



HUNGARY- SUBMISSION TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE,

122ND SESSION, 12 MARCH-6 APRIL 2018

BACKGROUND

The government faced domestic protests and increased international scrutiny for its continued rollback on human rights and non-compliance with EU law. The European Commission launched and moved forward with four formal infringement proceedings following the introduction of legislation deemed incompatible with EU freedoms, and in May the European Parliament adopted a comprehensive resolution expressing alarm at the situation of human rights in the country. More than a quarter of the population remained at risk of poverty and social exclusion and 16% were severely materially deprived.¹

See also:

- Hungary: Amnesty International submission to the UN Universal Periodic Review, May 2016 - <https://www.amnesty.org/en/documents/eur27/3471/2016/en/>

REFUGEES AND ASYLUM-SEEKERS

Hungary continued to severely restrict access to the country for refugees and asylum-seekers, limiting admission to its two operational border “transit zones” in which only 10 new asylum applications could be submitted per working day. Consequently, between 6,000 and 8,000 people were left in inadequate conditions in Serbia, in substandard camps and at risk of homelessness and of *refoulement* further south to Macedonia and Bulgaria.

In March, the European Court of Human Rights ruled in *Ilias and Ahmed v. Hungary* that the confinement of asylum-seekers in “transit zones”, essentially heavily guarded container camps at Hungary’s external land borders, amounted to arbitrary deprivation of liberty. The Court also found that, due to the poor conditions in which asylum-seekers were held for weeks and the lack of judicial remedies available against this form of detention, Hungary had failed to provide adequate protection against a real risk of inhuman and degrading treatment.²

The same month, a package of amendments to five laws on migration and asylum was passed in the National Assembly, enabling the automatic detention, without judicial review, of all asylum-seekers in

¹ Eurostat available at <http://ec.europa.eu/eurostat/tgm/refreshTableAction.do?tab=table&plugin=1&pcode=tsdsc100&language=en>

http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=t2020_53&plugin=1

² <http://www.asylumlawdatabase.eu/en/content/ecthr-ili-as-and-ahmed-v-hungary-no-4728715-articles-3-and-5-%C2%A7%C2%A7-1-and-4-14-march-2017>

border “transit zones”, including unaccompanied minors of 14-18 years of age. These amendments also allowed for the detention of asylum-seekers for the whole duration of their asylum processes, including any appeals, and for the summary expulsion of all irregular migrants found on Hungarian territory to the external side of Hungary’s extensive border fences.

Consequently, most asylum-seekers in Hungary either absconded from the procedure or were detained in the border “transit zones” indefinitely. By the end the year, almost 500 asylum-seekers were unlawfully detained at the border.³ The Hungarian authorities denied or provided extremely limited access to human rights monitors and NGOs providing legal aid. These draconian measures were originally supposed to apply during a “crisis situation caused by mass immigration”. However, a “crisis situation” had been continuously invoked since September 2015 and was extended in August until March 2018, despite the lack of a factual or legal basis for its prolongation.

Hungary further enhanced its border fences and police presence at its southern borders. More than 20,000 people were summarily and sometimes violently returned to Serbia or otherwise prevented from entering Hungary without access to fair and efficient asylum processes and an examination of their protection needs. In March, the newspaper *Magyar Nemzet* revealed that, contrary to the government’s statements refuting allegations of abuse, more than 40 investigations had been launched into instances of excessive use of force by police at the border over a period of 18 months; most of the investigations were closed without further action.⁴

In September, Hungary lost a case at the Court of Justice of the European Union, which ruled that it could not absolve itself of participation in the EU Emergency Relocation Scheme for the relocation of asylum-seekers from Greece and Italy to other EU member states. Hungary continued to refuse to relocate any of its minimum quota of 1,294 asylum-seekers, or to participate in other regional solidarity mechanisms. By the end of the year, it had not resettled or relocated anyone.

See also:

- Why the end of the refugee relocation scheme should not mean the end to relocation - <https://www.amnesty.org/en/latest/news/2017/09/why-the-end-of-the-refugee-relocation-scheme-should-not-mean-the-end-to-relocation/>
- Hungary: legal amendments to detain all asylum-seekers a deliberate new attack on the rights of refugees and migrants - <https://www.amnesty.org/en/documents/eur27/5855/2017/en/>
- Hungary: container camp bill is flagrant violation of international law - <https://www.amnesty.org/en/latest/news/2017/03/hungary-container-camp-bill-is-flagrant-violation-of-international-law/>

FREEDOM OF ASSOCIATION

In April, the adoption in an emergency procedure of amendments to the National Higher Education Law prompted widespread protests and criticism from academic experts and the general public. The law, widely interpreted as targeting the operations of a particular educational institution, the Central European University (CEU), introduced new requirements for foreign universities operating in Hungary under an extremely tight deadline – including the requirement of a bilateral state-level agreement – putting at risk the continued functioning of those institutions. The same month, the European Commission took legal action against Hungary by launching infringement proceedings. In the Commission’s assessment, the law was not compatible with fundamental EU freedoms, including the freedom to provide services, the freedom of establishment, and academic freedom. In October, the National Assembly voted to extend the deadlines by which the new requirements had to be met by one

³ 477 on 1 December, <https://www.helsinki.hu/wp-content/uploads/HHC-Hungary-asylum-figures-1-December-2017.pdf>

⁴ <https://mno.hu/belfold/voltak-rendori-tulkapasok-a-deli-hataron-1389637>

calendar year. By the end of the year the government had failed to strike an agreement with the State of New York that would allow for the continued operations of the CEU.

