical sense as well. In the future, those seeking to enter Hungary will have to apply at consulates in neighbouring, secure countries.” See the statement of 21 May 2020 of the Minister of the Prime Minister’s Office on the government’s spokesperson’s website: <http://abouthungary.hu/blog/gergely-gulyas-on-the-european-court-of-justices-new-ruling-on-immigration-its-dangerous-for-all-of-europe/>.

<sup>39</sup> FMS and Others v. Országos Idegenrendészeti Főigazgatóság, request for a preliminary ruling from the Szeged Közigazgatási és Munkaügyi Bíróság C-924/19 PPU and SA and SA junior v Országos Idegenrendészeti Főigazgatóság, request for a preliminary ruling from Szeged Közigazgatási és Munkaügyi Bíróság C-925/19 PPU, see the case file: <https://bit.ly/3qrH9tz>, see the summary: <https://www.helsinki.hu/en/hungary-unlawfully-detains-people-in-the-transit-zone/>.

<sup>40</sup> Article XIV (2) of the Fundamental Law of Hungary prohibits collective expulsion of third-country nationals, Article XIV (4) protects the right to seek asylum.

<sup>41</sup> Article 67(2) of the Treaty on the Functioning of the European Union, Article 3(1) and 6 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: rAPD), and Article 3(1) of Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 on laying down standards for the reception of applicants for international protection (recast) (hereafter: rRCD).

<sup>42</sup> See UNHCR Position on the new system: <https://www.refworld.org/docid/5ef5c0614.html>.

<sup>43</sup> Article 3 and Article 13 of the European Convention on Human Rights (hereafter: ECHR), Article 4 of Protocol 4 to the ECHR.

<sup>44</sup> See the statement of the European Commission of 30 October 2020:

[https://ec.europa.eu/commission/presscorner/detail/en/inf\\_20\\_1687](https://ec.europa.eu/commission/presscorner/detail/en/inf_20_1687) and a summary of all asylum-related infringement procedures against Hungary: <https://www.helsinki.hu/wp-content/uploads/asylum-related-infringements-against-Hungary-2015-2020-1.pdf>

<sup>45</sup> Section 1 of Government Decree 292/2020 (VI. 17.).

<sup>46</sup> Section 2 (3)-(4) of Government Decree 233/2020. (V. 26.) and Section 268 (3)-(4) of the Transitional Act.

<sup>47</sup> Section 2 (4)-(5) of Government Decree 233/2020. (V. 26.) and Section 268 (4)-(5) of the Transitional Act.

<sup>48</sup> Sections 3 and 4(2) of Government Decree 233/2020. (V. 26.) and Sections 269 and 270 (2) of the Transitional Act.

<sup>49</sup> Section 4 (3) of Government Decree 233/2020. (V. 26.) and Section 270 (3) of the Transitional Act.

<sup>50</sup> Section 4 (5) of Government Decree 233/2020. (V. 26.) and Section 270 (5) of the Transitional Act. Please note that although the provisions state that this is optional („may issue a decision”), the reasoning provided to the relevant section of the Transitional Act, which is equally binding, clarifies that this is in fact compulsory thus an automatism.

<sup>51</sup> Section 5 (1) of Government Decree 233/2020. (V. 26.) and Section 271 (1) of the Transitional Act.

- Family members<sup>52</sup> of refugees and those having subsidiary protection who are staying in Hungary
- Those subject to measures affecting personal liberty, except if they have crossed Hungary in an illegal manner.

30. Those neither falling under the exempted categories nor being granted the special one-time entry permit at one of the embassies, cannot request asylum in Hungary.<sup>53</sup> This results in absurd cases: e.g. a person with a valid student visa who cannot return to their country of origin due to the risk of persecution or serious harm cannot apply for asylum in Hungary despite residing in the country legally. Instead, they must travel to Belgrade or Kyiv (to which countries they might have to obtain a visa to do so) to lodge a DoI. As the NDGAP has 60 days to decide on the DoI during which period it might remotely interview the foreigner, this also means that persons under such circumstances would have to wait in Belgrade or Kyiv for two months.<sup>54</sup>

31. Third-country nationals are not entitled to reception conditions during this phase and do not enjoy any protection either. They can be, both in practice and by law, detained, expelled, deported by the authorities of the host country where the embassy is located. This is also the case for those third-country nationals who cross the border of Hungary unlawfully and request asylum: authorities must “refer” such third-country nationals to the Hungarian embassy located in the country from which they entered Hungary unlawfully.<sup>55</sup> This raises concerns especially in cases where the third-country national is “referred” to a country other than Serbia or Ukraine, where DoIs can be lodged.<sup>56</sup> In such cases, the Hungarian legislation forces third-country nationals to cross at least two state borders unlawfully in order to lodge DoIs, raising risks of *chain-refoulement*.

32. Thus the new system excludes the possibility to apply for international protection at the border, at border crossing points, or inside Hungary save for the few belonging to the groups excluded from the embassy procedure, described above. This exclusion, coupled with the massive extrajudicial push-backs, result in a situation where Hungary does not meet the requirement of providing access to the territory<sup>57</sup> and at the same time, forces asylum-seekers to initiate a procedure that falls outside of the scope of EU law, including the Charter of Fundamental Rights.<sup>58</sup>

33. Until data is available, only 4 individuals were allowed to enter Hungary and make an asylum application<sup>59</sup>:

<b>MONTH</b>	<b>STATEMENTS OF INTENT RECEIVED BY NDGAP (ALL FROM BELGRADE)</b>	<b>PENDING “SUGGESTION”</b>	<b>“NOT SUGGESTED”</b>	<b>“SUGGESTED”</b>
<b>MAY</b>	0	0	0	0
<b>JUNE</b>	0	0	0	0
<b>JULY</b>	7	7	0	0
<b>AUGUST</b>	7	7	7	0
<b>SEPTEMBER</b>	8	8	7	0
<b>OCTOBER</b>	4	12	0	0
<b>NOVEMBER</b>	0	12	8	4
<b>DECEMBER</b>	0	4	0	0
<b>TOTAL</b>	<b>26</b>	<b>n.a.</b>	<b>22</b>	<b>4</b>

34. Based on information received by the Hungarian Helsinki Committee (HHC), the embassy in Belgrade requires would-be asylum-seekers to first request an appointment to lodge a DoI of which only an extremely limited number had been offered. According to the Government, 228 individuals have requested an appointment until 30 October 2020, but only 45 have been provided with one.<sup>60</sup>

<sup>52</sup> Family members defined according to the Asylum Act (Section 2(j)) are the spouses, minor children and children’s parents or an accompanying foreign person responsible for them under Hungarian law.

