

Access to Territory and Asylum Procedure in Hungary 2010



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I. Introduction

This report summarizes the experiences gathered in 2010 in the course of the project “Asylum Seekers’ Access to Territory and Asylum Procedure in the Republic of Hungary” (Border Monitoring Project), based on reports from individual border monitoring visits. Furthermore, it reveals how the recommendations, jointly agreed upon in the 2008–2009 report, have been realized. This report does not include an explanation of the border monitoring methodology, the rights of foreigners, or an account of the protection offered by visited police facilities, as the detailed description of these are included in the report on the program’s first year in 2007.

In the framework of a Tripartite Agreement, signed on 28 December 2006, the Border Monitoring Project continued to be implemented in 2010, by the Hungarian Helsinki Committee (HHC), the National Headquarters of the Border Guard (Border Guard) succeeded by the National Police Headquarters (Police), and the UNHCR Regional Representation for Central Europe (UNHCR).

In accordance with the Tripartite Agreement, the parties met on several occasions in 2010 under the framework of the Working Group created by Chapter V, Section 1 of the Tripartite Agreement (“Working Group”) to evaluate the Project’s experiences.

In line with the Tripartite Agreement and the practices established in 2007, the parties continued to discuss their experiences gained throughout 2010 in the Tripartite Working Group. The parties continued to consider the tripartite cooperation, which was regarded as exemplary in Europe at the time of signature, to be of great importance, as well as the joint assessment of practical issues and maintenance of a professional working relationship, as it efficiently facilitates cooperation among the parties implementing the Agreement. It also results in the effective exchange of information and positively influences the practice of the collaborating parties.

The cooperation on border monitoring in Hungary has been recognized as an exemplary practice across Europe and has been cited as a positive development in

several international meetings. Since the signing of the Agreement in December 2006, it has served as a basis for regulations concerning border monitoring cooperation arrangements between civil society organizations and the authorities in many European countries. Similar agreements have been concluded in Slovakia (2007), Slovenia (2008), Romania (2008), Poland (2009), Moldova (2009), and Bulgaria (2010).

The conclusions and recommendations of the 2010 report have been prepared by the Hungarian Helsinki Committee and the UNHCR Regional Representation for Central Europe. The Police's supplementary remarks were added later, but they also constitute part of the conclusions of the present report.

In line with previous years' practice supplementary remarks of the Police to the findings are set in bold, italicized font.

II. Border Monitoring Framework

II.1. Implementation of Activities Related to the Access to Territory and Asylum Procedure

Under the Tripartite Agreement, attorneys contracted by the Hungarian Helsinki Committee monitored three sections of Hungary’s borders: the Ukrainian–Hungarian border, the Serbian-Hungarian border, and the Budapest International Airport.

In general, police officers at all border checkpoints and field offices were consistently very cooperative with the HHC monitors. Information materials produced by the UNHCR and the HHC were regularly displayed in the UNHCR dispensers. The information dispensers also included lawyers’ contact information and were displayed at visible locations in all holding facilities as well as in the waiting areas for interview rooms.

It is important to add that the National Headquarters of the Border Guard and the Hungarian Helsinki Committee signed a cooperation agreement already in 2002, based on which the two organizations have developed a close working relationship. Under the 2002 agreement, the HHC’s attorneys can monitor and provide legal assistance in alien policing jails (since 1 July 2007, these detention facilities are called “guarded shelters”).

II.2. Methodology

According to the Tripartite Agreement, the Hungarian Helsinki Committee carries out border monitoring activity on behalf of the UNHCR at the Serbian–Hungarian and Ukrainian–Hungarian border sections and at Budapest International Airport.

The Hungarian Helsinki Committee contracted three lawyers to pay two monitoring visits per month at any time of day to the border sections. The monitors’ tasks

included visiting those border sections where border guard holding facilities for the short-term arrest of foreigners are located, and reviewing border guard statistics regarding alien policing and asylum procedures that had been carried out or were in progress.

The Police are not an asylum authority; and do not keep statistics neither of pending, nor of closed asylum procedures. The Police have statistical data—which is made available to monitors—only about individuals who have applied for asylum at the Police.

Monitoring lawyers could also interview persons detained at these holding facilities under the terms of the Tripartite Agreement. This could only be regularly accomplished at the Budapest International Airport due to the time dynamics of illegal migration. Monitors could also have access, in compliance with data protection law, to anonymous official files about persons who had already been returned.¹

Two days prior to each monitoring visit, the HHC informed the UNHCR and the Police about the planned visit, specifying the venues to be visited and the time of the visit. In several cases an interpreter was needed, requiring the submission of a special authorization letter.

In terms of the Tripartite Agreement, the HHC and its monitors were granted access to all short-term holding facilities of the Police and could speak with foreigners detained therein. Monitoring lawyers introduced themselves and the purpose of their visit to the foreigners, and made clear that they were not affiliated with the authorities and that foreigners may freely refuse to speak to them as the conversation was strictly voluntary.

Under the Agreement, the Police ensures that monitors have access to copies of official files of foreigners, even if the foreigners have already left Hungary, in accordance with previously specified themes and nationalities. In such cases, the copies of files had been made anonymous in accordance with data protection law. This provision significantly increased the scope of files the HHC could access.

The files of former detained foreigners are transferred from the police field offices to the archives of Regional Police Directorates. Under the Tripartite Agreement, when the HHC sends a notification about an upcoming visit, it can signal which foreigners' anonymous files it wishes to access at the particular monitoring location.

The HHC monitors sent reports to the HHC about each monitoring visit, which the HHC then forwarded to the Police and the UNHCR within 15 days of the visit. The Parties to the Tripartite Agreement could make comments, remarks, and suggestions to each report.

1 Act LXIII of 1992 on the protection of personal data and disclosure of information of public interest

III. The Legal Framework of Access to Territory and Asylum Procedure

III.1. General Legal Framework

The Republic of Hungary, as a state party to the United Nations Convention relating to the status of refugees, adopted on 28 July 1951 (“1951 Geneva Convention”), and the Protocol relating to the status of refugees, adopted on 31 January 1967 (“1967 Protocol”), must respect and implement the provisions of these international instruments. The Hungarian Constitution as the paramount and basic national law, in Article 65 (1), guarantees that the Republic of Hungary shall grant the right of asylum to persons who meet the refugee definition contained in the 1951 Geneva Convention.

The first premise for the protection of persons seeking international protection is that they be allowed to enter the territory of the country where protection is available, and that they have access to the asylum procedure. Regarding irregular migrants not seeking asylum, it is established that the Police must return such persons to the appropriate country as defined by Section 40 (1) of the Third Country Nationals Act,² as well as return persons whose expulsion had been ordered by the alien policing authorities or the courts—in compliance with the principle of *non-refoulement* as contained in Section 51 and 52 (1) of the Third Country Nationals Act.

Regarding the general legal framework regulating return and access to asylum an important distinction has to be made. The rights and legal situation of foreigners who wish to seek asylum, but who have not yet submitted an asylum application to the asylum authority, are not governed by the rather detailed rules applicable to

² Third Country Nationals Act, Section 40 (1)

asylum seekers. Rather, the relevant legal provisions of the Schengen Borders Code apply, based on which border control agencies may refuse entry into the country and order return.

