



HUNGARY

SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW, 39th
SESSION OF THE UPR WORKING GROUP,
OCTOBER/NOVEMBER 2021

ISSUES RELATED TO MIGRATION-RELATED DETENTION
AND BORDER ENFORCEMENT MEASURES

Joint submission from:

**Global Detention Project
(GDP)**

1-3 rue de Varembe,
1202 Geneva,
Switzerland

W: www.globaldetentionproject.org
E: admin@globaldetentionproject.org
T: +41 (0) 22 548 14 01

Hungarian Helsinki Committee

Dohány utca 20
1074 Budapest

W: www.helsinki.hu/
E: helsinki@helsinki.hu
T: (36 1) 321 4323

ABOUT THE GLOBAL DETENTION PROJECT

The **Global Detention Project** (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

ABOUT THE HUNGARIAN HELSINKI COMMITTEE

The **Hungarian Helsinki Committee** (HHC) 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.

HUNGARY

Submission to the Universal Periodic Review, 39th Session of the UPR Working Group, October/November 2021

Issues Related to Migration-Related Detention and Border Enforcement Measures

1. INTRODUCTION

- 1.1 This submission has been prepared by the Global Detention Project (GDP) and the Hungarian Helsinki Committee (HHC) for the third cycle of the Universal Periodic Review (UPR) of Hungary.
- 1.2 This submission focusses on human rights concerns relating to Hungary's treatment of refugees and asylum seekers, including its use of immigration detention.

2. CONTEXT

- 2.1 An important country of transit for migrants and refugees attempting to reach Western Europe, Hungary experienced significant increases in arrivals during the 2015 "refugee crisis." An indication of the magnitude of the challenges that Hungary faced at the time can be seen in its migrant apprehension numbers: Between 2013 and 2015, apprehensions rose from 8,255 to 424,055.¹
- 2.2 The Hungarian government responded to the increased pressures by ramping up border controls (which included the construction of fences along its borders with Serbia and Croatia and forcibly pushing people back into neighbouring countries), blocking access to asylum procedures, implementing controversial detention measures, and undertaking public information campaigns that blatantly denigrated migrants and asylum seekers,² helping turn the country into a leading bastion of xenophobia in Europe.³ In the process, Hungary breached many of its human rights commitments, ignored agreements with the European Union, and backtracked on its support for democratic institutions.⁴
- 2.3 Although the "crisis" had largely subsided by 2016, Hungary has continued to embrace its anti-migrant posture and maintained a "state of crisis," which it had declared in 2016 in response to "mass immigration."⁵ In March 2020, as the COVID-19 pandemic began to accelerate, the government extended the state of crisis⁶; it was most recently extended again in February 2021.