<sup>53</sup> Section 5 (2) of Government Decree 233/2020. (V. 26.) and Section 271 (2) of the Transitional Act.

<sup>54</sup> Section 2(3) of Government Decree 233/2020. (V. 26.) and Section 268(3) of the Transitional Act.

<sup>55</sup> Section 5(2) of Government Decree 233/2020. (V. 26.) and Section 271(2) of the Transitional Act.

<sup>56</sup> Section 1 of Government Decree 292/2020. (VI. 17.).

<sup>57</sup> Article 3 of rAPD.

<sup>58</sup> Article 51(1) of the Charter, see also X and X v Belgium, C-638/16 PPU.

<sup>59</sup> Source: response of the NDGAP to a freedom of information request of the Hungarian Helsinki Committee

<sup>60</sup> Minutes of the meeting of 30 October 2020, pp. 2-3.

35. Based on HHC's representation of would-be asylum-seekers whose DoIs were not approved, the NDGAP does not provide any reasoning of its decision. In a related pending lawsuit, the NDGAP claims that this new system not only falls outside the scope of EU law, but is in fact not even an administrative procedure; consequently, no remedy is available against the "suggestion" it makes pursuant to these DoIs.
36. Should this temporary system be terminated, according to the current legislation, the unlawful transit zone system would be reintroduced.
- 37. Recommendations:**
38. Ensure effective access to territory and procedure for those seeking protection at the borders and on the territory of Hungary regardless of their migratory status<sup>61</sup>
39. Either abolish completely, or bring the applicable framework of the suspended transit zone system in line with UN recommendations,<sup>62</sup> EU, and domestic law standards, and in line with relevant judgments of the European Court of Human Rights (ECtHR)<sup>63</sup> and the CJEU.<sup>64</sup>

### III.c. Concerns related to procedures

40. Prior to temporarily introducing the embassy system, the blanket issuance of inadmissibility decisions had been a systemic problem. Between September 2015 and March 2017, the authorities used the concept of safe third country to automatically reject almost all asylum-seekers.<sup>65</sup> In 2016, 95% of applicants entered Hungary through one of the transit zones located at the Serbian-Hungarian border from Serbia, triggering the asylum authority to automatically recourse to the list of safe third countries that also includes Serbia,<sup>66</sup> despite UNHCR's assessment<sup>67</sup> and a plethora of up-to-date information attesting to the opposite.<sup>68</sup> The ECtHR ruled that this practice, coupled with the lack of official readmission from Hungary to Serbia of rejected asylum-seekers is in breach of Article 3 ECHR.<sup>69</sup> By the beginning of 2017, a judicial consensus emerged in Hungary that Serbia was not a safe third country.<sup>70</sup> A year later on 1 July 2018, further amendments entered into force that introduced a new inadmissibility criterion, a mix of the concept of safe third country and the first country of asylum.<sup>71</sup> As a result, asylum-seekers again had very little chance to have their applications examined in an in-merit procedure and were again automatically issued inadmissibility decisions. From July 2018 until July 2019, only 2 positive decisions were issued in cases that started after the introduction of the new criterion.<sup>72</sup> In March 2020, the CJEU ruled that this new criterion

<sup>61</sup> See also the recommendations made in UN Human Rights Committee, *Concluding observations on the sixth periodic report of Hungary*, 9 May 2018, CCPR/C/HUN/CO/6, para 46., in UN Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined eighteenth to twenty-fifth periodic reports of Hungary*, 6 June 2019, CERD/C/HUN/CO/18-25 para. 23 (c), See also recommendations made in UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his visit to Hungary*, Forty-fourth session, 11 May 2020, A/HRC/44/42/Add.1, para. 66

<sup>62</sup> See also the recommendations made in UN Human Rights Committee, *Concluding observations on the sixth periodic report of Hungary*, 9 May 2018, CCPR/C/HUN/CO/6, para 46, and in UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his visit to Hungary*, Forty-fourth session, 11 May 2020, A/HRC/44/42/Add.1, para. 65

<sup>63</sup> *Ilias and Ahmed v. Hungary*, app. No. 47287/15 (GC), R.R. and *Others v Hungary*, app. no. 36037/17.

<sup>64</sup> C-924/19 PPU, C-925/19 PPU, C-808/18

<sup>65</sup> European Council on Refugees and Exiles (ECRE), Asylum Information Database (AIDA), Country report: Hungary, 2016 update, [https://asylumineurope.org/wp-content/uploads/2017/04/report-download\\_aida\\_hu\\_2016update.pdf](https://asylumineurope.org/wp-content/uploads/2017/04/report-download_aida_hu_2016update.pdf), p. 11., p. 52.

<sup>66</sup> Government Decree on safe third countries, 191/2015 (VII. 21.)

<sup>67</sup> UNHCR, *Serbia as a country of asylum: Observations on the situation of asylum-seekers and beneficiaries of international protection in Serbia*, August 2012, <https://www.refworld.org/docid/50471f7e2.html>

<sup>68</sup> See e.g. HHC, *Serbia as a Safe Third Country: Revisited: An update of the Hungarian Helsinki Committee's 2011 report*, June 2012, <http://helsinki.hu/wp-content/uploads/Serbia-report-final.pdf>; AIDA Country Report Serbia: 2016 Update, February 2017, [https://asylumineurope.org/wp-content/uploads/2017/02/report-download\\_aida\\_sr\\_2016update.pdf](https://asylumineurope.org/wp-content/uploads/2017/02/report-download_aida_sr_2016update.pdf); Amnesty International, *Europe's Borderlands*, 6 July 2015, <https://www.amnesty.org/en/documents/eur70/1579/2015/en/>; Belgrade Centre for Human Rights, *The Right to Asylum in the Republic of Serbia 2016*, March 2017, <http://www.bgcentar.org.rs/bgcentar/eng-lat/right-asylum-republic-serbia-2016/>

<sup>69</sup> *Ilias and Ahmed v. Hungary*, app. No. 47287/15 (GC), see esp. Para 163.

