

## Annex 1

# Compilation of information from open sources on fundamental rights at Hungarian-Serbian border, October 2016

### Executive Summary

- UNHCR, MSF, and HRW have documented an **increase in serious physical abuses** (e.g., beatings, dog bites, pepper spraying) of migrants by Hungarian police, military, and potentially civil militias. **Psychological trauma** related to the violence is also on the rise.
- On 5 July 2016, a new law went into force that effectively **legalizes collective expulsions** to Serbia within 8 kilometers of the border. Hungarian Helsinki Committee reported that collective expulsions from Hungary involved 1 701 persons in July and 1 785 in August.
- The **deteriorating humanitarian situation at the border** poses serious risks for the fundamental rights of migrants and refugees. The lack of information about living conditions in the transit zones, reception centers & detention centers is, at the very least, troubling.
- In its most recent "[Serbia as a country of asylum](#)" assessment, UNHCR declared **Serbia an unsafe third country of asylum**. In its May 2016 report "[Hungary as a country of asylum](#)", UNHCR raised grave questions about Hungary's asylum procedures. Both countries have suspiciously **low recognition rates** for asylum.
- The political scene in Hungary is growing more anti-immigrant by the day, as reflected by statements by government leaders, new legislation, and the October 2 referendum on the EU's relocation scheme.
- Since 9 March 2016, Hungary has been under a **national state of emergency** due to "mass migration".

### FRO conclusions on possible Fundamental Rights Impact\*

- The **8-km rule**, which allows Hungarian border guards to send migrants stopped within 8 km of the Serbian border directly back to Serbia without any registration or opportunity to apply for international protection) poses **serious risks to the right to asylum** (Art. 18); **the prohibition of non-refoulement** (Art. 19) as Serbia is not a safe country of asylum according to UNHCR; **and the prohibition against collective expulsions** (Art. 19).
- The **coercive tactics** (e.g., beatings, dog bites, pepper spraying) allegedly used to enforce the 8-km rule have led to incidents that **jeopardize the right to human dignity** (Art. 1); **the right to life** (Art. 2); **the right to the integrity of the person** (Art. 3); and **the prohibition of inhuman or degrading treatment** (Art. 4).
- Hungary's **entry limit of 30 asylum-seekers per day** may be impeding *de facto* **the right to asylum** (Art. 19) of those forced to wait in Serbia, in particular for **vulnerable groups** for whom no prioritization system exists. Moreover, the dire **humanitarian situation** on the Serbian side can negatively impact the **right to human dignity** (Art. 1) and **the rights of the child** (Art. 24).
- The **transit zone's fast-track asylum procedures** might be placing **the right to asylum** (Art. 19) and **the right to effective remedy** (Art. 47) at risk.
- Hungary's **legislation criminalizing irregular border crossings** can **jeopardize the right to asylum** (Art. 19) due to its weak due process safeguards for those in need of international protection, and **the rights of the child** (Art. 24) since no provisions are included for unaccompanied children nor on the appointment of a legal guardian to act in the best interests of the child.

\*Articles refer to EU Charter on Fundamental Rights

### Arrivals

#### Third country national arrivals to Hungary (IOM):

Total (01 January 2015 to 22 September 2016)	430,073
<b>Total 2016:</b>	<b>18,558</b>
Total 2015:	411,515

#### Third country national arrivals to Serbia (IOM):

Total (01 January 2015 to 22 September 2016)	678,246
<b>Total 2016:</b>	<b>98,728*</b>
Total 2015:	579,518

## How do the transit zones work?

Since September 2015, the only way for asylum-seekers to enter Hungary from Serbia is through official transit points near Roske or Tompa. Hungary sets a daily limit on how many can enter (currently 30), which creates a bottleneck of asylum-seekers on the Serbian side of the border (915 in informal camps as of 21 August). Hungary does not consider the transit zones in Roske and Tompa as Hungarian territory.