- 2.4 A cornerstone of Hungary's response to the "refugee crisis" was to broaden the scope of its detention powers, which the UN High Commissioner for Refugees (UNHCR) reported had, by 2015, become a "key element in the Government's policy of deterrence."⁷ In September 2015, the Asylum Act was amended to create a special border procedure, to be conducted at the newly established land-border transit zones located at the Hungarian-Serbian border at Röszke and Tompa.⁸ The law prescribed that those seeking asylum not yet admitted to the territory must request protection at one of the transit zones.⁹ In 2017, Hungary implemented a policy of *de facto* mandatory and indefinite detention of asylum seekers in border "transit zones" with almost no procedural safeguards. This policy became the focus of widespread criticism domestically and internationally, in part because Hungary refused to admit that people held in these transit zones were in fact detained. In May 2020, the Court of Justice of the European Union ruled that placement in these transit zones amounted to unlawful detention. The transit zones were subsequently closed down and about 300 people detained in them at the time were moved to open or semi-open facilities.¹⁰
- 2.5 However, while observers welcomed these developments, Hungary responded by implementing a new, highly restrictive asylum procedure requiring all future applicants for asylum to lodge their requests at consulates in Serbia or Ukraine, which—as the Hungarian Helsinki Committee (HHC) noted at the time—"can reject asylum requests without allowing applicants any access to their territory, a violation of the Geneva Conventions." While about 300 asylum seekers previously in the transit zones "are better off now," noted HHC, "new potential asylum seekers are a lot worse off."¹¹
- 2.6 Importantly, between September 2015 and July 2016, Hungary ramped up criminal procedures for people caught attempting to unlawfully enter Hungary through the border fence from Serbia, who were brought to court in a fast track procedure. Irregular entry into Hungary through the border fence is punishable by actual or suspended terms of imprisonment of up to ten years – and/or the imposition of an expulsion order. The criminal procedure is not suspended when the defendant has made an asylum application during the court hearing, which could have permitted consideration by the court of a defence under Article 31 of the 1951 Refugee Convention. Motions requesting suspension of the criminal proceedings that were submitted by the defendants' legal representatives were systematically rejected arguing that eligibility for international protection was not a relevant issue to criminal liability. Individuals who made an asylum application in court were only referred to the asylum authority after being convicted and sentenced to expulsion.¹² Between September 2015 and July 2016, 2 880 people faced criminal trial, out of which 2 836 were convicted and sentenced to expulsion.¹³ UNHCR considered this criminalisation to be at variance with international and EU law obligations.¹⁴
- 2.7 As the capacities of immigration detention facilities were insufficient to hold this many (and continuously growing number) of sentenced foreigners, sectors in the already overcrowded regular penitentiary system had to be allocated for holding those convicted in these procedures. By the summer of 2016, the situation had become untenable; to continue denying access to territory and procedure, pushbacks were legalised on 5 July (see Section 6 below), thus the criminal provisions are no longer

applied in practice.

- 2.8 Hungary's pushbacks, however, led to another ruling by the Court of Justice of the European Union (CJEU) against it. In December 2020, the CJEU ruled that the practice breached EU laws. The Hungarian government, however, has ignored this ruling and continued pushing people back in large numbers. According to a report by HHC and other partner organisations, police statistics indicate that between 17 December 2020 (the date of the EU court ruling) and 1 February 2021, there were 4,903 documented cases of pushbacks¹⁵; and between 1 January and 15 March 2021, there were 8,703 cases of pushbacks. With the controversy over Hungary's pushbacks growing, Frontex, the EU border agency, announced in late January 2021 that it was suspending all of its operations in Hungary.¹⁶
- 2.9 Third-country nationals also continue to be detained in Hungary's three remaining immigration detention centres, and one detention centre for asylum seekers, often in violation of the country's legal commitments and the human rights of detainees, as we detail below.

3. RECOMMENDATIONS DURING THE 2ND CYCLE OF UPR

- 3.1 During the 2nd cycle of the Universal Periodic Review of Hungary (33rd session, July 2016), Hungary examined and supported the following relevant recommendations relating to international norms, detention conditions, migrants, and asylum seekers:
- Ratify the International Convention for the Protection of all Persons from Enforced Disappearance (ICPPED), the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families (ICRMW), the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (OP-CRC-IC), and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR) (Albania, Ghana) (para. 128.1, 128.4).
 - Intensify efforts to address issues relating to irregular migrants according to international human rights law (Indonesia) (para. 128.210).
 - Carry out detention of asylum seekers only in exceptional cases, ensuring a transparent procedure and access to legal aid (Norway), address the detention of asylum-seeking and migrant children and repeal relevant legislation (Italy, Ireland) and rather seek alternatives to detention (ATDs) (Canada) (para. 128. 191, 128.212, 128.213, 128.217).
 - Increase funding for the National Preventive Mechanism that monitors detention activities (Croatia) (para. 128.31).
 - Improve conditions of detention, including by: implementing a national action plan to combat harsh detention conditions (Greece); reducing overcrowding

(Chile); providing medical and psychological treatment especially to victims of torture and violence (Germany);