The foreigner can at any stage of a police procedure express his/her intention to apply for asylum, and thereafter the proceedings will continue accordingly. In a readmission procedure the Police will then refrain from returning the individual, or from executing the return of the individual in consideration.

The Third Country Nationals Act contains very little about the legal situation of foreigners under the return procedure. The Act only provides that, in the interest of implementing return, the returned foreigner must remain in the designated area of the border area or the airport,³ and that the authorities shall ensure basic provisions (accommodation, three meals per day, personal articles) at the premises designated for holding persons under return.

*For more details on the general legal framework related to return procedures, please consult the report entitled *Asylum Seekers' Access to Territory and to the Asylum Procedure in the Republic of Hungary*.⁴*

Although broader immigration and refugee law developments are not the subjects of our border monitoring activities, it is important to highlight that the Hungarian immigration and asylum legislation was significantly modified in 2010.

The most important changes in the field of asylum and immigration law are the following:

- Extension of the detention of asylum seekers beyond the preliminary assessment phase to the entire duration of the asylum procedure by abolishing the previous Section 55 (3) of the Asylum Act.
- The maximum duration of alien policing detention was increased to 12 months.⁵
- The scope of application of alien policing detention was also broadened: families with minor children are subject to detention measures up to 30 days, as an ultimate measure, provided that other less coercive measures do not accomplish the aim of detention.⁶

3 Third Country Nationals Act, Section 41 (1)

4 *Asylum Seekers' Access to Territory and to the Asylum Procedure in the Republic of Hungary* http://helsinki.hu/dokumentum/Border_Monitoring_Report_2007_ENG_FINAL.pdf

5 Third Country Nationals Act, Section 54 (5)

6 Third Country Nationals Act, Section 56 (3)

- As a consequence of the modification in 2010, the structure of the Hungarian asylum procedure has significantly changed, the concept of manifestly ill-founded asylum applications has been introduced.
- Subsequent asylum applications no longer have suspensive effect on the execution of the expulsion, if the Hungarian authority or court in its latest decision decided that the prohibition of *refoulement* was not applicable in respect of the applicant.
- Asylum applications shall be rejected as manifestly unfounded if the applicant has failed without reasonable cause to make his/her application earlier, having had opportunity to do so. As a procedural safeguard Article 8 of the EU Procedures Directive is implemented in the modified Asylum Act, stating that no application can be rejected solely on the basis of the above.

III.2. Brief Overview of the First Instance Asylum Procedure in Hungary

The first instance asylum procedure consists of two distinct phases: the preliminary assessment procedure and the in-merit procedure.

To initiate an asylum procedure in Hungary there are no official requirements as regards to the form, place, or timing of lodging an asylum application. It is valid both in written and oral form, in any language, and at any public administration body. Most often it means the Police or the Office of Immigration and Nationality, but it might be a penitentiary institution as well. If the asylum seeker submits the application to another authority, it is obliged to register the fact of the submission in its minutes and forward it by fax without delay to the competent authority, which is the Office of Immigration and Nationality (OIN). The OIN is then obliged to start the procedure and duly inform the asylum seeker on his/her rights and obligations during the procedure in the applicant's mother tongue or in a language that the person understands. The HHC's experience shows that the lack of formal requirements and persisting communication difficulties often result in situations where the proceeding police officers allegedly fail to "hear" and duly register the asylum application, which might lead to *refoulement* in case of potential asylum seekers. (concrete cases are cited in Chapter VI. under VI.1.)

Prior to ordering the expulsion, the Police contact the competent asylum department of the Office of Immigration and Nationality in all cases by sending

the record of the interview for the purpose of assessing the applicability of the non-refoulement principle. Expulsion will not be ordered to a country where the person may not be expelled to according to the OIN's opinion.

The preliminary phase of the asylum procedure serves mainly to identify if the asylum seeker was already granted protection elsewhere or to establish the member state responsible to examine the asylum claim in case a EURODAC hit confirms that the Dublin II Regulation⁷ is applicable. The preliminary assessment procedure may not last longer than 30 days.⁸

Regarding the in-merit procedure, the asylum authority has up to two months after the OIN has referred the application.⁹ In this phase of the procedure the OIN examines if the asylum seeker is entitled to refugee status, subsidiary protection or tolerated stay (in case the risk of *refoulement* prevails), or if the person should be excluded from refugee status or subsidiary protection on the basis of Article 1F of the Geneva Convention or Article 12 of the Qualification Directive.¹⁰

III.3. Respect for the Principle of Non-Refoulement and Article 33(1) of the 1951 Geneva Convention

Article 33 (1) of the 1951 Geneva Convention sets forth the general principle of non-refoulement:

“No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”

In accordance with the relevant international norms, Section 51 of the Third Country Nationals Act contains the principle of *non-refoulement* by declaring when return or the execution of expulsion is prohibited. The Police is required to contact

7 EC Regulation 2003/343/CE

8 Section 47 (2) of the Asylum Act

9 Section 56 (3) of the Asylum Act

10 These provisions are implemented in Section 8 and 15 of the Asylum Act

the Office of Immigration and Nationality in case of doubt concerning the risks the foreigner(s) may face upon return.

However, as previous reports on border monitoring activities¹¹ have pointed out, return is generally a measure that is enforced within a relatively short period of time, and due to its special procedural characteristics, it is not preceded by a substantive interview. Both the UNHCR and the HHC support the idea of introducing such an interview in the Hungarian alien policing legislation, as through such an interview it would be possible for the Police to gain more information about the reasons why the foreigner left his/her country of origin. In the absence of this substantive interview the authorities are not able to assess *non-refoulement* grounds in a substantive manner in the course of the return procedure.

Experience shows that seeking asylum is only possible if communication between the Police and the foreigner allows the latter to express his/her wish to claim asylum in a way that is clear and comprehensive for the Police. The present report demonstrates practical findings and cases in relation to the respect for the principle of *non-refoulement* in Chapter VI.

11 For more details on the implementation of Article 33 of the Geneva Convention please consult the two previous reports on border monitoring, *Asylum Seekers' Access to Territory and to the Asylum Procedure in the Republic of Hungary*, p. 35, available: http://helsinki.hu/dokumentum/Border_Monitoring_Report_2007_ENG_FINAL.pdf, and *Report on the Border Monitoring Programme 2008–2009*, p. 13, available: <http://helsinki.hu/dokumentum/Hatatmegfigyelo-program-US-proof-2.pdf>

IV. Description of Monitored Locations and Facilities

IV.1. Locations Monitored

The implementation of the border monitoring project in 2010 concerned three border sections (Serbian, Ukrainian, and the Budapest International Airport) where three lawyers contracted by the HHC carried out border monitoring. This chapter contains a brief description of the types of border guard premises where the monitoring activity took place.