In the transit zone, asylum applications are considered according to an accelerated 8-day procedure. If denied asylum, the applicant is sent back to Serbia without the Serbian authorities being informed. Many arrivals from Serbia are denied asylum on the grounds that Hungary considers Serbia a safe third country of asylum (contrary to UNHCR's guidance). If the appeal process takes longer than 28 days, the applicant is transferred to an asylum reception center in Hungarian territory.

## What if you cross the border irregularly outside of a transit point?

Since 5 July 2016, Hungarian border guards can catch irregular migrants within 8 km of the border and send them back to Serbia without assessing their protection needs nor informing the Serbian authorities.

## If your asylum claim is processed within Hungarian territory (not a transit zone) and denied, what happens?

Rejected applicants with expulsion orders to Serbia are frequently detained arbitrarily, as Serbia only accepts Serbians, Kosovars, and those with valid visas for Serbia under its readmission agreement with Hungary.

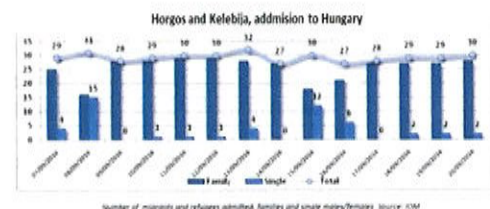
\*The IOM arrival numbers for Serbia in 2016 (98 397) are lower than those reported by Serbia's Labour and Social Affairs Minister [Aleksandar Vulin](#), who noted **103 500 arrivals** as of 23 August 2016.

### Transit Zones

Hungary's southern border has been officially closed since the completion of its **three-layer, razor-wire fence** in September 2015 (plus a pending **reinforcement fence** announced in mid-Sept. 2016) and the introduction of the "transit zone" procedure. Under the latter, asylum-seekers can only access Hungary via Serbia through the **two official transit points** (Tompa and Roske); [IOM](#) reported on 10 August 2016 that a third transit point is under construction at Asotthalom. There are also two transit points on the Croatian-Hungarian border (Beremend and Letenye), though no asylum applications had been lodged there as of May 2016 ([UNHCR](#)).

According to [HRW](#), the Hungarian government "applies a **legal fiction**" to the transit zones, "claiming that persons in the zone have not yet 'entered' Hungary". The **ECTHR rejected this logic of transit zone "extraterritoriality"** in [Amuur v. France](#) (Para. 52).

On 22 September 2016, [IOM](#) reported that **30 asylum-seekers per day** are accepted into the transit zones (15 at Tompa and 15 at Roske). Generally, 14 are from families and 1 is a single male.





## Allegations of Collective Expulsions to Serbia ("push backs")

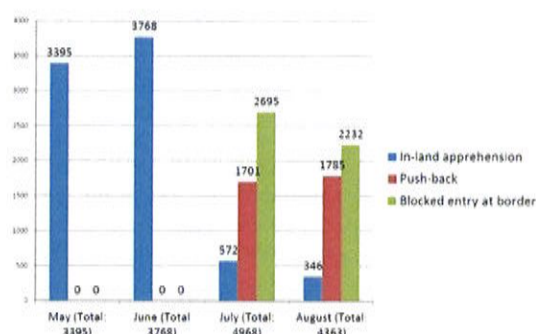
### New legislation

On 5 July 2016, **new border control measures** went into force under which "Irregular migrants (regardless of whether or not they claim asylum) who are arrested within 8 km of either the Serbian-Hungarian or the Croatian-Hungarian border will be 'escorted' by the police to the external side of the border fence, formally without assessing their protection needs or even registering them" ([HUN Helsinki Committee](#) summary of 13 June amendments). As [HUN Helsinki Committee](#) noted, this legislation **effectively legalizes push backs**, (which FRO calls collective expulsions). [UNHCR](#) confirms this opinion, stating on 15 July 2016, that "these restrictions are **at variance with EU and international law**".

The Hungarian government is eager to enforce the new border policy. A government press release issued on 5 July 2016 stated that 6 000 reinforcement police had been sent to the border and that 151 migrants were caught and sent back to Serbia in the first 12 hours of the new regulation ([HRW](#)).