- Expedite the judicial process to reduce migrants' and asylum seekers' prolonged detention (Malaysia) (para. 128.215).
- Guarantee that the right to asylum is given, and that the asylum application process is done on an individual basis, is effective, non-discriminatory (Finland, Switzerland), and respects the principle of non-refoulement (Brazil, Honduras, Iceland, Sweden) (para. 128.184, 128.185, 129.197, 129.206, 128.208, 128.189).
- Investigate reports of excessive use of force by border policing operations, including military (Greece) (para. 128.202).¹⁷

3.2 During the 2nd cycle of the Universal Periodic Review of Hungary (33rd session, July 2016), Hungary *refused* to accept the following recommendations relating to international norms, migrants, and conditions of detention:

- Repeal Criminal Code Amendments that criminalise "illegal entry" (Iceland) (para. 128.207). Hungary replied that "illegal entry" is not criminalised unless carried out by breaking and entering through the technical barrier that protects the border and is otherwise classified as an "infraction."

3.3 We are deeply concerned about the lack of progress with the implementation of recommendations the Hungarian government accepted in the previous UPR cycle. Hungary has failed to adopt key human rights treaties that can provide protection to non-citizens, including in particular the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. We also remain concerned following the adoption of a new asylum system in response to a CJEU judgment in May 2020, which does not "guarantee that the right to asylum is given," as previously recommended (for more on the asylum system, see Section 5 below). In addition, reports of pushbacks and on the excessive use of force remain rampant (as will be elaborated later in this submission).

Recommendations:

3.4 We call on the Hungarian Government to:

- Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.¹⁸
- Amend the Criminal Code in line with Article 31 of the Refugee Convention.
- Take genuine steps to implement all the recommendations Hungary accepted during the previous UPR cycles.

4. RECOMMENDATIONS FROM OTHER HUMAN RIGHTS BODIES

- 4.1 In its concluding observations in 2018, the Human Rights Committee (HRC) recommended, *inter alia*, that the state party: "(a) Refrain from automatically removing all asylum applicants to the transit areas, thereby restricting their liberty, and conduct individual assessments of the need to transfer them, on a case-by-case basis; (b) Significantly reduce the period of initial mandatory immigration detention, ensure that any detention beyond that initial period is justified as reasonable, necessary and proportionate in the light of the individual's circumstances and provide that it is subject to periodic judicial review; (c) Expand the use of alternatives to detention for asylum seekers; (d) Legally limit the overall duration of immigration detention; and (e) Provide for a meaningful right to appeal against detention and other restrictions of movement."¹⁹
- 4.2 The HRC also urged Hungary to: "(a) Repeal the pushback law adopted in June 2016 and the amendments thereto, and legally ensure that the removal of an individual must always be consistent with the State party's non-refoulement obligations; (b) Consider revising Decree No. 191/2015 and developing procedural safeguards against refoulement, including the possibility of review of asylum decisions by an independent judicial body that can provide effective remedies; (c) Refrain from the collective expulsion of aliens and conduct and objective individualised assessment of the level of protection available in 'safe third countries'; and (d) Ensure that force or physical restraint is not applied against migrants, except under strict conditions of necessity and proportionality, that all allegations of the use of force against them are promptly investigated, that perpetrators are prosecuted and punished with appropriate sanctions and that victims are offered reparation."²⁰
- 4.3 In March 2020, the Committee on the Rights of the Child (CRC) recommended that Hungary "put in place child-sensitive mechanisms to facilitate and promote the reporting of cases and ensure that complaints mechanisms are child-friendly and available both online and offline, paying particular attention to alternative care settings, detention facilities and facilities for asylum-seeking, refugee and migrant children."²¹ While the CRC welcomed the entry into force of the new Code of Criminal Procedure, which enhances safeguards for children's rights, it requested that the country, "in cases in which detention is unavoidable, ensure that children are detained in separate facilities, and that pretrial detention is regularly and judicially reviewed, with a view to its withdrawal, and is subject to a strict limit on its extension."²²