<sup>70</sup> European Council on Refugees and Exiles (ECRE), Asylum Information Database (AIDA), Country report: Hungary, 2017 update, [https://asylumineurope.org/wp-content/uploads/2018/08/report-download\\_aida\\_hu\\_2017update.pdf](https://asylumineurope.org/wp-content/uploads/2018/08/report-download_aida_hu_2017update.pdf), p. 38.

<sup>71</sup> Section 51 (2f) of Asylum Act

<sup>72</sup> Hungarian Helsinki Committee, *One year after*, 1 July 2019, <https://www.helsinki.hu/wp-content/uploads/One-year-after-2019.pdf>, p. 2.

breaches EU law.<sup>73</sup> This abusive application of inadmissibility procedures complemented other practices described in Section III.a. above, resulting in unprecedented restrictions of access to proper assessments of protection needs.

41. This was only exacerbated by stripping courts' right to overturn the decisions of the asylum authority,<sup>74</sup> resulting in practically endless procedures ("ping-pong") whereby after applicants were rejected, successfully appealed, only to receive the same decision by the asylum authority again, then appeal successfully again and receive the same rejection for the third time.<sup>75</sup> In July 2019 the CJEU ruled that this breaches the right to effective remedy and that courts must substitute their own decision on the merits of an asylum claim, that is, directly grant protection, where the authorities had disregarded their earlier decision on the case.<sup>76</sup> While this could reduce the *overall* time it took for an applicant to receive a proper decision, it did not ensure a fair and efficient procedure.<sup>77</sup> The situation in the transit zones between March 2017 and May 2020<sup>78</sup> showed that the authorities' unwillingness to conduct a fair procedure cannot be remedied by granting courts only conditional reformatory right. The applicable legal framework resulted in prolonged *de facto* detention in conditions that were in breach of Article 3 of the ECHR.<sup>79</sup> E.g. the average length of stay of unaccompanied children in the transit zones in February 2020 was 316 days,<sup>80</sup> still waiting for a final decision in their case.

#### 42. Recommendations:

43. Reinstate fully courts' right to overturn decisions of the asylum authority<sup>81</sup>

44. Observe procedural obligations of the prohibition of inhuman or degrading treatment or punishment and *refoulement* before rejecting and expelling asylum-seekers when deciding on the admissibility of claims<sup>82</sup>

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<sup>73</sup> Judgment in the case of Case C-564/18,

<https://curia.europa.eu/juris/document/document.jsf?docid=224585&text=&dir=&doclang=EN&part=1&occ=first&mode=DOC&pageIndex=0&cid=128014>; see also the HHC's press statement: <https://www.helsinki.hu/en/asylum-seekers-arriving-through-serbia-cannot-be-rejected-automatically/>

<sup>74</sup> Section 1(3a) of Act CXLV of 2015 on the amendment of certain acts in the context of managing mass immigration.

<sup>75</sup> Opinion of Advocate General Bobek in case C-556/17: „*Table tennis (or, under a trade name, Ping-Pong) is a popular sport, the origins of which seem to stretch back to 19th or early 20th century England. 'The object [of the game] is to hit the ball so that it goes over the net and bounces on the opponent's half of the table in such a way that the opponent cannot reach it or return it correctly.'* To this basic definition, *Encyclopædia Britannica* adds an intriguing historical fact: 'the first world championships were held in London in 1926, and from then until 1939 the game was dominated by players from central Europe, the men's team event being won nine times by Hungary and twice by Czechoslovakia'. There exists, unfortunately, another variety of the game, which is generally less enjoyable. In Czech judicial slang, but perhaps not just there, 'judicial' or 'procedural ping-pong' refers to the undesirable situation in which a case is repeatedly shuttled back and forth between courts within a judicial structure, or, in the context of administrative justice, between the courts and administrative authorities.” Paras 1-2,

<https://curia.europa.eu/juris/document/document.jsf?text=&docid=213503&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=5968553>

<sup>76</sup> Judgment in the case of C-556/17,

<https://curia.europa.eu/juris/document/document.jsf?docid=216550&mode=req&pageIndex=1&dir=&occ=first&part=1&text=&doclang=EN&cid=5968553>, see the HHC's statement <https://www.helsinki.hu/en/the-man-who-defeated-the-hungarian-asylum-system/>

<sup>77</sup> European Council on Refugees and Exiles (ECRE), Asylum Information Database (AIDA), Country report: Hungary, 2019 update, [https://asylumineurope.org/wp-content/uploads/2020/06/report-download\\_aida\\_hu\\_2019update.pdf](https://asylumineurope.org/wp-content/uploads/2020/06/report-download_aida_hu_2019update.pdf), p. 26.

<sup>78</sup> Since 28 March 2017, transit zones can be designated as the compulsory place of stay during aliens policing (removal) procedures as well. See in detail: HHC, *One year after*, 1 July 2019, <https://www.helsinki.hu/wp-content/uploads/One-year-after-2019.pdf> and its consequences here: <https://www.helsinki.hu/wp-content/uploads/Denial-of-food-for-inadmissible-claims-HHC-info-update-17August2018.pdf>

<sup>79</sup> R. R. and Others v Hungary, app. no. 36037/17, Judgment of 2 March 2021, <http://hudoc.echr.coe.int/eng/?i=001-208406>

<sup>80</sup> See a detailed statistical breakdown of length of stays in the transit zones in HHC, *Statistical data pertaining to asylum procedures conducted in one of the transit zones that were either initiated after 1 January 2019 or that were initiated after 1 January 2019 but are still pending on 3 February 2020*, <https://www.helsinki.hu/wp-content/uploads/Average-length-of-stay-in-transit-asylum-3-Feb-2020.pdf>

<sup>81</sup> See also recommendation made in See also recommendations made in in UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his visit to Hungary*, Forty-fourth session, 11 May 2020, A/HRC/44/42/Add.1, para. 68

<sup>82</sup> See also UN Human Rights Committee, *Concluding observations on the sixth periodic report of Hungary*, 9 May 2018, CCPR/C/HUN/CO/6, paras 10 and 48; in UN Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined eighteenth to twenty-fifth periodic reports of Hungary*, 6 June 2019, CERD/C/HUN/CO/18-25, paras. 23 (b) and 25..