IV.2. Monitoring at the Cross Border Points

- **Serbian-Hungarian border section—Kiskunhalas Border Guard Directorate and Alien Policing Centre**

The HHC's monitor at the Serbian-Hungarian border section visited the following locations as part of the border monitoring activity: *Bácsalmás, Bácsbokod, Hercengszántó, Kelebia and Szeged Border Control Field Offices, and related border-crossing points (Tompá, Kelebia, Bácsalmás, Röszeke).*

With the integration of the Police and the Border Guard on 1 January 2008, at the Serbian-Hungarian border section the Kiskunhalas Border Guard Directorate ceased to operate. Its tasks were taken over by the Bács-Kiskun County and the Csongrád County Police Headquarters. The Alien Policing Centre at Kiskunhalas had been closed as a result of changes in legislation dated 1 July 2007, and has been functioning since as a guarded shelter.

Bácsalmás (Bácsalmás Road Border Crossing Point), Bácsbokod, Hercegszántó (Hercegszántó Road Border Crossing Point) and Kelebia Border Control Field Office (Tompá Road Border Crossing Point, Kelebia Railway Border Crossing Point) are subordinated to the Bács-Kiskun County Police Headquarters; Szeged Border Control Field Office (Detached Duty Station Mórahalom, Rösztke Motorway Border Crossing Point, Tiszasziget Border Crossing Point) is subordinated to the Csongrád County Police Headquarters. The Hungarian Helsinki Committee's monitor visited these above-mentioned locations.

In general, it can be said that the HHC monitor found satisfactory material conditions in all police facilities he visited. However, there is no short-term holding facility at the border crossing checkpoint at Tompa, only a "room for securing detention" is available. Kelebia is a railway crossing checkpoint with satisfactory material conditions for short-term arrest. The Bácsalmás border crossing checkpoint may only be used by Hungarian and Serbian nationals during the daytime. In Rösztke, despite the increase in traffic since the M5 highway has been in place, there is only a small, short-term holding facility with four chairs. It serves as the detention premises for those persons apprehended at the border whose entry is deemed "problematic." In general, the equipment and cleanliness of these short-term holding facilities is satisfactory.

- **Ukrainian–Hungarian border section—Nyírbátor Border Guard Directorate and Alien Policing Centre**

The HHC's monitor carried out border monitoring at the Ukrainian–Hungarian border section, visiting the following locations: *Záhony, Barabás, Beregsurány, Kölcse Border Control Field Offices and related border crossing points (Záhony, Barabás, Beregsurány).*

With the integration of the Police and the Border Guard on 1 January 2008, the Border Guard Directorate in Nyírbátor had ceased to operate. Its tasks at the Ukrainian-Hungarian border section were taken over by the Szabolcs–Szatmár–Bereg County Police Headquarters. Since the closure of the Alien Policing Centres on 1 July 2007, a guarded shelter has been operating in Nyírbátor.

Preceding the accession to the Schengen area, significant refurbishment work was carried out on all the border guard facilities. In several locations completely

new buildings were erected, with new short-term holding facilities, toilets, and interview rooms. Beds, chairs, and tables are now fixed to the floor in all locations, and bathrooms are “vandal-proof.” In most of the premises visited, informational material provided by the UNHCR and the HHC were available in several languages. The HHC replenished the stock of leaflets on several occasions as provided for under the Tripartite Agreement.

Each report submitted by the Helsinki Committee contains comments concerning the information leaflets. According to the reports the information materials were accessible everywhere, not only at most inspected premises.

IV.3. Budapest International Airport

The HHC monitor paid regular border monitoring visits to the following locations at the Budapest International Airport: (1) the official transit by air premises located in Terminal 2A, and (2) the premises designated for the placement of persons under the return procedure located in Terminal 2B (the so-called “small community shelter”). As provided for by the Tripartite Agreement, the lawyer also had access to files of persons under the return procedure, as provided for by data protection law, at the Alien Policing and Petty Offences Department of the Alien Policing Department of the Airport Police Directorate.

V. Training for Police Officers

V.1. Supervision

The Hungarian Helsinki Committee has found during the course of previous trainings held by its staff members that many police officers working with foreigners lack empathy towards asylum seekers and migrants, tending to see them as a threat to national security and thus not willing to facilitate their access to territory and refugee status determination. The attitudes of police officers constitute a much more serious obstacle with respect to the principle of non-refoulement than the potential lack of knowledge or information. Therefore in cooperation with Cordelia Foundation¹² and with the full support of the National Police HQs, the HHC initiated the **psychological supervision** of police officers, which the HHC believed could start the process of changing attitudes and would ideally bring a different perspective into their work.

Supervision in this context is a way of professional development. It is meant to develop professional socialization, personality, and competence. The police officers working with foreigners go through difficult experiences and may become traumatized themselves in some instances. In most cases they are neither prepared nor ready to deal with these difficult situations. Therefore, it is important to provide regular psychological support and self-care strategies to help them better understand these situations and become more empathetic. Regular supervision has also proven to be the best way to prevent frustration, professional fatigue, and burnout.

Supervision for caregivers happens in a closed group with the participation of one or two professional supervisors. The methodology of the supervision uses active listening, positive inquiry, understanding, and relies heavily on the support of group members. Belonging to a team means that its members can rely on each other for

¹² Cordelia Foundation for the Rehabilitation of Torture Victims, www.cordelia.hu

both support and criticism. A group also has a container function, thus members can share their load of difficulties with each other. Through the experience of supervision, group cohesion increases and the hierarchical setting of police relationships could improve between superiors and their staff. Therefore, group supervision benefits not only the individual but also the group as such.

V.2. First Experiences and Recommendations

The Cordelia Foundation has been active in psychological supervision since 1996. They have worked with RSD officers and social support staff of the OIN (Reception Centres in Békéscsaba, Bicske, and Debrecen). The current training sessions started in February 2010 at the request of the UNHCR and the HHC with two groups of police officers working at Budapest Airport. The groups have 12–14 members and meet once a month. In the first session, the expectations of the group members were defined through the help of a questionnaire and members gave a picture of their attitudes. At the end of the training sessions both questionnaires were filled in again and it will be of interest to everyone how expectations were met and whether there is any change in attitude as a result of the group work.

The sessions are led by a psychiatrist and a non-verbal therapist and last for two hours. Each session has two parts. In the first part, cases, issues, and problems are brought in by participants and discussed in the group (supervision). Following that there is a non-verbal part aiming at relaxation and stress dissolution. After the first six months the supervisors reported that a need has evolved in the participating police officers to examine their interpersonal relationships and in some cases to re-evaluate them. The relationships of the group members have also become closer and there is much less stress and fear from each other within the group.

Both parts of the training carry a certain role and relevance. It is very important that during the first part of the training police officers have the possibility to share their experiences, to voice their problems, and to receive some feedback from both the group members and supervisors. During these discussions the supervisors have observed a certain change in the values of the group: they started to appreciate others' positive actions towards their clients. They also started to react to each other's experiences and did not only wait for the reaction of the supervisor. The second part of the training provides its participants with conflict resolution techniques, ways to relax in difficult situations, and skills to better cope with stress. Group members

enjoy this part of the training and several of them reported later that they were able to use these techniques at work in difficult situations.

Despite the fact that group members did not come voluntarily for supervision, but rather were sent by their superiors, the trainings seem to be fulfilling their purpose in providing support for police officers for doing their work in a more professional manner. Group members did appreciate these sessions and participated actively.