5. ON-GOING DETENTION CONCERNS

- 5.1 As noted previously in this submission, until very recently asylum seekers were *de facto* detained in border "transit zones" with little or no access to procedural safeguards. Hungarian authorities, however, rejected that people were detained at these sites, saying that they were free to walk back across the border, even as a growing body of evidence indicated otherwise. In 2018, the country blocked the UN Working Group on Arbitrary Detention from visiting the sites, which they had determined met conditions to be considered sites of deprivation of liberty.²³ The May 2020 Court of Justice of the European Union (CJEU) case, which had been brought by the HHC on behalf of two

Iranian and two Afghan nationals, resulted in the closure of the transit sites. The CJEU ruled that placing of asylum seekers or third-country nationals who are the subject of a return decision in the transit zone at the Serbian-Hungarian border must be classified as “detention.” The conditions of their confinement amounted to “a deprivation of liberty inter alia because the persons concerned cannot lawfully leave that zone of their own free will in any direction whatsoever.”²⁴

- 5.2 Despite the closure of the transit zones, non-citizens continue to be detained in Hungary’s three remaining immigration detention centres—at [Budapest Airport Police Directorate](#), in [Nyírbátor](#), and in [Győr](#)—in often inappropriate and arbitrary circumstances, in violation of the country’s legal commitments and the human rights of detainees.

Detention of persons with special needs

- 5.3 Although the Asylum Act provides that “The accommodation of persons in need of special treatment shall be arranged in view of their specific needs – in particular their age and health condition (including their mental condition),”²⁵ the HHC has documented cases where asylum seekers are held in detention despite the fact that the medical treatment and care they would need is not available in the detention centre.

Limited access to legal assistance and inefficiency of ex officio legal representation

- 5.4 When detention is prolonged for the first time by the court (after 72 hours), ex officio legal assistance is obligatory. According to the HHC’s experience, these officially appointed lawyers do not provide an effective legal assistance, as they do not meet their clients before the hearing, do not study their case file, and rarely present any objections to the extension of the detention order. Their presence at the hearing is therefore a mere formality.
- 5.5 Since authorities terminated cooperation agreements with the HHC in summer 2017 and denied access to immigration detention after two decades of cooperation, there has been no free legal assistance available in detention centres. Lawyers can visit their clients only if they request their visit in writing in advance, which means that free legal advice does not reach everyone in the facility, but only those explicitly asking for it. Detainees often do not even know about this possibility.
- 5.6 Detainees can request state legal aid, but this does not really work in practice. The law requires the authority to offer state legal aid in case of an expulsion order. But in practice state legal aid is usually not offered to detainees by the National Directorate-General for Aliens Policing (NDGAP). The minutes of the communication of the removal decision contain this option: “I was offered the state legal aid which I wish/do not wish to request.” The officer usually underlines the “do not wish to request” part—although the HHC has received many complaints that the state legal aid was not actually offered. Furthermore, the written decisions are only in Hungarian, therefore many people do not know about this possibility. The HHC is also aware of a case, where a foreigner’s request for free legal aid was denied based on the fact that he had

a registered address in the country.

Limited monitoring of detention conditions

5.7 Revoking NGOs' right to entry detention facilities put an end to regular human rights monitoring. The National Preventive Mechanism at the Office of the Commissioner for Fundamental Rights (established based on the Optional Protocol to the Convention against Torture to monitor institutions) has limited capacity and resources, meaning that immigration detention facilities are rarely visited (only two immigration detention facilities have been visited since 2015).

Arbitrary detention

- 5.8 The immigration authority routinely fails to carry out a sufficient individual assessment of migrants' cases before placing them in detention. Detention is applied neither as an exception nor for the shortest possible time. If, for instance, a person is detained due to risk of absconding, there is no justification provided to explain concern about absconding. Detention orders are generic in nature and fail to properly consider "alternatives to detention" or take into account individual special circumstances.
- 5.9 People are not allowed to return home to collect their belongings before being detained and then deported. They can only receive their belongings if there is a family member or friend who can retrieve them. Detainees are often called for an immigration hearing, which they attend without suspecting they may be immediately detained, without their belongings nor the chance to inform their loved ones. Family members often do not know for several days where the person is since mobile phones are banned in custody and in detention.