### Uncertain numbers

On 21 September 2016, HUN Helsinki Committee announced at a press conference that Hungarian authorities had carried out **collective expulsions** that involved 1 701 persons in July and 1 785 persons in August (see chart to right). Yet, on 23 August 2016, Serbia's Labour and Social Affairs Minister [Aleksandar Vulin](#) announced that **over 5 000 push-backs** had taken place in 2016. This seems to indicate that "push-backs" has become systematic practice.



It is also important to note that if an asylum applicant's claim is rejected in a transit zone, the Hungarian authorities will send him/her back to Serbia without informing the Serbian authorities as Hungary does not consider the transit zones to be a part of Hungarian territory.

### Impact

[UNHCR](#) noted on 21 July 2016: "As an immediate impact of the new regime [...], the number of people outside the Roske transit zone has **more than doubled**. Waiting times are growing too." UNHCR also worries that more people will turn to **smugglers and more dangerous, irregular routes** due to deteriorating conditions at the border and in Serbian reception centers (see [4 June statement](#)). Additionally, "[MSF](#) teams in Serbia have observed a worsening humanitarian and medical situation directly linked to the restrictions at the borders".

## Border Guards and additional support

### Hungarian border security

In a radio interview on 26 August 2016, PM [Viktor Orban](#) promised to recruit 3 000 new "**border hunters**" to protect Hungary's borders, raising the total **police presence from 44 000 to 47 000**. Under the Visegrad 4 border police cooperation scheme, Hungary receives border officers from [Poland](#) (55 received in 2015, with more expected in 2016); [Slovakia](#) (25 received as of 1 August 2016); and the [Czech Republic](#) (50 received on 6 September 2016). As of 2 August 2016, [Austria](#) was expected to send 20 border officers.

In addition to Hungarian police (dark blue uniforms and sometimes grey coats) and military (camouflage uniforms), [HRW](#) recorded the presence of a **civil militia**, or "field guards", at the Serbian-Hungarian border. Established by the local authorities in Asotthalom, this civil militia currently deploys five field guards that have camouflage uniforms and carry weapons, batons, torches, and gas spray. The [mayor](#) of Asotthalom reported that one field guard, an ex-bouncer named Tari, alone caught over 300 migrants in June 2016. [Migszol](#)'s 6 August 2016 blog mentions a growing presence of vigilantes on the border, including a "self-defense" camp held by Betyársereg ("Outlaw's Army", a paramilitary vigilante group).

Hungarian border guard carry pistols with live ammunition, pepper spray, batons, handcuffs and a protective kit ([BBC](#), 2 September 2016). [Hungary Today](#) reported on 2 August 2016 that "significant '**live force**' **protection** has been implemented on the southern border", but it is difficult to decipher what that means. In a radio interview on 26 August 2016, PM [Viktor Orban](#) affirmed that "if we can't do it nicely, we have to hold them back by force". In its 4 July 2016 blog, [Migszol](#) details a **shooting competition** held for border guards and police that also involved a multiple-choice quiz with mugshots of people seeking international protection.



[UNHCR](#) noted the enhancement of Hungarian border security via the introduction of **drones and helicopter surveillance**. In his 26 August 2016 radio interview, PM [Viktor Orban](#) also stated that a second "more massive" border wall will be built to protect Hungary from a "surge" of migrants arriving from Turkey.

#### Allegations of Violence at the Border

##### *Physical abuse*

Since June 2016, increased violence against migrants at the Serbian-Hungarian border has been reported in media and open sources. The allegations are serious (e.g., beatings, police dog bites, pepper spray, indirect drowning, etc.) and come from well-reputed organizations like UNHCR, MSF, and HRW, including:

- On 4 June, [UNHCR](#) expressed alarm over the **death** of a 22-year-old Syrian male who drowned in the Tisza River after allegedly having been pushed back by the Hungarian police.
- In May/June 2016, MSF reported "incidents of violence at the Serbian-Hungarian border towards **at least 97** refugees and migrants", of which MSF doctors treated 24 patients; the reporting period appears to be February to May 2016, though is a bit unclear (see FRO email). According to the MSF, the most common incidents were:
  - **beatings** with fists and kicking (7 cases including of women and children);
  - beatings with sticks (15 cases including women and children);
  - police **dog bites** (10 cases including women and children);
  - use of **tear gas and pepper spray** (8 cases including women and children); and
  - personal items being taken from them or destroyed (5 cases).
- On 4 June 2016, UNHCR reported that they had collected **over 100 cases** "with disturbing allegations on excessive use of force" since May.
- On 13 July 2016, HRW published a short report with 12 interviews of migrants (**including two unaccompanied minors**) apprehended in Hungary, beaten, and forced back into Serbia.
- On 22 July 2016, [MSF](#) reported that **consultations for violent trauma had doubled** since March. Of 510 mental health consultations carried out since April, **122 survivors** stated that they had subjected to physical trauma by people wearing uniforms in Hungary. An additional 66 survivors reported that the violence was perpetrated by civilians such as robbers, smugglers, or other migrants.
- On 26 September, [Amnesty](#) called for the practices of violence and push backs to stop in a report "Stranded Hopes"

Of the testimonies included in these reports, the violent incidents are tied directly to instances of collective expulsions to Serbia. Indeed, beyond the beatings, dog bites, and pepper spraying reported, the exact moment of crossing over to Serbia was also a form of violence, as the **razor-wire fence caused flesh wounds** and ruined garments. In addition to physical abuse, victims often reported that Hungarian authorities **taunted and mocked** them, even taking [selfies](#) during the beating and expulsion process.



(Photos from [No Border Serbia](#) blog and [The Budapest Sentinel](#) on 8 and 27 August 2016, respectively)

In August, the National Police acknowledged that excessive use of force may have occurred at the southern border and **the Prosecutor's Office opened four investigations** ([HIR TV](#), 24 August 2016).



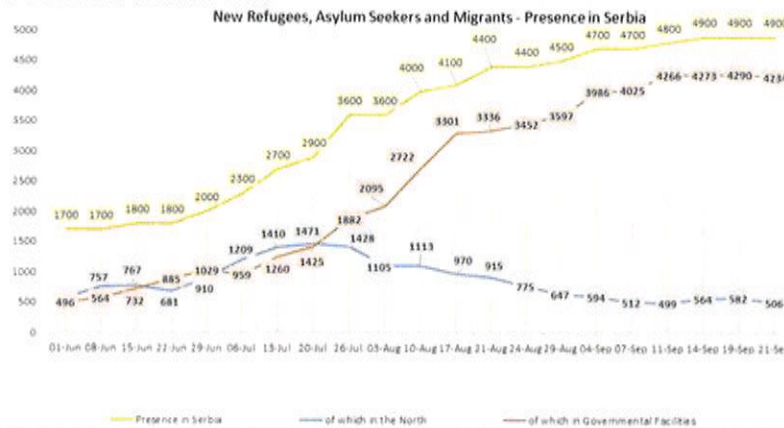
In September, the Amnesty report confirmed findings of violent episodes in connection to alleged collective expulsions at the border. Some of those interviewed told Amnesty International that excessive force was used, with asylum-seekers being beaten, kicked and chased by dogs.

#### Psychological impact

In May/June, MSF reported that its psychologists had "treated the effects of such violence on 49 patients who suffered from intense distress, symptoms of acute anxiety, of hopelessness, and insecurity" (FRO shared the note with OPD by email in July when received). The organization noted that such situations can provoke the **re-traumatization** of already vulnerable persons. In a 22 July follow-up, **MSF** confirmed an **increase** in the number of patients diagnosed with **depression** (from 26.7% in October 2015 to 31.2% after March 2016); **post-traumatic stress disorder** (from 14% to 15.9%); and **anxiety** (from 3.8% to 6.6%). The health organization contends that "the increases in such pathologies happened simultaneously with the introduction of restrictive border policies in March" in the Western Balkans.

#### Camp/Center Conditions

##### At the border (Serbian side)



As of 21 September 2016, UNHCR counted **506 asylum-seekers** waiting on the Serbian side of the Serbian-Hungarian border. The **majority are Afghan, Iraqi, and Syrian women and children**, including pregnant women, babies, and unaccompanied minors. People with special needs and disabilities are also present ([UNHCR](#)).