Based on the experiences with these two groups at Budapest Airport, the HHC has made several recommendations for the development and the extension of these training session (e.g. the extension of supervision to other units of the police who work with foreigners, the extension of this model to other countries of the region, publishing a detailed methodology of these trainings, etc.) but unfortunately funding was not secured for the continuation of this activity, thus the process had to be discontinued at the end of 2010.

The feedback from the police personnel concerning the supervision has been very positive; we believe that the possibility of continuation and extension has to be further examined within the Tripartite Working Group.

VI. Findings of the Monitoring

VI.1. Exercising the Right to Asylum in Practise

Asylum Act's Section 31 provided that an asylum applicant may submit an application either orally or in writing. The law did not specify any minimum requirements as to the form or circumstances of the application.

A difference has to be made between monitoring the border section, where the lawyer can only consult the case file, and the Budapest Airport where by participating the lawyer can gather experience of actual interviews and meet asylum seekers as well.

Based on the reports submitted by the monitors, we identified several examples of asylum seekers being returned to neighbouring countries—Serbia and Ukraine—based on readmission agreements. According to the files, in November 2010 three unaccompanied minors from Somalia were expelled to Ukraine despite the fact that they spoke about fleeing the war in their homeland and the death of their family members. The word 'asylum' or 'refugee' was not mentioned, but it was obvious from their account that they were seeking asylum. They all said that they wanted to be in a safe place, they even mentioned Debrecen as their destination. Unaccompanied minors coming from a war-zone clearly do belong to a specifically vulnerable group and their 'unheard' application followed by their expulsion raises serious concerns.

In November 2010, three individuals claiming to be Somali nationals had been apprehended at the Ukrainian–Hungarian border section. They were not readmitted to the Ukrainian authorities.

According to the record of the interview the smuggler took one of them to the refugee camp in Debrecen, but he said: "The smuggler told me, that I will be taken to the refugee camp. When we got out of the car, he pointed at a building, told me that it was the refugee camp, and that I should go there. After this he and the driver drove away. I met the other Somali here, next to the camp.

Approximately half an hour later a car stopped near us. Our third companion, with whom we had been caught afterwards, was sitting inside. We did not go into the camp, because I had a feeling that it was not a refugee camp. Instead we got inside the car to our Somali companion. This happened one day ago.”

In their case OIN had established the prohibition of removal. They have applied for asylum and the acting authority transferred them to Bicske.

Similar to previous years' experience, the OIN's practice on the examination of the principle of *non-refoulement* with respect to Ukraine still appears to be contrary to the position of the UNHCR on Ukraine from October 2007.¹³ In the case of each return, the authorities are obliged to examine individually whether the person would face torture and/or inhuman or degrading treatment within the scope of Article 3 of the European Convention on Human Rights in the country to which the person is to be returned. A further condition that should be examined is whether the receiving country respects the principle of *non-refoulement* and the person concerned is not sent to territories where his/her life, physical integrity, or freedom would be threatened. Beyond the above negative conditions, a country can only be regarded as a safe third country if international protection is available as set out in the 1951 Geneva Convention. According to the UNHCR and the HHC, effective international protection in Ukraine might be problematic, therefore Ukraine cannot be considered as a safe third country in certain cases, i.e., with respect to Somalis. Nevertheless, the HHC learned about at least ten cases where Somalis were sent back to Ukraine according to the information provided by NEEKA,¹⁴ a Ukrainian NGO and by the Medical Aid Committee Zakarpattya.

At the Ukrainian-Hungarian border section eight persons had been apprehended, that were claiming to be Somali nationals in the course of 2010. On two occasions, altogether five persons were readmitted to the Ukrainian authorities under the readmission agreement, about the removal of three persons the OIN had established, that it would amount to refoulement, therefore the Hungarian authorities had not returned Somali nationals “in at least ten cases” to Ukraine.

Several similar accounts can be quoted from the Ukrainian border section, especially with respect to Somali citizens who are often under 18 years of age. In August

13 UN High Commissioner for Refugees, UNHCR Position on the Situation of Asylum in Ukraine in the Context of Return of Asylum-Seekers, October 2007, Corr. Available at UNHCR's website: <http://www.unhcr.org/refworld/docid/472f43162.html>

14 International Fund for Health, Well-being and Environment Protection (NEEKA), <http://www.neeka.org/en>

2010, the HHC's monitor reported that a 16-year-old Somali boy was readmitted to Ukraine despite the fact that he explicitly claimed that his father was killed and he wanted to go to a safe country in order to avoid being taken as a child soldier. Amongst the expulsion decisions examined in September 2010, the monitor found that another two Somali minors were removed from Hungarian territory and readmitted to Ukraine. Although the file did not contain the words 'asylum' or 'refugee', they claimed that they wanted to go to a peaceful and safe country because there is war in their country of origin.

It still seems that success in submitting an asylum application depends on several subjective factors, including which representative of the authorities the foreign applicant meets, how sensitive that particular police officer is to hearing the asylum claim, and that individual's professional experience in recognizing the wish to seek asylum, as well as the skills and ability of the asylum seeker to express his/her desire to request asylum.

Prior to ordering the expulsion, the Police contact the competent asylum department of the Office of Immigration and Nationality in all cases by sending the record of the interview for the purpose of assessing the applicability of the non-refoulement principle. Expulsion will not be ordered to a country where the person may not be expelled to according to the OIN's opinion.

Based on 161 interviews with asylum seekers, the report of the Human Rights Watch dated December 2010 shows that asylum seekers regularly face difficulties when trying to apply for asylum in Hungary and Slovakia. The report also criticizes that despite their international obligations, these EU member states regularly expel third country nationals to Ukraine that are trying to seek asylum at the external border of the European Union.¹⁵

Altogether 81 files examined at the Ukrainian border sections by the HHC monitors did not contain information whether the OIN ever established that the prohibition of *refoulement* applies to Ukraine. However, information received from the National Police Headquarters indicates that in November 2010, three Somali citizens were not returned to Ukraine upon expert opinion issued by the OIN stating that Ukraine was considered as not being safe in their context. The HHC welcomes that the OIN carried out an individualized assessment of the facts and decided that these three Somalis should not be readmitted to Ukraine. However, the HHC has

¹⁵ A Human Rights Watch: Buffeted in the Borderland (16 December 2010) is available here: <http://www.hrw.org/en/reports/2010/12/16/buffedted-borderland-0>

no further information whether this positive improvement could be regarded as a consistent practice when readmitting foreigners to neighbouring countries. Still it is important to emphasize that OIN has to evaluate each case on an individual basis. At the Serbian border section, according to the OIN's assessment, Somalia was considered as an unsafe country of origin in the case of Somalis, but Serbia was found to be a safe third country providing adequate international protection.

The experiences gathered at Budapest Airport, however, are more positive. In some cases the foreigners under return procedure could effectively change their minds and lodge asylum applications before the return measures would have been executed, which clearly shows that it is indeed possible to communicate substantively with the proceeding officers. For instance in April 2010, a young Somali woman arrived in Budapest Airport from Damascus with a forged British stateless travel document. After having received the return decision, she immediately applied for asylum. The next day she was transferred to the shelter for separated minor asylum seekers in Bicske.