Ineffective judicial review

- 5.10 Immigration detention may be ordered by the NDGAP for 72 hours, which can be extended to 60 days by a court decision, upon the request of the NDGAP.²⁶ After the first six months, the duration of immigration detention may be extended for an additional six-month period if the detainee does not cooperate with the authorities or the obtaining of documents necessary for the expulsion is prolonged due to the procedure of the country responsible for issuance.²⁷ The HHC is aware of several cases where detention was extended beyond six-months despite cooperation of the detainee and lack of due diligence from the Hungarian authorities. The HHC is also aware of several cases, where migrants are detained for over the maximum allowable period prescribed in law (12 months).²⁸ In one case, the NDGAP ended detention when the time limit was passed, but then immediately ordered a new detention based on the same legal ground, claiming new facts (such as that deportation will be possible in the near future), which is unlawful.
- 5.11 Judicial review of immigration detention has been found to be ineffective. Courts rarely assess the legality of detention, but generally state that the circumstances haven't changed and detention therefore has to be extended. They systematically fail to carry out an individualised assessment as to the necessity and the proportionality of detention. Judicial decisions are completely schematic and limit themselves to the mere repetition of the arguments submitted by the authority ordering detention.

- 5.12 The hearing at the court is only possible upon request. The HHC is aware of cases, where despite several requests, the hearing was not granted.
- 5.13 When an asylum seeker is detained based on being considered a risk to national security, the reasons for such classification are classified data to which the detainee does not have access (not even to the essence of it). The judge reviewing detention could have access to the classified data, but they never ask for it, therefore, such detention is often prolonged automatically, without any chance to effectively challenge it.

COVID-19

- 5.14 There are concerns about COVID-19 mitigation measures implemented in detention situations. HHC notes that family members are no longer able to visit detainees. Also, if a person is transferred from one detention facility to another, they are obliged to quarantine for 10 days in isolation. For someone who is detained and then the same month transferred to another detention facility, they end up spending 20 days in isolation in one month. Finally, despite there being no possibility to execute deportation due to COVID travel restrictions, detention measures have not been terminated.

Recommendations:

- 5.15 We call on the Hungarian Government to:
- Release all migrants arbitrarily detained for periods that exceed the maximum time limit provided in law.
 - Refrain from detaining migrants and asylum seekers who have special medical needs that cannot be addressed in detention facilities.
 - Ensure effective legal assistance is provided to migrants and asylum seekers in immigration detention.
 - Allow relevant NGOs to resume visits to immigration detention centres.
 - Ensure that the NDGAP orders detention only after an individual examination and with adequate justification for application of certain detention ground.
 - Ensure detention measures are ordered only after authorities make a proper examination of whether non-custodial “alternatives to detention” can be used in each individual case.
 - Establish an effective judicial review of immigration detention.
 - Disclose disaggregated data on the number of migrants who are detained and deported for migration-related reasons.
 - Ensure that measures implemented to mitigate spread of COVID-19 in detention centres do not unnecessarily harm detainees or impose onerous conditions of detention.
 - Avoid deportation measures during the COVID-19 pandemic and release people who are in detention to await removal if their deportations are no longer viable because of travel restrictions.