## IV. Vulnerable and unaccompanied minor applicants

45. Although laws prescribe that the special needs of certain asylum-seekers should be addressed,<sup>83</sup> there is no further detailed guidance available in the law and no practical identification mechanism in place to adequately identify such persons. As automatic screening and identification is lacking, it depends on the officer in charge whether the applicant's vulnerability is identified and taken into account,<sup>84</sup> the latter usually being limited to visible vulnerabilities<sup>85</sup> (e.g. small children or certain disabilities).
46. Similarly, no guidance is available on how to conduct age assessment. Until transit zones were operational, a military doctor conducted the assessments, based on the physical appearance (weight, height) and existence of pubic hair and size of breasts.<sup>86</sup>
47. Unaccompanied children aged between 14-18 years were removed from the scope of the Child Protection Act, thus no child protection guardian is appointed to them.<sup>87</sup> Instead, *ad-hoc*, temporary guardians, with engagement limited to the asylum procedure are appointed to them.
48. The best interest of children is not assessed at any stage of the procedure.<sup>88</sup> Hungary has no specific reception facility for vulnerable asylum-seekers except for unaccompanied children. Single women, female-headed families, and victims of torture and rape, as well as LGBT asylum-seekers are accommodated in the same facilities as others, with no specific attention.<sup>89</sup> Medical assistance for seriously mentally challenged persons is unresolved. Similarly, residents with drug or other types of addiction have no access to mainstream health care services.<sup>90</sup>
49. The Children's Home accommodating unaccompanied minors has been awaiting closure for years. Until recently, all deadlines set have expired without any substantive measures to empty the centre and relocate the children. Responsible state authorities have so far failed to inform the children and the workers of the facility about the actual schedule of the emptying, the allocation of new places of care and the possible assisted reintegration projects. The lack of involvement of the children and the provision of information for them is at variance with the Convention on the Rights of the Child.<sup>91</sup>
50. Council of Europe's GRETA identified serious deficiencies both in law and in practice in Hungary in its second evaluation round of 2019 and made detailed recommendations to the Government to remedy it.<sup>92</sup> To date, no development has taken place.

### 51. Recommendations:

52. Implement GRETA recommendations of 2019<sup>93</sup>

53. Establish and follow SOPs for early assessment of vulnerabilities together with UNHCR and NGOs<sup>94</sup>

54. Effectively prioritise the procedures of vulnerable asylum applicants

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<sup>83</sup> Section 4(3) of Asylum Act.

<sup>84</sup> See e.g. IOM, *Mapping Report on Legal Frameworks and Assistance Available to Migrant Victims of SGBV*, 2019, [http://iom.bg/sites/default/files/PROTECT\\_MAPPING%20REPORT\\_FINAL.pdf](http://iom.bg/sites/default/files/PROTECT_MAPPING%20REPORT_FINAL.pdf), pp. 43-49.

<sup>85</sup> Matevzic, G. *Unidentified and unattended – the response of Eastern EU Member States to the Special Needs of Torture Survivor and Traumatised Asylum-seekers*, 2017, <https://www.refworld.org/docid/59b155744.html>, p. 33.

<sup>86</sup> European Council on Refugees and Exiles (ECRE), Asylum Information Database (AIDA), Country report: Hungary, 2019 update, [https://asylumineurope.org/wp-content/uploads/2020/06/report-download\\_aida\\_hu\\_2019update.pdf](https://asylumineurope.org/wp-content/uploads/2020/06/report-download_aida_hu_2019update.pdf), p. 49.

<sup>87</sup> Article 4(1) c of Act XXXI of 1997 on Child Protection.

<sup>88</sup> Bakonyi-Léederer-Szekerés, *Best Interest Out of Sight – The Treatment of Asylum Seeking Children in Hungary*, 2017, <https://www.helsinki.hu/wp-content/uploads/Best-interest-out-of-sight.pdf> pp. 5-6.

<sup>89</sup> See e.g. O.M. v. Hungary, app. no. 9912/15, <http://hudoc.echr.coe.int/eng/?i=001-164466>

<sup>90</sup> European Council on Refugees and Exiles (ECRE), Asylum Information Database (AIDA), Country report: Hungary, 2019 update, [https://asylumineurope.org/wp-content/uploads/2020/06/report-download\\_aida\\_hu\\_2019update.pdf](https://asylumineurope.org/wp-content/uploads/2020/06/report-download_aida_hu_2019update.pdf), p. 81.

<sup>91</sup> See points B.3 of General comment No. 14 and B.1 of General comment No. 12 of the UN Committee on the Rights of the Child.

<sup>92</sup> Council of Europe Group of Experts on Action Against Trafficking in Human Beings, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Hungary*, GRETA(2019)3, <https://rm.coe.int/greta-evaluation-report-on-hungary-2nd-evaluation-round-/168098f118>

<sup>93</sup> Council of Europe Group of Experts on Action Against Trafficking in Human Beings, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Hungary*, GRETA(2019)3, <https://rm.coe.int/greta-evaluation-report-on-hungary-2nd-evaluation-round-/168098f118>

<sup>94</sup> See also recommendation made in UN Committee on the Rights of the Child, Concluding observations on the sixth periodic report of Hungary, 3 March 2020, CRC/C/HUN/CO/6, paras. 39 (e) and 43 (a), taking into consideration the CRC's request to Hungary that this must be addressed urgently (para. 4.)

55. Establish adequate and safe accommodation for vulnerable applicants<sup>95</sup>
56. Ensure a full protection of all unaccompanied children aged 14-18 and grant them a guardian with the same qualifications, functions and legal powers as those appointed for children aged less than 14.<sup>96</sup>
57. Ensure that the decision-making process related to the future of the Fót Children Centre is a clear, comprehensible and transparent process where the best interest of the child is taken into primary consideration.