VI.2. The Right to Interpretation

A criminal case—presented below in chapter VI.4. on the application of Article 31 of the Geneva Convention—involving two Somali refugees being charged with the use of forged documents and the violation of an entry ban has again highlighted the importance of proper interpretation to conduct official proceedings in line with legal obligations of the authorities.

In certain cases when a rarely spoken (“exotic”) language should be used to conduct the alien policing procedure, police still sometimes face difficulties. The HHC's experience shows that the right to interpretation is less problematic at the airport because more foreign interpreters live around Budapest and police officers at the airport make use of phone interpretation more often than their colleagues at other monitored border sections.

In order to resolve possible problems with interpretation, each county's police headquarters' list of interpreters has been made electronically available for the other counties. This arrangement was put in place to make finding the nearest interpreter in a given language easier.

VI.3. The Protection of Asylum Seekers with Special Needs

Regarding the treatment of foreigners with special needs, it is a clearly positive development how the Police at the airport handled the case of a Guinean unaccompanied minor asylum seeker with specific attention in December 2010. The officers in charge immediately recognized that the minor was seriously disturbed and needed psychiatric care. While the minor was being treated in hospital, the police accepted and registered the asylum application of the minor indirectly from another person who arrived together with the minor. This is a good example of flexibility that is necessary to address the specific needs of vulnerable asylum seekers.

The HHC monitor also reported on several occasions that the airport police seem to follow the principle of the benefit of the doubt in respect to underage foreigners intercepted and do not initiate the medical control of their age, but immediately arrange the minor's transfer to the shelter for unaccompanied minor asylum seekers in Bicske (please see the case of a young Somali woman under chapter VI.1.). This practice is warmly welcomed as it is in line with the assessment of the best interest of the child, which is the guiding principle of the 1989 UN Convention on the Rights of the Child.

Contrary to the exemplary practice observed at the airport, at the Hungarian-Ukrainian border section unaccompanied minors were regularly subject to readmission. There were multiple instances in which the HHC monitor reported that Somali citizens were readmitted to Ukraine. This raises concerns related to the assessment of the risk of *non-refoulement* (see cases listed under chapter VI.1.). It is worrisome that these unaccompanied minors' individual situations were never evaluated in depth with special regard to available child care arrangements in Ukraine, which is a precondition to issue an expulsion decision against a minor as set out in Section 45 (5) of the Third Country Nationals Act.¹⁶

16 Section 45 (5) of the Third Country Nationals Act sets forth that "an unaccompanied minor may be expelled only if adequate protection is ensured in his country of origin or in a third country by means of reuniting him with other members of his family or by state or other institutional care."

VI.4. The Implementation of Article 31(1) of the Geneva Convention

Article 31 (1) of the 1951 Geneva Convention stipulates:

“The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.”

As highlighted in previous reports on the asylum seekers’ access to territory and procedure, the application of Article 31 of the 1951 Geneva Convention has been problematic in Hungary. Lawyers of the HHC provided legal assistance to asylum seekers facing criminal prosecution on the basis of using forged travel documents. The UNHCR and the HHC are of the opinion that in several cases Hungarian authorities failed to properly apply Article 31 of the Convention as they established the criminal liability of asylum seekers without regard to this particular provision of the Convention.

As the Hungarian Criminal Code and the 1951 Geneva Convention are both part of domestic law—the latter by virtue of Law Decree no. 15 of 1989—the 1951 Geneva Convention is applicable law in Hungary, which provides legal grounds for Hungarian prosecutorial authorities involved with refugees to refrain from criminal procedures, in compliance with the 1951 Geneva Convention.

According to the UNHCR, in the interest of implementing Article 31 (1) of the 1951 Geneva Convention—and similarly, rights protected by the European Convention on Human Rights—state parties have undertaken to apply concrete measures to ensure that they fully comply with their international legal obligations. Therefore, the UNHCR position is that in cases where the criteria for applying Article 31 (1) of the 1951 Geneva Convention are fulfilled, asylum seekers or refugees should be exempt from criminal procedures. As refugee status is declaratory, Article 31 of the 1951 Geneva Convention also covers asylum seekers whose claim has not yet been determined.

The HHC is of the opinion that if an asylum seeker is subject to criminal proceedings under the scope of application of Article 31 of the Convention, Hungarian authorities should find possible ways to suspend the criminal prosecution until the decision granting or denying the person refugee status or subsidiary protection is finalized.

In the framework of its ERF-funded¹⁷ free legal assistance program, the HHC organized a roundtable discussion on 18 June 2010, with the active participation of all relevant stakeholders and authorities that might process cases where Article 31 of the Convention would be applicable. The event was opened with a keynote speech by the UNHCR regional representative. Participants agreed that the suspension of the criminal procedure is an acceptable option to respect the provisions of the Geneva Convention while conducting criminal proceedings. Both the UNHCR and the HHC stressed that pre-trial detention is not an appropriate measure against asylum seekers, who are often survivors of torture and seriously traumatized.

Recent experience of the HHC shows that the Police have changed their practice at the airport by not initiating the pre-trial detention of asylum seekers intercepted with forged travel documents. Several cases identified in the course of the 2010 border monitoring project confirm that asylum seekers were rather transferred to a refugee reception centre maintained by the OIN. On 12 July 2010 an Afghan woman and her child arrived from Athens with a forged Bulgarian passport. Criminal procedure was initiated against her, but after having expressed her wish to seek asylum in Hungary, she was transferred to the reception facility in Békéscsaba the next day. Similarly, the HHC monitor reported a case in July 2010 where an Afghan asylum seeker was intercepted at the airport with a false Pakistani passport and visa, but the authorities refrained from ordering pre-trial detention and the asylum seeker was transferred to the reception facility in Debrecen a week later.

Different practice was identified at the Serbian-Hungarian border, where in March 2010, four Afghan nationals were intercepted and the police identified that they had been readmitted to Serbian authorities twice before. They had already been sentenced to six months imprisonment suspended for two years for the breach of the re-entry ban in force against them. In the course of the third interception (March 2010), they were put in pre-trial detention in the Szekszárd Penitentiary Institution where they later applied for asylum.

The HHC is of the opinion that the automatic denial of entry without proper investigation of the individual's situation prior to expulsion may prevent genuine asylum seekers from having access to territory and protection through administrative means. Keeping foreigners— asylum seekers—in pre-trial detention for lengthy periods is a costly option for the country that is not justified by the marginal danger this criminal act presents to the society.

17 European Refugee Fund

On 5 July 2010, in its remarkable first-instance, yet not final decision, the local court of Vásárosnamény acquitted two Somali refugees (A.M.J. and A.A.K.) of the charges of using forged travel documents and the violation of the ban on entry and residence. They were both represented by attorneys of the HHC. In the course of the court proceedings, the judge excluded evidence such as the record of the hearings upon interception as it was not proven that the foreigners in consideration could actually understand the police since no common language was proven to be found. The prosecution and the police claimed that the expulsion decisions had been duly communicated, implying that the two Somalis were aware of the consequences of their repeated attempt to cross the border illegally. Contrary to these statements, the court found that

- (i) without Somali interpreters present during the procedure, the accused Somalis did not understand the expulsion decisions communicated to them in English, therefore they did not entirely understand the procedure conducted against them, and
- (ii) their oral asylum applications were not heard upon any occasion they were undergoing alien policing procedures. The credibility of the two refugees was never questioned in the course of the court proceedings.