6. CONCERNS ABOUT THE ASYLUM SYSTEM

- 6.1 In March 2020, before any COVID-19 cases had been confirmed in Hungary, authorities banned entry to transit zones.²⁹ With asylum applicants only able to lodge applications within such zones, this move effectively ended access to asylum procedures. Authorities later justified this move by claiming that new arrivals from Iran would pose a health threat to those already inside. Fuelling this anti-Iranian narrative was the fact that among the initial cases of confirmed COVID-19 infections in the country were a group of Iranian students studying in Budapest. Authorities subsequently sought to forcefully expel some of these students, claiming that they had violated quarantine measures.³⁰ However according to the HHC, many of the students slated for expulsion had strictly followed quarantine measures, and authorities had instead issued a blanket decision with no attention paid to the conditions the students may face in Iran.
- 6.2 Hungary also received international criticism following its adoption of an emergency law allowing the government to rule by decree indefinitely in response to the pandemic. On 6 April, the government introduced a decree 85/2020 on interior and certain administrative rules applicable to the subject of an emergency. The decree states that any third country national issued with an expulsion order – due to their violating Article 361 of the Criminal Code (violating the rules of epidemic control) or based on an assessment that concludes they pose a risk to national security, public security, or public order – may not apply for immediate legal protection during the administrative proceedings instituted against the decision.³¹ This decree was succeeded by a new decree 570/2020, which has the same controversial provision and which entered into force on 10 December 2020.³²
- 6.3 Following the closure of transit zone detention sites in May 2020, the Hungarian government announced that in the future, asylum requests could only be submitted at Hungarian embassies in Belgrade and Kyiv. Hungarian asylum authorities have 60 days to assess the application, after which successful applicants are allowed entry to Hungary, but could be automatically detained for one month.³³ In October 2020, the European Commission opened asylum-related infringement procedures against Hungary in response to the new asylum procedures introduced in the midst of the COVID-19 pandemic, for breaches of the Asylum Procedures Directive.³⁴ The Commission considered “that this rule is an unlawful restriction to access to the asylum procedure that is contrary to the Asylum Procedures Directive, read in the light of the Charter of Fundamental Rights, as it precludes persons who are on Hungary’s territory, including at the border, from applying for international protection there.”³⁵
- 6.4 In June, UNHCR stated that the new system would expose asylum-seekers to the risk of refoulement, which would amount to a violation of the 1951 Refugee Convention and other related instruments. UNHCR’s Assistant High Commissioner for Protection urged the “Government of Hungary to initiate the withdrawal of the act (Act LVIII on Transitional Rules and Epidemiological Preparedness related to the Cessation of the State of Danger In response to the COVID-19 Situation) and to review its asylum system to bring it into conformity with international refugee and human rights law as well as EU law.”³⁶

Recommendations:

6.5 We call on the Hungarian Government to:

- Initiate the withdrawal of the Act LVIII on Transitional Rules and Epidemiological Preparedness related to the Cessation of the State of Danger in response to the COVID-19 Situation.
- Amend the new asylum system, in order to bring it into conformity with international law, as recommended by UNHCR.
- Ensure effective access to territory and asylum procedure for those seeking protection at the borders and on the territory of Hungary.

7. BORDER PUSHBACKS

7.1 On 5 July 2016, the Asylum Act and the State Border Act were amended to legalise the pushback of undocumented migrants apprehended within eight kilometres of the Hungarian border with Croatia or Serbia. This was then extended across the entire country in March 2017. In December 2020 however, the CJEU declared those pushbacks illegal. Several organisations including the HHC have documented instances of pushbacks and as of 1 February 2021, the organisation had documented 4,903 events since the court's judgment. According to HHC, police statistics reveal that during the period 18 December 2020 and 15 March 2021, there were 10,722 pushbacks. According to an advocacy officer from the Hungarian Helsinki Committee, "head injuries, broken limbs, broken hands, the use of batons, the use of dogs," are all fairly common during pushbacks.³⁷ The Government refuses to implement the judgment and pushbacks continue to take place. The Minister of Justice decided to challenge the CJEU judgement at the Constitutional Court.³⁸

Recommendations:

7.2 We call on the Hungarian Government to:

- Take all steps necessary to prevent unlawful pushbacks and investigate allegations of such instances as well as reports of use of force.³⁹
- Ensure the observance of the principle of non-refoulement in all relevant situations

ENDNOTES

¹ Eurostat, "Database: Enforcement of Immigration Legislation," 2019, <http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>