7 Sept-20 Sept			Kelebija border crossing zone			Horgos border crossing zone		
Age/Gender %	Male	Female	Minors	Male	Female	Minors	Male	Female
	30	23	47	33	16	51		
7 Sept-20 Sept			Kelebija border crossing zone			Horgos border crossing zone		
Nationality %	Syria	Iraq	Other	Afghanistan	Iran	Other		
	64	27	9	95	4	1		

Estimated breakdown by age/gender and by nationality, average for period. Source: IOM

On 2 August 2016, the [Irish Times](#) described an **informal list of arrivals** which is managed by the migrants to help the Hungarian authorities determine who will enter a transit zone on a given day. In its 13 July 2016 dispatch, however, HRW noted that "there appeared to be **no systematic procedure to identify**

**particularly vulnerable groups** or an orderly procedure for allowing people into the zones based on time of arrival or other rational criteria". **Waiting times can be over a month**, though tend to be shorter for families than single males ([HRW](#)). After joining the waiting list, many asylum-seekers are unwilling to move into Serbian reception centers due to fear that they will lose their place in the queue ([Balkan Insight](#)).

There are no official camps at Serbia's northern border. As such, the thousand plus population waiting to enter a Hungarian transit zone are living in "**dire**" conditions in **makeshift camps** ([UNHCR](#)). Near Roszke, there is **one tap** which provides cold, non-potable water; **10 mobile toilets** provided by Serbia that are cleaned every two to three days; and **no showers**. Camp inhabitants construct their own shelters out of branches found in nearby woods and blankets provided by aid agencies. While these shelters help block out the harsh sun (sometimes reaching 35 degrees), they **do not protect from rain** ([Irish Times](#)). Summer storms have made the camp **muddy**.

Humanitarian groups provide basic health checks, mosquito repellent, hygiene packages, legal and other counselling, as well as food (UNHCR, "Serbia Update", 21 August). [HRW](#) interviewees complained in April and May 2016 that the food was mostly **UNHCR crackers and nothing appropriate for infants**, though UNHCR reported on 21 August 2016 that fresh fruit was also provided. On 30 August 2016, an [aid volunteer](#) reported that **police were not allowing migrants into the town of Kelebija** so they could not buy their own supplies. Others at the border camps worried that they were **not receiving enough water** given the hot temperatures ([Irish Times](#)). An additional complaint was the **lack of electricity and Internet**, which meant that migrants could not charge their phones and felt extremely isolated ([Irish Times](#)).



Overall, this "deteriorating humanitarian situation" ([UNHCR](#)) is taking a great physical and psychological toll on the population waiting at Serbia's northern border. On 22 July, [MSF](#) reported that its staff had treated "an increasing number of people for pathologies directly associated with their living conditions", including upper **respiratory tract infections, gastrointestinal diseases, and skin diseases**. MSF also noted an increase in cases of depression, PTSD, and anxiety. Fights also break out in the camps ([Irish Times](#)). No information directly regarding the security of women could be found.

Protesting entry restrictions, some 300 asylum-seekers began a march from Belgrade to the Hungarian border on 24 July 2016 ([Al-Jazeera](#)). Near Horgos I, nearly **100 protesters** (who, according to AFP and Reuters, also participated in the march) ended a 6-day hunger strike on 29 July.

#### *Transit zones in Hungary's*

According to [HRW](#), the transit zones are made up of "**makeshift barracks** with no means of communicating with the outside world". While transit camp inhabitants are technically free to leave voluntarily, leaving a transit zone before the completion of the asylum process (including appeals) will *de facto* terminate the asylum request. [UNHCR](#) considers that these restrictions on the freedom of movement of individuals who enter the transit zones amount to **detention**.

Hungarian law allows asylum-seekers to be held in transit zones for a **maximum of 28 days**. If they have not received a decision by their 28<sup>th</sup> day, they will be **transferred to an asylum reception center** in Hungarian territory to await the conclusion of their asylum process ([HRW](#)).