The case confirmed the assumptions that, the cross interpretation for a group of foreigners may lead to unlawful expulsion orders and deportations if the asylum claims cannot be heard due to language barriers and asylum seekers' terrified and exhausted state of mind.

The HHC actively contributed to two international reports in 2010 that shed light on the dysfunctional Ukrainian asylum system and the human rights abuses committed by Ukrainian authorities, as well as bordering EU member states (*Buffeted in the Borderland—Human Rights Watch, Access to Protection Denied—Stiftung ProAsyl*).

VII. Conclusions and Recommendations

VII.1. Interview in the So-called Simple Cases

The UNHCR and the HHC continue to strongly recommend that, in order to ensure that not even one person in need of international protection is returned unlawfully, **the Police should be required to interview all foreigners who belong to a vulnerable group during the alien policing procedure (citizenship could be regarded as a vulnerability factor)**. A detailed personal interview is important to establish the facts of each case, particularly in the case of persons with special needs such as single women, unaccompanied minors, elderly and sick people, traumatized persons, and families with small children. A longer interview could also help the Police to better identify persons in need of international protection in mixed migratory flows.

VII.2. Revision of the Assessment of the Risk of Refoulement and the Application of Article 33 of the Geneva Convention

The HHC suggests that the Tripartite Working Group address the issue of the assessment of the risk of *refoulement* to the OIN in the light of the UNHCR 2007 position paper on Ukraine and other accurate and up-to-date country information on potential countries of return. Police should turn to the asylum directorate instead of turning to the on-duty service of the OIN to ensure that the principle of *non-refoulement* is entirely respected and duly assessed by experts. The OIN could provide up-to-date country information on neighbouring countries to on-duty officers from the alien policing directorate as well as to police personnel. This is important to

ensure that decision makers at all levels and in all organizations in consideration are properly informed about human rights issues and the consequences of their decision upon return to the neighbouring countries. Special attention is to be paid to the situation in Serbia in light of the growing number of returns on the Hungarian-Serbian border section.

VII.3. Supervision for Police Officers

The HHC considers it important that the parties continue to offer mutual assistance to each other in organizing and executing training sessions. The supervision offered by Cordelia Foundation within the framework of this cooperation meant a new approach and a strongly needed and welcome component in the professional development of police staff working with foreigners on an everyday basis. We believe that continuing and even extending this work would be important from the point of view of police staff and asylum seekers as well.

VII.4. Consistent Application of Article 31 of the Geneva Convention

The practice of the airport police in not initiating pre-trial detention against those intercepted with forged travel documents is to be welcomed. In order to obtain a more consistent practice throughout the country it would be important to organize common training activities together with the other two parties of the Tripartite Working Group for judges and prosecutors on the proper application of Article 31 of the Convention. The HHC plans to address the need for such trainings in the framework of its 2011 ERF projects.

VIII. Annexes

VIII.1. Border Cooperation Agreement

Tripartite Memorandum of Understanding on Modalities of Mutual Co-operation and Coordination to Support the Access of Asylum Seekers to the Territory of, and the Asylum Procedures of the Republic of Hungary

PREAMBLE

The Headquarters of the Border Guard of the Republic of Hungary (Border Guard), the Regional Representation of the United Nations High Commissioner for Refugees for Hungary, Poland, Slovakia and Slovenia (UNHCR) and the Hungarian Helsinki Committee (HHC), as UNHCR's duly authorised implementing partner NGO, hereafter referred to as the "Co-operating Parties",

Recognizing that the right of all persons to seek and enjoy in other countries asylum from persecution is a basic right enshrined, *inter alia*, in Article 14(1) of the 1948 Universal Declaration of Human Rights,

Recalling the United Nations Convention Relating to the Status of Refugees adopted on 28 July 1951 (Convention) and the Protocol Relating to the Status of Refugees adopted on 31 January 1967 which entered into force in the Republic of Hungary through the promulgation by Law Decree 15 of 1989; in particular Article 1 concerning the definition of the term refugee, Article 31 concerning refugees unlawfully in the country of refuge and Article 33 concerning the prohibition of expulsion or return ("refoulement") of refugees,

Recalling Article 35 of the Convention obliging contracting States to co-operate with the Office of the United Nations High Commissioner for Refugees in the exercise of its functions, in particular providing in appropriate form information and statistical data requested concerning the condition of refugees, the implementation of this Convention, and law, regulations and decrees which may relate to refugees,

Recalling that the United Nations General Assembly Resolution 428(V) of 14 December 1950, which adopted the Statute of UNHCR, ascribes to the High Commissioner the function of providing international protection to refugees, including promoting the admission of refugees, not excluding those in the most destitute categories, to the territories of States Parties to the Convention, and of seeking permanent solutions for the problems of refugees,

Recalling that the Constitution of the Republic of Hungary and in particular Article 65 which provides the right to seek asylum,

Recalling that Act CXXXIX of 1997 on Asylum and Act XXXIX of 2001 on Entry and Stay of Foreigners of the Republic of Hungary as well as their implementing decrees, outline specifically the rights of persons in need of protection in the Republic of Hungary,

Considering that ensuring access to the territory and asylum procedures, constitutes the most efficient and effective way to provide protection to refugees, asylum seekers and others of concern (persons in need of protection), and that Conclusions 22 (Session XXXII), 81 (Session XLVIII), 82 (Session XLVIII), 71 (Session XLIV), 74 (Session XLV) of the Executive Committee of the High Commissioner's Programme set out internationally accepted principles and standards governing the protection of refugees in this regard,

Bearing in mind the importance of the co-operation agreement signed by the Peoples Republic of Hungary and UNHCR on 4 October 1989, which entered into force through the promulgation by Government Decree 23/1990. (II.7.) and which this memorandum of understanding does not in any shape or form amend,

Recognising the need to return persons found not to be in need of international protection in a humane manner and in full respect for their human rights and dignity, without resort to excessive force and, in the case of children, taking due account of their best interests,

Referring to Section 37 of Act XXXII of 1997 on Guarding the State Border and on the Border Guards stipulating that the Border Guard shall cooperate, among others, with NGOs and recognizing the need to define the concrete procedures and modalities of mutual cooperation and coordination among the parties through an agreement which will strengthen the partnership of the cooperating parties,

Have agreed to carry out a joint activity that will be guided by the following principles and modalities:

ARTICLE I ESTABLISHMENT OF A MONITORING FRAMEWORK

1. With due regard to the principle that the State has the primary responsibility of ensuring that persons in need of protection have access to the territory and asylum procedures, the Co-operating Parties undertake to jointly and severally monitor the facilitation by the Border Guard of the entry of persons in need of protection to the territory of, and access to the asylum procedures of the Republic of Hungary as well as their protection against *refoulement* (monitoring).
2. The Co-operating Parties will undertake the process of monitoring in an orderly, humane, safe and dignified manner as dictated by the sensitivities needed to treat persons in need of international protection.
3. In accordance with the principle of family unity, the Co-operating Parties shall make every effort to ensure that asylum seeking families are admitted into the territory and asylum procedure as units.