## V. National security cases (withdrawal, exclusion, detention, expulsion)

58. An increase in recourse to national security grounds in withdrawal/rejection of granting/extending international protection statuses/residence permits<sup>97</sup> began in 2020. Obtaining the opinion of intelligence agencies in immigration procedures is an obligation and the immigration authority regards these opinions as binding.<sup>98</sup> The agencies are not obliged to provide justification of the opinion, and the data the opinion is based on is classified.<sup>99</sup> The Classified Data Act provides for the possibility for the person concerned to request the concerning classified data from the special authorities.<sup>100</sup> However, as per the experience of the HHC, as well as the statistics provided by the special authorities,<sup>101</sup> there have been no cases when the access was granted (not even to the summary of the reasoning, as required by the CJEU and ECtHR jurisprudence). This also means that affected foreigners cannot rebut the assessment during the procedure or challenge it at court, and consequently the withdrawal/rejection of granting/extending their international protection statuses/residence permits result in serious violations among others of their right to defense and right to an effective remedy. This was partially the case of over a dozen of Iranian medical students who were collectively expelled in April 2020.<sup>102</sup>
59. Further on, due to a legislative gap, there is no obligation to assess family life when someone's residence permit is withdrawn/not extended (if family members are Hungarian citizens or third-country nationals). If the third-country national is expelled, the obligation to take into account their family life prior to expulsion is only applicable to third-country nationals with a status based on the grounds of family relations.<sup>103</sup> And even in these cases, their family life is often examined only superficially and there is no meaningful proportionality and necessity test, as the data based on which the person is declared a risk to national security is classified. A serious nature of national security risk is required only for those with permanent residence permit, or for family members of

<sup>95</sup> See also recommendation made in and in UN Committee on the Rights of the Child, Concluding observations on the sixth periodic report of Hungary, 3 March 2020, CRC/C/HUN/CO/6, para. 39 (f), taking into consideration the CRC's request to Hungary that this must be addressed urgently (para. 4.)

<sup>96</sup> Article 1 CRC, see also *Committee of the Parties to the Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse (Lanzarote Committee of the Council of Europe)*, Hungarian report on the implementation of the recommendations endorsed by the Lanzarote Committee at its 20th meeting (29-31 January 2018), T-ES(2019)08\_en, 14 February 2019, recommendation no. 8., p 6., <https://rm.coe.int/hungarian-report-on-the-implementation-of-the-recommendations-endorsed/168092f297>, see also the recommendations in UN Human Rights Committee, *Concluding observations on the sixth periodic report of Hungary*, 9 May 2018, CCPR/C/HUN/CO/6, para. 50, and in UN Committee on the Rights of the Child, Concluding observations on the sixth periodic report of Hungary, 3 March 2020, CRC/C/HUN/CO/6, para. 39 (b), taking into consideration the CRC's request to Hungary that this must be addressed urgently (para. 4.), and in UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his visit to Hungary*, Forty-fourth session, 11 May 2020, A/HRC/44/42/Add.1, para. 66

<sup>97</sup> The relevant procedures are: withdrawal of int. protection, exclusion from int. protection, withdrawal of residence permit.

<sup>98</sup> Section 87/B (4) of Act II of 2007 on the Entry and Stay of Third-Country Nationals (TCN Act), Section 57(3) of Asylum Act.

<sup>99</sup> Section 87/B (8) of TCN Act, Section 57(6) of Asylum Act.

<sup>100</sup> Section 11 of Classified Data Act.

<sup>101</sup> Information received upon freedom of information requests from the Counter-Terrorism Office and the Constitution Protection Office on 8 October 2020.

<sup>102</sup> See more on these cases in HHC's submission to the call for input of the UN Special Rapporteur on contemporary forms of racism, xenophobia and related intolerance, to inform her report to the UN GA focusing on COVID-19-related incidents, 12 June 2020, <https://www.helsinki.hu/wp-content/uploads/HHC-submission-to-SR-on-xenophobic-incidents-during-the-COVID-19-epidemic.pdf>

<sup>103</sup> Section 45(1) of TCN Act.

third-country nationals with permanent residence permit.<sup>104</sup> This results in regular violations of the right to family life and in cases where minors are involved, the best interest of the child.

60. In August 2020, 64 detainees at the two immigration detention facilities went on hunger strike protesting poor detention conditions, lack of information; many of whom had Hungarian family members, including small children. Common to them was the sudden withdrawal of their residence permits citing national security grounds.<sup>105</sup> The HHC alerted<sup>106</sup> the NPM who conducted a visit in September 2020 in Nyírbátor and found, among others, that detainees with medical complaints were not examined by a doctor and that the contradictory decisions and information provided to the detainees in their expulsion procedure and immigration detention by the authorities raised potential violations of fundamental rights.<sup>107</sup>

61. During the special legal order introduced due to COVID-19,<sup>108</sup> first in April 2020,<sup>109</sup> then again in December 2020,<sup>110</sup> the Government issued special decrees hindering the right to an effective remedy in expulsion cases. According to these, those expelled based on the violation of epidemiological rules, or the threat to national security, public security or public order cannot request the suspension of the execution of their removal while their appeal is pending.<sup>111</sup> As expulsions can be carried out without prior judicial examination, the new rules render appeals ineffective. These fast-track, extrajudicial expulsions pose a risk of *refoulement* and might breach the right to family life and the best interest of the child as well. The lack of effective remedy breaches EU law.<sup>112</sup>

## 62. Recommendations:

63. Ensure effective remedy against expulsion decisions of third-country nationals and the principle of non-refoulement

64. Improve conditions in detention facilities, including available services and interpretation<sup>113</sup>

65. Amend the relevant legislation on the opinions of intelligence agencies issued in immigration procedures to bring them in conformity with EU law and ECHR and provide access to at least a summary why someone is considered a national security risk/threat;

66. Individually assess all personal circumstances in withdrawal/rejection of granting/extending international protection statuses/residence permits and expulsion cases instead of automatically adopting the opinion of intelligence agencies

67. Ensure that the right to family life and the best interest of the child are assessed and taken into account in residence withdrawal/expulsion cases, regardless of the migratory status of the person<sup>114</sup>

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<sup>104</sup> Section 45(2) of TCN Act.

<sup>105</sup> HHC, *Flagrant breach of the right to defence in national security cases, systemic denial of the right to family life*, 20 November 2020, <https://www.helsinki.hu/wp-content/uploads/National-Security-Risk.pdf> p.2.