² A government sponsored billboard campaign launched in 2015 promoted slogans like "If you come to Hungary, you mustn't take work away from the Hungarians!" The billboards were in Hungarian as their intended targets were not migrants or asylum seekers, but rather the Hungarian public. See: European Council on Refugees and Exiles (ECRE), "Crossing boundaries: The new asylum procedure at the border and restrictions to accessing protection in Hungary," 2015, http://www.asylumineurope.org/sites/default/files/resources/crossing_boundaries_october_2015.pdf; see also, for example, B. Stur, "Hungary MEP Sparks Controversy by Suggesting Pig Heads Could be Used to Deter Refugees," *New Europe*, 23 August 2016, <https://www.neweurope.eu/article/hungary-mep-sparks-controversy-suggesting-pig-heads-used-deter-refugees/>

³ K. Verseck, "Hungary's Slow Descent into Xenophobia, Racism, and Human Rights Abuses," *InfoMigrants*, 21 October 2021, <https://www.infomigrants.net/en/post/20220/hungary-s-slow-descent-into-xenophobia-racism-and-human-rights-abuses>

⁴ In May 2020, Freedom House noted the failing democratic standards in the country in its "Nations in Transit" report and removed the country's status as a "semi-consolidated democracy." Hungary is instead ranked as a "hybrid regime," placing it alongside states such as Albania, Bosnia and Herzegovina, and Ukraine. See: Freedom House, "Nations in Transit 2020: Dropping the Democratic Façade," 2020, https://freedomhouse.org/sites/default/files/2020-04/05062020_FH_NIT2020_vfinal.pdf

⁵ Hungarian Helsinki Committee (HHC), "One Year After: How Legal Changes Resulted in Blanket Rejections, Refoulement and Systematic Starvation in Detention," <https://www.helsinki.hu/wp-content/uploads/One-year-after-2019.pdf>

⁶ E. Inotai, "Pandemic-Hit Hungary Harps on About 'Migrant Crisis,'" *Reporting Democracy*, 19 March 2020, <https://balkaninsight.com/2020/03/19/pandemic-hit-hungary-harps-on-about-migrant-crisis/>

⁷ UN High Commissioner for Refugees (UNHCR), "UNHCR Global Strategy Beyond Detention: Baseline Reports," National Action Plan: Hungary, 2015, <http://www.unhcr.org/detention.html>

⁸ Section 71/A of Act LXXX on Asylum (Asylum Act)

⁹ Section 71/A (1a) of the Asylum Act

¹⁰ European Council on Refugees and Exiles (ECRE), "Hungary: Abolishment of Transit Zone Following CJEU Ruling," 22 May 2020, <https://www.ecre.org/hungary-abolishment-of-transit-zone-following-cjeu-ruling/>

¹¹ Quoted in M. Dunai and A. Komuves, "Hungary Tightens Asylum Rules as it Ends Migrant Detention Zones," *Reuters*, 21 May 2021, <https://www.reuters.com/article/us-eu-migration-hungary-ruling-idUSKBN22X12X>

¹² 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, p. 17

¹³ Hungarian Helsinki Committee, "Hungary: Key Asylum Figures as of 1 August 2016," <https://www.helsinki.hu/wp-content/uploads/HHC-Hungary-asylum-figures-1-August-2016.pdf>

¹⁴ UNHCR, "Hungary as a Country of Asylum," May 2016, paras. 60-62, <https://www.refworld.org/docid/57319d514.html>

¹⁵ E. Wallis, "Hungary: 4,903 Pushbacks After EU Court Declared Them Illegal," *InfoMigrants*, 1 February 2021, <https://www.infomigrants.net/en/post/29944/hungary-4-903-pushbacks-after-eu-court-declared-them-illegal>

¹⁶ Deutsche Welle, "Frontex Suspends Operations in Hungary Over Asylum System," 28 January 2021, <https://www.infomigrants.net/en/post/29917/frontex-suspends-operations-in-hungary-over-asylum-system>

¹⁷ Human Rights Council, "Report of the Working Group on the Universal Periodic Review: Hungary," 8 July 2016, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/146/57/PDF/G1614657.pdf?OpenElement>

¹⁸ 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.