ARTICLE II RESPONSIBILITIES OF THE BORDER GUARD

1. The Border Guard undertakes to guarantee and facilitate the admission of persons in need of protection into the territory of the Republic of Hungary, and as a cooperating agency in refugee affairs, facilitates access to the asylum procedures and will take, in consultation with the UNHCR and HHC, all measures necessary to uphold these fundamental principles of international protection.

2. The Border Guard will take all measures necessary to ensure that asylum seekers are in full knowledge of facts about their right to seek asylum and their right to access legal assistance in the Republic of Hungary. It also undertakes to make available the publications of UNHCR and HHC in areas which are accessible to persons of concern under its procedures.
3. The Border Guard, with the consent of the person concerned, shall facilitate unsupervised contact among UNHCR, HHC and the person concerned to allow for the monitoring forming the subject matter of this agreement. Persons carrying out monitoring are allowed, with the consent of the persons concerned, to look into the file of the foreigner and may make photocopies of it. They are allowed to use audio, video and photographic recording equipment, except where such use would jeopardise the security or safety of the facility. The intention to use such equipment shall be communicated in advance to the Border Guard staff designated to receive and escort the monitors.
4. The Border Guard undertakes to provide access to photocopies of files of pre-designated categories (citizenship and themes), in accordance with its technical means. The photocopies of documents shall be shared with the monitors without the personal identification details of the person concerned.
5. The Border Guard undertakes to provide statistical data from its records upon the request of UNHCR or HHC concerning aliens policing and refugee matters.

ARTICLE III RESPONSIBILITIES OF UNHCR REGIONAL REPRESENTATION

1. The UNHCR shall have free and full access to asylum seekers and persons of concern; it is entitled to examine whether or not the Border Guards facilitate entry of persons in need of protection into the territory of, and asylum procedures of the Republic of Hungary through monitoring the related activities of the Border Guard.
2. The UNHCR will undertake monitoring visits to areas and places defined in Chapter VI where persons in need of protection may be located, to examine and verify the implementation and adherence to international protection standards. In case of the need for immediate protection intervention, UNHCR will inform the local competent Senior Officer as well as the Head of the Department for Aliens Policing and Minor Offences at the Border Guard Headquarters.

3. The UNHCR shall verify Border Guard procedures to ensure those persons in need of protection with special needs, including women heads of households, unaccompanied and separated children, are protected and their fundamental rights, in particular the principle of family unity, are respected.
4. The UNHCR shall coordinate the mobilisation of funds for this project from the international community.

ARTICLE IV RESPONSIBILITIES OF HHC

1. The HHC will undertake activities to facilitate the implementation of this agreement on behalf of UNHCR and as specified in a partnership agreement with UNHCR. The said partnership agreement shall contain the terms and conditions under which HHC will conduct its activities under this agreement.
2. The HHC will proceed with a UNHCR partnership authorisation letter in its possession and will implement activities stipulated in III. 1-3. The letter of authorisation (Annex 1) valid until withdrawal will be forwarded to the Head of the Aliens Policing and Minor Offence Department of the Border Guard Headquarters for his/her countersignature.
3. The monitoring staff of the HHC shall clearly identify themselves as such to those persons of concern whom they may wish to interview during the course of implementing this agreement, and shall inform them of the purpose and voluntary nature of the interview and their right to refuse to be interviewed if they so wish. The monitoring staff shall comply with requirements related to the provision of information stipulated by Section 6 (2) of Act LXIII of 1992 on the Protection of Personal Data and Publicity of Data of Public Interest. A note shall be made on the fact that the person in need of protection was informed as well as the manner of giving his/her consent (Annex 2). The note shall be signed by the person of concern, the monitor and the interpreter, in case an interpreter was involved and included in the individual file of the person concerned.
4. HHC shall monitor the accessibility of UNHCR and HHC publications; in case of need it shall replenish the supply.
5. HHC shall inform UNHCR and the Border Guard about the monitoring visits two working days before the commencement of the visits, specifying the dates

and the locations. If an interpreter is involved, it attaches the letter of authorization as per Annex 3.

6. Reports made on the monitoring visits shall be shared with all Co-operating Parties within 15 days, and any one of them may offer comments, suggestions and clarifications for consideration and inclusion within 30 days from the date of receipt of the HHC draft report. The content of these reports may only be published after prior notification to the other Co-operating Parties, in case of a disagreement on the contents of the report to be published, the dissenting opinion or position of the relevant Co-operating Party will also be published in the same report.

ARTICLE V TRIPARTITE WORKING GROUP

1. The Co-operating Parties establish a Tripartite Working Group (Working Group) which shall supervise the implementation of this agreement and analyse the reports made of the monitoring.
2. The Working Group shall meet at least four times a year, extraordinary sessions may be convened at the express request of one of the Co-operating Parties. It shall adopt its own Internal Rules of Procedure.
3. The chairperson of the Working Group shall be from the Border Guard; UNHCR Regional Representation shall act as secretary and may be assisted in this role by a representative of HHC. The Working Group shall be composed of representatives of the Co-operating Parties who shall be accompanied at any meeting by such number of advisors as the party represented may deem necessary. Having signed the agreement, the principals of the Co-operating Parties shall forward within 8 days the names and contact details of representatives designated to be members and principals of the Working Group.
4. Meetings of the Working Group shall be recorded in notes. The Co-operating Parties shall receive the notes within 10 working days.
5. The Working Group may undertake visits or missions to locations relevant to the project.

ARTICLE VI
SITES COVERED BY THE AGREEMENT, THE RULES OF
ENTRANCE AND STAY THERE

1. The geographical scope of the agreement shall cover all facilities administered by the Border Guard where persons in need of protection may stay (short term detention facilities, areas designated for contacts/meetings within long term detention facilities, areas where foreigners prevented to enter are to stay until departure/return in a border guard field office) and areas where the entry into the territory of foreigners is facilitated, including in the so-called transit zones of the international airports open for public.
2. When HHC announces forthcoming monitoring visits, it shall communicate the names, date of birth, place of birth and identity document numbers of both monitors and interpreters, in order to facilitate the timely preparation of entry arrangements into the facility where the monitoring will occur. Entry into such facility shall only be facilitated for holders of the UNHCR authorization letter and appropriate identity documents, after the necessary information sharing has occurred.
3. A designated Border Guard staff member shall always accompany the monitor and the interpreter. Without such escort, monitors and interpreters are not authorised to move in facilities and areas administered by the Border Guards, with the exception of interviews with persons of concern which are not subject to supervisory control.

ARTICLE VII
FINAL PROVISIONS

1. The Co-operating Parties undertake to pursue joint educational and awareness raising activities within the framework of this Agreement, especially on monitoring, principles of refugee law and international protection that enhance the access to territory of the Republic of Hungary as well as to the asylum procedures of persons in need of international protection.
2. The Co-operating Parties undertake to participate in regional review meetings which will be organized by UNHCR to exchange experiences with other part-

ners and counterparts and by doing so to strengthen the implementation of the monitoring programme.