In June, the National Assembly passed a law effectively stigmatizing NGOs that receive foreign funding. Under the Law on the transparency of organizations funded from abroad, NGOs receiving more than €24,000 direct or indirect funding from abroad had to re-register as a “civic organization funded from abroad” and to put this label on every publication. Additionally, the law required NGOs to reveal the identity of their funders and supporters above a threshold of around €1,650. The law was adopted amid a government-sponsored communication campaign discrediting NGOs and accusing several NGOs of undermining national sovereignty and security. By only covering certain types of civil society organizations, the law directly discriminated against these organizations and imposed limitations on their right to association, including the right to seek, receive and utilize resources. In mid-July, the European Commission notified Hungary of another infringement procedure, based on an assessment that this law imposed measures at odds with the right to freedom of association and unjustified and disproportionate restrictions to the free movement of capital, and raised concerns in relation to the obligation of protecting private life and personal data.⁵

In August, a coalition of more than 20 NGOs submitted a complaint to the Constitutional Court requesting that the law be annulled.

A new set of draft laws announced in January 2018, would mandate even more onerous requirements for Hungarian NGOs. These proposals come amidst the wider effort to stigmatize specific individuals and associations, and has been presented as a bid to stop “illegal migration”, to “strengthen the protection of borders” and to “protect Hungary’s national security interests”.

If adopted, the laws would require organizations that receive funding from abroad -- and that allegedly “propagate mass migration” or “support illegal migration” -- to, among other things, register with the authorities acknowledging such “illegal” activity and make this stigmatizing information public, for example by putting it on their websites. The draft laws also contemplate a new exorbitant tax on any revenue received from abroad, with organizations required to hold a separate bank account for such funds; and would impose new restrictions on the movement of Hungarian nationals and others in the country involved in migration-related activities. The proposals also include provision for the exclusion of nationals of other countries from Hungarian territory.

The newly proposed legislation would put further restrictions on the ability of Hungarian civil society organizations to carry out their work by falsely labeling their activities as “illegal”, imposing arbitrary and disproportionate administrative burdens and exorbitant fines, and implementing unjustified restrictions on the right to freedom of movement and association.

See also:

- Hungary: authorities must stop new attempt to choke civil society - <https://www.amnesty.org/en/documents/eur27/7785/2018/en/>
- "It's been too long": waiting for justice in Hungary - <https://www.amnesty.org/en/latest/campaigns/2017/10/waiting-for-justice-in-hungary/>
- Governments are criminalizing homeless people to distract from their own failures - <https://www.amnesty.org/en/latest/news/2017/10/governments-are-criminalizing-homeless-people-to-distract-from-their-own-failures/>
- Hungary Amnesty International will not comply with repressive new NGO law - <https://www.amnesty.org/en/latest/news/2017/06/hungary-amnesty-international-will-not-comply-with-repressive-new-ngo-law/>

⁵ http://europa.eu/rapid/press-release_IP-17-1982_en.htm

- Hungary: further information: President approves law targeting NGOs - <https://www.amnesty.org/en/documents/eur27/6533/2017/en/>

COUNTER-TERROR AND SECURITY

In June, an appeals court in the southern town of Szeged annulled the conviction of Ahmed H, a Syrian man sentenced to 10 years' imprisonment for allegedly committing "acts of terror" while participating in a riot by refugees and migrants at the Serbia-Hungary border in September 2015. On appeal, the court found that available evidence had not been properly assessed and ordered a re-trial. In August, the Prosecutor General appealed against this decision to the Curia (the highest court in Hungary). In November, the Curia ruled that the appeals court should have delivered a binding judgment instead of ordering a retrial; this, however, did not affect ongoing proceedings. Ahmed H's case was pending in front of a newly appointed court of first instance at the end of the year.

See also:

- Hungary: appeal court orders retrial of man convicted of 'terrorism' for throwing stones - <https://www.amnesty.org/en/latest/news/2017/06/hungary-appeal-court-orders-retrial-of-man-convicted-of-terrorism-for-throwing-stones/>
- Hungary: constitutional changes would grant the executive sweeping counter-terrorism powers - <https://www.amnesty.org/en/documents/eur27/4011/2016/en/>

VIOLENCE AGAINST WOMEN AND GIRLS

By October, allegations of abuse committed by men holding positions of power sparked a national debate on the recognition and prosecution of rape and other forms of sexual violence. Hungary had yet to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence, and prosecutions of these crimes remained limited.