Overall, it is hard to get reliable, up-to-date info about the conditions in the transit zones because the Hungarian authorities **banned access** to any NGO on 29 July 2016. UN officials still have access, though [UNHCR](#) notes that Hungarian officials do not reply promptly to requests to access the transit zones.

#### *Reception centers in Hungary*

Number of Accommodated Migrants as of 21 September*		
Location	Capacity	Currently Accommodated
Bicske Open Reception Centre	450	184
Vámoszabadi Open Reception Centre	244	125
Nyírbátor Closed Reception Centre	150	94
Kiskunhalas Closed Reception Centers	700	180
Kiskunhalas Open Reception Centre	200	46
Balassagyarmat Open Centre	170	25
Roszke-Horgos Transit Zone	80	37
Tompá-Kelebia Transit Zone	80	42
Total	2,259	733

\*Last available data for Bicske, Vámoszabadi, Nyírbátor, Balassagyarmat and Kiskunhalas are as of 14 September.

In Hungary, the nine reception centers and two transit zones are all **under capacity** ([IOM](#), 22 September 2016). A majority of accommodated migrants are Afghan, Pakistani, Syrian, Iraqi and Iranian nationals.

While **journalists are not permitted in Kormend Open Reception Centre**, Hungarian Socialist Party (MSZP) MP [Ágnes Kunhalmi](#) leaked photos of her visit to the camp in July 2016.

According to Kunhalmi, the camp residents are housed in army tents that become very hot and many of which are infested by "ants and parasites"; there is rarely hot water; 30% of camp residents have scabies; and food distributions only happen once a day, with food going bad because there are no refrigerators. The Hungarian Ministry of the Interior countered that no residents have scabies and that the once-a-day food portions were only during Ramadan. Kunhalmi reported that Kormend was **equipped with Internet and electricity**.

The [Hungarian government](#) plans to close Bicske Open Reception Centre by 31 December 2016. [Migszol](#) lamented this upcoming closure as Bicske has "arguably the best" conditions (e.g., access to legal aid and easy travel to Budapest).



#### Detention conditions in Hungary

In Hungary, migrants and refugees can find themselves in detention situations for three main reasons:

- Having been criminally prosecuted for an irregular border crossing which can result in either **imprisonment or house arrest** ([UNHCR](#));
- Having received **deportation order** that cannot be executed as Serbia only accepts its own citizens and Kosovars under its bilateral return agreement with Hungary, a situation which can result in indefinite detention ([HRW](#)); or
- Being held in a **transit zone** while awaiting an asylum decision ([UNHCR](#)).

On 4 August 2016, the HUN Helsinki Committee tweeted that **"more asylum-seekers are in asylum detention jails (643) than in open reception centres (502) in Hungary"**, citing Hungary's Office of Immigration and Nationality as its source. In its 6 August 2016 blog, [Migszol](#) worried about **fight, group fights, and attempted suicides** that had occurred in closed reception centers, "especially in Kiskunhalas". Migszol indicated that most fights broke out over access to the television or Internet, and that detainees had no access to information about the asylum process in Hungary; books, language courses, or other educational opportunities; nor means of contacting their families.

The September Amnesty report concluded that asylum-seekers who make it through the "transit zones" are taken to either closed or open asylum accommodation centres, where conditions are dire. They lack basic services and barely provide education and activities for children or healthcare. They also observed that some unaccompanied children are housed with adult men.

In *O.M. v. Hungary*, the ECtHR ruled on 5 July 2016 that Art. 5 § 1 (b) ECHR could not serve as a legal basis for immigration detention, and ruled unanimously that Hungary had subjected the applicant (an Iranian LGBT asylum seeker detained for 58 days) to arbitrary and unjustified detention.

In late October 2015, the **Commission for the Prevention of Torture of the Council of Europe** (CPT) visited Hungary, including the [Roszke and Tompa transit zones](#). While country reports are normally finished within six-eight months of the visit, this report has not yet been published to date.