3. The present agreement is for an indefinite period. The review or the amendment of the Agreement may be initiated by the Cooperating Parties any time.
4. The Border Guard can temporarily suspend the implementation of the agreement in one or several locations covered by the agreement due to reasons of public health or any other emergency situation by providing justification.
5. The termination of the agreement can be initiated by submitting a written notice of termination by one Co-operating Party to the other two, which notice shall become effective at the end of eight (8) days from the latter date of receipt of notice by either of the other two Co-operating Parties.
6. Any question arising out of the interpretation or application of the present Agreement, or for which no provision is expressly made herein, shall be resolved amicably through consultations between the Co-operating Parties.
7. The present Agreement does not amend in any shape or form previously existing agreements between the Co-operating parties without the express and written consent of the parties concerned.
8. The present Agreement shall enter into force on date of signature by the Co-operating Parties.

In witness whereof, the authorized representatives of the Co-operating Parties have hereby signed the present Agreement.

Done at Budapest, this _____ day of _____ 2006 in sets of three originals in the English and Hungarian language, each set being equally authentic.

For the Headquarters of the
Border Guard

For the United Nations
High Commissioner for Refugees

For the Hungarian Helsinki Committee

VIII.2. Statistical Data

	Airport Police Directorate	Ukrainian–Hungarian border	Serbian–Hungarian border (Csongrád County)	Serbian–Hungarian border (Bács–Kiskun County)	Total
Expulsion	6	439	1 080	731	2 256
Asylum application	110	23	233	118	484
Return	290	4 827	2 462	1 453	9 032

Source: National Police Headquarters, 2010

VIII.3. List of Monitoring Visits

Airport Police Directorate / Budapest International Airport:

28 January 2010
 04 March 2010
 25 March 2010
 14 April 2010
 28 April 2010
 31 May 2010
 29 June 2010
 19 July 2010
 16 September 2010
 20 Oktober 2010
 26 November 2010
 15 December 2010

Ukrainian–Hungarian border section:

20 January 2010 Barabás
 20 January 2010—Nyírbátor—file consultation

- 29 January 2010—Nyírbátor—file consultation
25 February 2010—Kölcse
26 February 2010—Nyírbátor—file consultation
18 March 2010—Beregsurány
24 March 2010—Nyírbátor—file consultation
21 April 2010—Barabás
30 April 2010—Nyírbátor—file consultation
26 May 2010—Záhony
27 May 2010—Nyírbátor—file consultation
23 June 2010—Beregsurány
22 July 2010—Nyírbátor—file consultation
28 July 2010—Kölcse
30 August 2010—Barabás
30 August 2010—Nyírbátor—file consultation
14 September 2010—Kölcse
30 September 2010—Nyírbátor—file consultation
20 October 2010—Záhony
29 October 2010—Nyírbátor—file consultation
10 November 2010—Beregsurány
23 November 2010—Nyírbátor—file consultation
14 December 2010—Nyírbátor—file consultation
15 December 2010—Barabás
28 December 2010—Záhony

Serbian–Hungarian border section:

- 25–27 January 2010—Szeged–Röszke–Tiszasziget–Mórahalom–Kelebia–
Bácsalmás–Bácsbokod–Hercegszántó
25 January 2010—Csongrád County Police Department—Alien Policing
Department Szeged—file consultation

- 27 January 2010—Bács-Kiskun County Police Department—Alien Policing Department Kiskunhalas—file consultation
- 25 February 2010—Szeged–Röszke–Tiszasziget–Mórahalom–Kelebia–Bácsalmás–Bácsbokod–Hercegszántó
- 25 February 2010—Csongrád County Police Department—Alien Policing Department Szeged—file consultation
- 26 February 2010—Bács–Kiskun County Police Department—Alien Policing Department Kiskunhalas—file consultation
- 25 March 2010—Csongrád County Police Department—Alien Policing Department Szeged—file consultation
- 25-26 March 2010—Szeged–Röszke–Tiszasziget–Mórahalom–Kelebia–Bácsalmás–Bácsbokod–Hercegszántó
- 30 March 2010—Bács-Kiskun County Police Department—Alien Policing Department Kiskunhalas—file consultation
- 28 April 2010—Csongrád County Police Department—Alien Policing Department Szeged—file consultation
- 28-30 April 2010—Szeged–Röszke–Tiszasziget–Mórahalom–Kelebia–Bácsalmás–Bácsbokod–Hercegszántó
- 30 April 2010—Bács–Kiskun County Police Department—Alien Policing Department Kiskunhalas—file consultation
- 25 May 2010—Csongrád County Police Department—Alien Policing Department Szeged—file consultation
- 25-26 May 2010—Szeged–Röszke–Tiszasziget–Mórahalom–Kelebia–Bácsalmás–Bácsbokod–Hercegszántó
- 26 May 2010—Bács–Kiskun County Police Department—Alien Policing Department Kiskunhalas—file consultation
- 28-30 June 2010—Szeged–Röszke–Tiszasziget–Mórahalom–Kelebia–Bácsalmás–Bácsbokod–Hercegszántó
- 30 June 2010—Csongrád County Police Department—Alien Policing Department Szeged—file consultation
- 30 June 2010—Bács–Kiskun County Police Department—Alien Policing Department Kiskunhalas—file consultation

- 27 July 2010—Csongrád County Police Department—Alien Policing Department Szeged—file consultation
- 27 July 2010—Szeged–Röszke–Mórahalom–Kelebia–Bácsalmás–Bácsbokod–Hercegszántó
- 28 July 2010—Bács-Kiskun County Police Department—Alien Policing Department Kiskunhalas—file consultation
- 23 August 2010—Csongrád County Police Department—Alien Policing Department Szeged—file consultation
- 24 August 2010—Szeged–Röszke–Tiszasziget–Mórahalom–Kelebia–Bácsalmás–Bácsbokod–Hercegszántó
- 25 August 2010—Bács-Kiskun County Police Department—Alien Policing Department Kiskunhalas—file consultation
- 30 September 2010—Bács-Kiskun County Police Department—Alien Policing Department Kiskunhalas—file consultation
- 30 September 2010—Szeged–Röszke–Mórahalom–Kelebia–Bácsalmás–Bácsbokod–Hercegszántó
- 30 September 2010—Csongrád County Police Department—Alien Policing Department Szeged—file consultation
- 27 October 2010—Szeged–Röszke–Mórahalom–Kelebia–Bácsalmás–Bácsbokod–Hercegszántó
- 27 October 2010—Csongrád County Police Department—Alien Policing Department Szeged—file consultation
- 28 October 2010—Bács-Kiskun County Police Dept.—Alien Policing Department Kiskunhalas—file consultation
- 25 November 2010—Szeged–Röszke–Mórahalom–Kelebia–Bácsalmás–Bácsbokod–Hercegszántó
- 25 November 2010—Csongrád County Police Department—Alien Policing Department Szeged—file consultation
- 26 November 2010—Bács-Kiskun County Police Department—Alien Policing Department Kiskunhalas—file consultation
- 27 December 2010—Szeged–Röszke–Mórahalom–Kelebia–Bácsalmás–Bácsbokod–Hercegszántó

27 December 2010—Csongrád County Police Department—Alien Policing
Department Szeged—file consultation

28 December 2010—Bács-Kiskun County Police Department—Alien Policing
Department Kiskunhalas—file consultation

VIII.4. Map of Border Crossing Checkpoints