<sup>106</sup> HHC's letter to the Commissioner for Fundamental Rights, 12 August 2020, [https://www.helsinki.hu/wp-content/uploads/HHC\\_submission\\_to\\_CFR\\_Nyirbator\\_12082020.pdf](https://www.helsinki.hu/wp-content/uploads/HHC_submission_to_CFR_Nyirbator_12082020.pdf)

<sup>107</sup> Report of the visit:

[https://www.ajbh.hu/documents/10180/3190211/OPCAT+jelent%C3%A9s+a+ny%C3%ADrb%C3%A1tor+%C5%91rz%C3%B6tt+sz%C3%A1ll%C3%A1son+tett+l%C3%A1togat%C3%A1sr%C3%B3l+6175\\_2020/f0b3540e-ed59-0fcc-6c9b-9aade2f193fb?version=1.0](https://www.ajbh.hu/documents/10180/3190211/OPCAT+jelent%C3%A9s+a+ny%C3%ADrb%C3%A1tor+%C5%91rz%C3%B6tt+sz%C3%A1ll%C3%A1son+tett+l%C3%A1togat%C3%A1sr%C3%B3l+6175_2020/f0b3540e-ed59-0fcc-6c9b-9aade2f193fb?version=1.0)

<sup>108</sup> See an overview of Hungary's emergency regimes introduced due to the pandemic: [https://www.helsinki.hu/wp-content/uploads/HHC\\_Hungary\\_emergency\\_measures\\_overview\\_27012021.pdf](https://www.helsinki.hu/wp-content/uploads/HHC_Hungary_emergency_measures_overview_27012021.pdf)

<sup>109</sup> Government Decree 85/2020. (IV. 5.), in force after 10 April, repealed as of 18 June 2020.

<sup>110</sup> Government Decree 570/2020. (XII. 9.), in force after 10 December 2020.

<sup>111</sup> Section 5 of Government Decree 570/2020. (XII. 9.)

<sup>112</sup> Blackstone Chambers, *Hungary and the Rule of Law: The law of the European Union and Hungary's Act XII of 2020 on the containment of coronavirus and Decrees issued thereunder – Opinion*, <https://www.blackstonechambers.com/news/legal-opinion-hungarian-covid-19-legislation/>

<sup>113</sup> See the joint submission of the Global Detention Project and the Hungarian Helsinki Committee to the UPR of Hungary (third cycle)

<sup>114</sup> See also recommendations made in See also recommendations made in UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his visit to Hungary*, Forty-fourth session, 11 May 2020, A/HRC/44/42/Add.1, para. 66

## VI. Integration and rights of migrants

68. Although the Migration Strategy for 2014-2020<sup>115</sup> called for the adoption of an integration strategy for migrants, it has not happened yet and the Government does not provide integration support for migrants (including beneficiaries of international protection).
69. During the asylum procedure applicants do not receive targeted integration support from state authorities but NGOs are allowed to provide integration services (e.g. Hungarian language courses, information about Hungary) in the open reception centres.
70. In theory, 9 months after the lodging the asylum application, applicants placed in open reception facilities may apply for a work permit<sup>116</sup> to access the labour market but since residence permits issued to applicants are valid for 2-3 months only and the work permits have to have the same validity period, it is impossible in practice to find employment.<sup>117</sup>
71. Between 1 January 2014 and 31 May 2016 refugees and beneficiaries of subsidiary protection had the opportunity to conclude an integration contract<sup>118</sup> with the asylum authority.<sup>119</sup> Upon the contract beneficiaries could receive services provided by the family assistance service and financial assistance provided by the asylum authority. The contracts were concluded for a maximum of two years. In 2016, in the framework of a legal reform that led to the de-facto dismantling of the asylum system, the integration contract and integration support was also eliminated.<sup>120</sup>
72. Between June 2016 and June 2018, in the absence of a specific integration strategy, the integration of beneficiaries of international protection in Hungary was based on the provisions of legislation granting equal rights with nationals<sup>121</sup> and on an *"informal social contract"* between state authorities and civil society organisations.<sup>122</sup> This meant that CSOs implemented programmes facilitating the integration of foreigners (including beneficiaries of international protection) in Hungary, supported from EU funds (mainly in the framework of the Asylum, Migration, Integration Fund (AMIF) distributed by the Government)<sup>123</sup>.
73. Thus, only civil society organisations (and occasionally municipal and other public service providers) implemented projects in the most important fields of integration: housing, guidance (social work), labour market integration, access to social assistance, health care, etc. There were (and are) no Hungarian language courses provided by state authorities, civil society organisations also provide Hungarian lessons free of charge.
74. Without prior consultation or justification, in January 2018, the Government withdrew calls for proposals to facilitate integration of third-country nationals (including beneficiaries of international protection) in the AMIF National Programme.<sup>124</sup> The government has not issued new calls to support the integration of beneficiaries of international protection ever since. Since July 2018 no EU-funded projects (awarded by the government) supporting the integration of beneficiaries of international

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<sup>115</sup> A summary of the Migration Strategy can be found on the government's website for the Asylum, Migration and Integration Fund: <http://belugyialapok.hu/alapok/sites/default/files/Migration%20Strategy%20Hungary.pdf>

<sup>116</sup> Section 5, paragraph 1, point c of Asylum Act.

<sup>117</sup> Based on the experiences of Menedék Hungarian Association of Migrants.

<sup>118</sup> Introduced with Section 15 of Act CXCVIII of 2013 and entered into force on 1 January 2014.

<sup>119</sup> The Office of Immigration and Asylum (the predecessor of the National Directorate-General for Aliens Policing).

<sup>120</sup> Section 90, point c of Act XXXIX of 2016

<sup>121</sup> Section 10, paragraph 1 and Section 17, paragraph 1 of Asylum Act

<sup>122</sup> See: Asylum seekers and beneficiaries of international protection in V4 countries, published by Menedék Association, People in Need (Czechia), (Poland), and Marginal (Slovakia) in the framework of the V4NIEM: Visegrad Countries National Integration Evaluation Mechanism project.

V4NIEM: Visegrad Countries National Integration Evaluation Mechanism Report 2017, Hungary,

<http://www.forintegration.eu/pl/pub/asylum-seekers-and-beneficiaries-of-international-protection-in-v4-countries/dnl/7>

<sup>123</sup> Though the EU acquis provides that the EU support should complement (and not replace) national, regional and local intervention (Regulation 514/2004 of the European Parliament and the Council laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management, Article 3) the Hungarian activities in the field of asylum, immigration and especially integration were mainly financed from EU funding (see: Follow the money II, a study by ECRE and UNHCR, [https://www.ecre.org/wp-content/uploads/2019/01/Follow-the-Money-II\\_AMIF\\_UNHCR\\_ECRE.pdf](https://www.ecre.org/wp-content/uploads/2019/01/Follow-the-Money-II_AMIF_UNHCR_ECRE.pdf)).