#### Reception centers in Serbia



In Serbia, data is not available for four out of nine reception centers ([IOM](#), 22 September 2016). Of the five with data, **three centers are over capacity, Subotica grossly so.**

On 29 August 2016, Serbia's Assistant Commissar for Refugees and Migration [Danijela Popovic Roko](#) said that Serbia **was expanding and winterizing its reception capacities to handle the 6 000 refugees** they expect to stay in Serbia over the winter (up from the estimated 4 900 currently in the country).

#### International Protection

##### Hungary

[UNHCR](#)'s May 2016 study "Hungary as a country of asylum" stops short of naming Hungary an unsafe third country of asylum. Instead, the report concludes that Hungary's border and asylum practices "raise serious concerns as regards compatibility with international and European law". Particularly worrisome is Hungary's July 2015 policy of considering all EU and candidate countries as safe third countries of asylum; this means

that any asylum-seeker arriving via Serbia to a Hungarian transit zone is *prima facie* inadmissible and subject to an accelerated procedure ([HRW](#)).

For its part, [HRW](#) documented highly questionable asylum procedures during its visit to the Roszke and Tompa transit zones in April/May 2016, including:

- A **non-existent system for identifying vulnerable persons**, despite Hungary's asylum law requiring that those "in need of special treatment" be admitted directly to Hungary instead of the transit zones (Section 71/A (7) of the Act on Asylum)
- **Asylum decisions being made in one day – even within one hour** – following the 8-day fast-track asylum procedure for those admitted to transit zones
- Applicants **not informed of their right to appeal or reasons for their rejection**
- Lawyers' complaints that the **8-day limit for appeal procedures is too short** to gather sufficient evidence for an effective appeal

Overall, HRW concluded that since May 2016 Hungary "has been **summarily dismissing the claims of most single men** without considering their protection needs". [UNHCR](#) also noted barriers to monitoring asylum procedures in the transit zones as UNHCR and its NGO partners – Menedek Hungarian Association for Migrants and HUN Helsinki Committee had "**difficulties in obtaining full and unimpeded access to the transit zones**". Amnesty has confirmed these findings.

According to [Eurostat](#), Hungary saw a 118% increase in first-time asylum applications from Q1 to Q2 2016. Compared to Q2 2015, however, Hungary received 54% less first-time asylum applicants in Q2 2016. In Q2 2016, Hungary received one first-time asylum application per 1 515 Hungarian residents, the second highest rate after Germany who received one first-time asylum application per 2 275 German residents in Q2 2016.

**Top 5 nationalities of first-time asylum-seekers in Hungary, Q1 ([Eurostat](#)) & Q2 ([Eurostat](#)) 2016**

Q1	Nationality	Number	%	Q2	Nationality	Number	%
	Pakistan	1 385	20		Afghanistan	6 890	46
	Afghanistan	1 320	19		Syria	2 810	19
	Iraq	945	14		Pakistan	1 855	12
	Morocco	675	10		Iraq	1 480	10
	Iran	575	8		Iran	480	3
	Other	1 935	28		Other	1 400	9
	<b>TOTAL Q1</b>	<b>6 830</b>	<b>100</b>		<b>TOTAL Q2</b>	<b>14 915</b>	<b>100</b>
<b>Q1 + Q2 Total first-time asylum-seekers in Hungary: 21 745</b>							

**First instance decisions by Hungary, Q1 ([Eurostat](#)) & Q2 ([Eurostat](#)) 2016**

Q1	TOTAL	1 000	Q2	TOTAL	1 030
	<b>Positive decisions</b>	<b>150</b>		<b>Positive decisions</b>	<b>105</b>
	→Refugee status	40		→Refugee status	50
	→Subsidiary protection	110		→Subsidiary protection	55
	→Humanitarian grounds	5		→Humanitarian grounds	0
	<b>Rejected</b>	<b>845</b>		<b>Rejected</b>	<b>925</b>
	<b>Recognition rate (HUN)</b>	<b>15%</b>		<b>Recognition rate (HUN)</b>	<b>10%</b>
	<b>EU-28 recognition rate</b>	<b>60%</b>		<b>EU-28 recognition rate</b>	<b>59%</b>



On 10 December 2015, the [European Commission](#) launched infringement proceedings against Hungary, stating that parts of Hungarian asylum law are "incompatible with EU law".