¹⁹ Human Rights Committee, "Concluding Observations on the Sixth Periodic Report of Hungary," CCPR/C/HUN/CO/6, 9 May 2018, para. 46, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fHUN%2fCO%2f6&Lang=en

²⁰ Human Rights Committee, "Concluding Observations on the Sixth Periodic Report of Hungary," CCPR/C/HUN/CO/6, 9 May 2018, para. 48, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fHUN%2fCO%2f6&Lang=en

²¹ Committee on the Rights of the Child, "Concluding Observations on the Sixth Periodic Report of Hungary," CRC/C/HUN/CO/6, 3 March 2020, para. 24(b), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fHUN%2fCO%2f6&Lang=en

²² Committee on the Rights of the Child, "Concluding Observations on the Sixth Periodic Report of Hungary," CRC/C/HUN/CO/6, 3 March 2020, para. 40(e), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fHUN%2fCO%2f6&Lang=en

²³ Office of the United Nations High Commissioner for Human Rights (OHCHR), "UN Human Rights Experts Suspended Hungary Visit After Access Denied," 2018, <https://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=23879&LangID=E>

²⁴ Reuters, "EU rules asylum seekers on Hungary border have been 'detained', should be released," 14 May 2020, <https://www.reuters.com/article/us-eu-migration-hungary-ruling/eu-rules-asylum-seekers-on-hungary-border-have-been-detained-should-be-released-idUSKBN22Q2V2>

²⁵ Article 31F(2) of the Asylum Act.

²⁶ Art 54(4) of TCN Act.

²⁷ Art 54(5) of Act II. of 2007.

²⁸ Section 54(5) of the Third Country Nationals Act.

²⁹ E. Inotai, "Pandemic-Hit Hungary Harps on About 'Migrant Crisis,'" *Reporting Democracy*, 19 March 2020, <https://balkaninsight.com/2020/03/19/pandemic-hit-hungary-harps-on-about-migrant-crisis/>

³⁰ Hungarian Helsinki Committee, "The Rule of Law Quarantined in the Case of the Iranian Student," 15 April 2020, <https://www.helsinki.hu/en/the-rule-of-law-quarantined-in-the-case-of-the-iranian-student/>

³¹ Hungarian Government, "85/2020. (IV. 5.) Korm. rendelet endelejt a veszélyhelyzet során alkalmazandó egyes belügyi és közigazgatási tárgyú szabályokról," 6 April 2020, http://njt.hu/cgi_bin/njt_doc.cgi?docid=218852.383444

³² Hungarian Helsinki Committee, "Decree Justified by Pandemic Causes Immediate Risk of *Refoulement* Without Access to an Effective Judicial Remedy," <https://www.helsinki.hu/wp-content/uploads/Info-Note-on-Risk-of-Refoulement.pdf>

³³ DW, "Hungary to Close Transit Zone Camps for Asylum-Seekers," 21 May 2020, <https://www.dw.com/en/hungary-to-close-transit-zone-camps-for-asylum-seekers/a-53524417>

³⁴ European Commission, "October Infringements Package: Key Decisions," 30 October 2020, https://ec.europa.eu/commission/presscorner/detail/en/inf_20_1687

³⁵ European Commission, "October Infringements Package: Key Decisions," 30 October 2020, https://ec.europa.eu/commission/presscorner/detail/en/inf_20_1687

³⁶ UNHCR, "Access to Asylum Further at Stake in Hungary," 29 June 2020, <https://www.unhcr.org/news/press/2020/6/5efa0f914/access-asylum-further-stake-hungary-unhcr.html>

³⁷ E. Wallis, "Hungary: 4,903 Pushbacks After EU Court Declared them Illegal," *InfoMigrants*, 1 February 2021,

<https://www.infomigrants.net/en/post/29944/hungary-4-903-pushbacks-after-eu-court-declared-them-illegal>

³⁸ Minister of Justice, "Case X / 00477 /2021,"

<http://public.mkab.hu/dev/dontesek.nsf/0/09E9E8D16D403300C1258695004AEF0A?OpenDocument>

³⁹ See also the joint submission on Hungary from HHC and Menedék – Hungarian Association for Migrants to the 39th Session of the Universal Periodic Review.