<sup>124</sup> The note (in Hungarian) is available on the Government's website for AMIF and Internal Security Fund: [http://belugyialapok.hu/alapok/sites/default/files/Hirdetmeny\\_ki%C3%ADr%C3%A1sok\\_visszavonas.pdf](http://belugyialapok.hu/alapok/sites/default/files/Hirdetmeny_ki%C3%ADr%C3%A1sok_visszavonas.pdf)

protection were implemented.<sup>125</sup> NGOs are struggling to find donors to implement activities that - according to EU acquis<sup>126</sup> - should be carried out as a public task while the government declared that they are ready to pay back the unused EU funds to the European Commission.<sup>127</sup>

75. The lack of funding led to activities, programmes facilitating the integration being terminated and even to the suspension of operation of some NGOs supporting beneficiaries of international protection and other foreigners.

#### 76. Recommendations:

77. In partnership with all relevant stakeholders, develop and implement a comprehensive strategy for the integration of migrants, including beneficiaries of international protection

78. Ensure adequate financing for activities facilitating the integration of migrants, make EU funding available for such projects

## VI.a. Rights of migrants

79. Despite the government's anti-immigration political statements,<sup>128</sup> the number of residence permits issued by the immigration authority<sup>129</sup> increased significantly in the past five years:

	NUMBER OF FIRST RESIDENCE PERMITS ISSUED <sup>130</sup>	MAIN REASONS		
		REMUNERATED ACTIVITIES	EDUCATION	FAMILY REUNIFICATION
<b>2015</b>	20 751	4 209	5 876	5 715
<b>2016</b>	22 842	5 851	7 874	4 730
<b>2017</b>	32 229	13 210	10 852	3 788
<b>2018</b>	55 739	31 553	10 772	6 026
<b>2019</b>	62 073	38 875	10 188	4 314

80. The increase was particularly remarkable in labour immigration in the number of applications for work residence permit but in the practice of Menedék Association, also an increasing number of

<sup>125</sup> Since 2018, only one project aiming at the integration of migrants (who are not beneficiaries of international protection) has been awarded, to the municipality of Paks (a small town in Central Hungary, where the enlargement of the nuclear power plant is planned involving Russian companies and experts).

<sup>126</sup> Directive 2011/95/EC of the European Parliament and the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, in particular Article 34

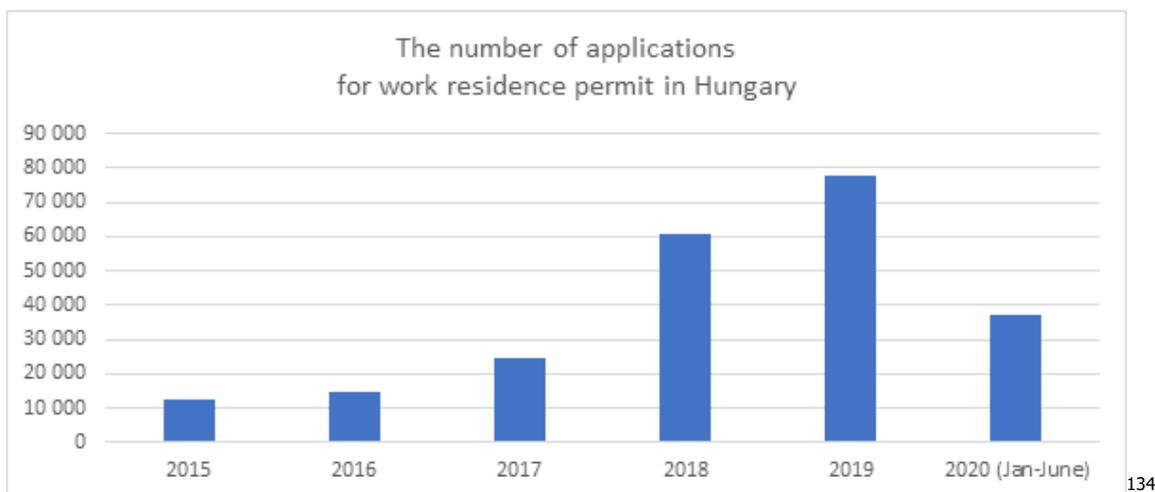
<sup>127</sup> The information was provided by the Government to the Asylum and Migration Thematic Working Group of the Human Rights Roundtable on 30 October 2020, see minutes of the meeting pp 4-5.

<sup>128</sup> The anti-immigration statements ranged from public billboard campaigns in 2016 with billboards asking: "Did you know that ..." – "... the Paris terror attacks were committed by immigrants" "... from Libya alone, more than 1 million people plan to come to the EU", "... Brussels wants to settle a town's worth of illegal migrants in Hungary", etc, to statements by members of the Government: the Prime Minister "Every illegal migrant is a health threat" (Kossuth Radio, 7 August 2020), "We need Hungarian children, not migrant children, we do not believe in peaceful coexistence, Hungary belongs to the Hungarians" (Kossuth Radio, 3 July 2020). The Prime Minister even condoned violent acts relating to intolerance against refugees. In 2017, an NGO tried to organise a summer camp for refugee children in a small town, where locals were rejecting the idea, reciting anti-immigrant statements and the vehicle of the person offering accommodation for the refugee children was vandalised. Following the threat, the summer camp was not organised and the mayor of the municipality resigned. The Prime Minister 'could not find anything to complain about' the behaviour of the locals, stating that 'it was absolutely right' that the locals 'expressed their opinion so firmly, loudly and clearly'. Minister Lázár stated 'this is how we, Hungarians are made', though he also mentioned 'an awareness-raising campaign on refugees could be considered'. No such awareness-raising campaign has ever been organised by the government.

<sup>129</sup> National Directorate-General for Aliens Policing (previously - 2017-2019: Immigration and Asylum Office, 2000-2016: Office for Immigration and Nationality)

<sup>130</sup> source: Eurostat

foreigners employed irregularly asked for assistance. There are no domestic legislation protecting the rights of foreigners who become unemployed, on the contrary, losing employment shall lead to the withdrawal of the residence permit. Even in the cases when the employer's name changes, a new residence permit needs to be applied for.<sup>131</sup> Foreigners employed irregularly are entitled to the reimbursement of their salaries<sup>132</sup> but in practice, foreigners do not receive the reimbursement.<sup>133</sup>



81. Hungary ratified the ILO Convention on Private Employment Agencies<sup>135</sup> but despite the prohibition specified in Article 7 of the Convention, many employment agencies charge fees to workers.<sup>136</sup>
82. Though the government adopted strategies against trafficking in human beings,<sup>137</sup> the identification and protection of foreign victims of trafficking in human beings is inadequate. The legislation provides for the possibility of issuing a residence permit for victims of trafficking in human beings (labour exploitation) who are non-EU nationals,<sup>138</sup> but no such residence permit has been issued yet.

## VI.b. Non-discrimination of migrants

83. The government has not adopted any specific measures to this end. Until June 2018, there were projects implemented by NGOs<sup>139</sup> with the support of EU/EEA funding distributed by the government but in January 2018 the government withdrew open calls for proposals for AMIF, depriving CSOs from funding and terminating projects serving *inter alia* prevention and elimination of racism, xenophobia and intolerance against migrants – calls for proposals with this aim have not been issued ever since.<sup>140</sup>

<sup>131</sup> This practice was confirmed by a representative of the employment authority at a conference organised by the University of Public Service on 6 November 2019 „Potentials and risks in migration in Europe, Current issues of labour migration in Hungary”

<sup>132</sup> Section 23 of Government Decree 445/2013 (XI. 28.)

<sup>133</sup> According to information gained in the practice of Menedék Association.

<sup>134</sup> Source: National Directorate-General for Aliens Policing. This number includes all applications (first applications and applications for the renewal of the residence permit). Data for 2015 and 2016 also include applications for residence permit for self-employed activities.

<sup>135</sup> Convention No. 181, Hungary ratified it in 2003, promulgated by Act CX of 2004

<sup>136</sup> For more details see the research report “Perpetual Temporariness - The situation of migrant workers in Hungary” at <http://library.fes.de/pdf-files/bueros/budapest/17065.pdf> issued by the Friedrich Ebert Foundation in 2020.

<sup>137</sup> The latest strategy for 2020-2023 was adopted by Government Resolution No. 1046/2020. (II. 18.)

<sup>138</sup> Section 29 of TCN Act

<sup>139</sup> e.g. the project ‘Velkám májgrentsz’ implemented by Menedék Association with the support of the NGO Fund of the EEA/Norway Grantsraising awareness about the discrimination against foreigners in the housing market, <https://menedek.hu/node/607>

<sup>140</sup> More information can be found in the paragraphs about integration.

84. An amendment adopted in 2018 introduced negative changes for third-country national family members of Hungarian nationals.<sup>141</sup> As from 1 January 2019, they no longer benefit from the right of free movement, their rights decreased: they no longer have free access to the labour market but they need a permit to pursue economic activities and they no longer are entitled to the state social/health security system.
85. While, as a general rule, the Hungarian legislation provides for equal rights with Hungarian nationals for beneficiaries of international protection,<sup>142</sup> laws may restrict those rights. E.g. in early 2018, a discriminatory amendment restricted rights of beneficiaries of international protection; without any justification or impact assessment, they were expressly excluded from the state financial support ('CSOK') to families in purchasing or (re)constructing their homes.<sup>143</sup> In the absence of measures supporting the integration of foreigners, this amendment further hindered access to housing of beneficiaries of international protection.
86. The lack of an integration strategy or measures facilitating the integration of migrants adversely affect their access to subsystems including education, healthcare, social care, housing support, etc. Despite CRC obligations,<sup>144</sup> children who do not have a residence permit, including children in immigration and asylum detention do not have access to public education.<sup>145</sup>
87. In the practice of Menedék Association, the number of foreigners who are victims of domestic violence and face difficulties when asking for help from the authorities increased. Many foreigners reside in Hungary with a residence permit issued for family reunification purposes, thus they are dependent on their sponsors (Hungarian nationals or non-EU nationals). As there is no specific provision in Hungarian law that would provide an opportunity for foreign victims of domestic violence to apply for an independent residence permit, as victims, they are discouraged from reporting the violence to the authorities and are trapped in abusive relationships.
- 88. Recommendations:**
89. Establish a comprehensive integration strategy for migrants, with specific measures to prevent and eliminate discrimination, racism, xenophobia and intolerance against migrants irrespective of their status
90. Ensure the inclusion of a human rights approach in the measures to address the migrant situation, taking into particular account the situation of vulnerable population
91. Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families<sup>146</sup>
92. Ensure access to all children to education irrespective of their immigration status<sup>147</sup>
93. Ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) and adopt comprehensive rules against domestic violence that also includes foreign victims.<sup>148</sup>

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<sup>141</sup> Act CXXXIII of 2018 on the modification of certain acts related to migration and other related acts

<sup>142</sup> Sections 10 and 17 of the Act LXXX of 2007 on Asylum

<sup>143</sup> Government Decree 26/2018. (II. 28.) amending Government Decrees 16/2016. (II. 10.) and 17/2016. (II. 10.)

<sup>144</sup> Article 28 Convention on the Rights of the Child, promulgated by Act LXIV of 1991

<sup>145</sup> Section 92 of Act CXC of 2011 on Public Education

<sup>146</sup> See also the recommendation made in UN Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined eighteenth to twenty-fifth periodic reports of Hungary*, 6 June 2019, CERD/C/HUN/CO/18-25 para 28.

<sup>147</sup> See also the recommendation made in UN Committee on the Rights of the Child, *Concluding observations on the sixth periodic report of Hungary*, 3 March 2020, CRC/C/HUN/CO/6, para. 39 (f), taking into consideration the CRC's request to Hungary that this must be addressed urgently (para. 4.)

<sup>148</sup> See also the recommendation made in UN Human Rights Committee, *Concluding observations on the sixth periodic report of Hungary*, 9 May 2018, CCPR/C/HUN/CO/6, para. 26.