On 23 June 2015, Hungary suspended the Dublin Regulation, but it [reversed](#) this decision one day later. In a 21 July 2016 post, [AIDA](#) states that Hungary does not accept Dublin transfers. In a letter to the EU dated 9 September 2016, the [Nordic countries](#) expressed "great concern" at Budapest's refusal to accept Dublin returns and called for the EU to take "measures".

[Many countries](#) (including Austria, Belgium, Denmark, France, Germany, Luxembourg, Norway, Switzerland, Sweden, and the [UK](#)) have **suspended Dublin returns to Hungary** given the country's harsh reception and detention conditions as well as potential non-compliance with non-refoulement obligations. In January 2016, [ECRE](#) produced a useful overview of the national case law that banned Dublin transfers to Hungary.

#### *Serbia*

[UNHCR](#)'s current guidance (most up-to-date assessment from 2012) is that **Serbia is not a safe third country** of asylum, and countries should therefore "refrain from sending asylum-seekers back to Serbia on this basis". The report focuses on the lack of protections against non-refoulement and Serbia's inability to provide a fair and efficient asylum procedure.

In 2015, Serbia received 583 asylum applications (majority Syrian), but only granted 16 applicants refugee status and 14 subsidiary protection ([HRW](#)). In its "Serbia Update" on 21 September 2016, UNHCR reported that 8 753 persons had expressed their intent to seek asylum in Serbia in 2016 (statistics courtesy of the Ministry of Interior).

### **Legislative Developments**

#### *State of emergency*

On 16 September 2015, Hungary introduced a state of emergency in four counties bordering Serbia. On 9 March 2016, Hungary extended this into a **national state of emergency due to "mass migration"**. The national state of emergency allows the government to deploy the army along the full border; to invest more in border fences and roads; and to "guarantee the security of Hungary's citizens" ([HRW](#)). This national state of emergency was set to expire on 9 September 2016, but Hungary's [Chief Security Advisor](#) announced on 18 August 2016 that the state of emergency would be extended.

#### *Criminalization of border crossing*

Under a September 2015 law, entering irregularly through the border fence is a criminal act, punishable by actual or suspended terms of **up to 10 years in prison and/or an expulsion order** ([UNHCR](#)). [HRW](#) noted with concern that this law provides only "weak due process safeguards" for those in need of international protection, while Amnesty concurs that it impedes access to protection and safety. Specifically, the law does not require written translations of indictments or decisions; nor special protection for unaccompanied children; nor the appointment of a legal guardian to act in the best interests of the child. As of 5 July 2016, Hungary had **prosecuted 2 879 persons for irregular border crossing** ([HRW](#)).

### **Political Situation**

#### *Xenophobia*

In late summer 2016, anti-immigrant rhetoric appeared prominently in the Hungarian political discourse:

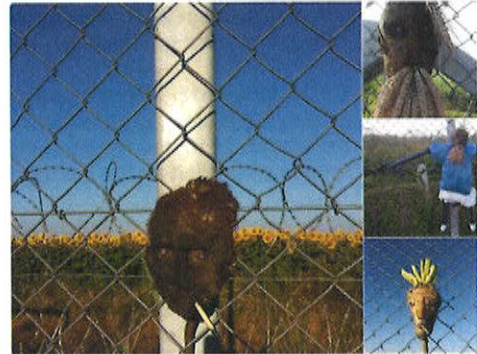
- On 27 July, PM Viktor Orbán likened migration to "**poison**", saying that "every single migrant poses a **public security and terror risk**" ([The Guardian](#)). He also contended that "there is no need for a common European migration policy".
- On 2 August, Lajos Kósa (parliamentary leader of the ruling Fidesz party and chairman of Parliament's committee on defence and policing) declared that **mass immigration will "wash away" Europe** ([Hungary Today](#)).
- On 3 August, Zoltán Ónodi-Szücs (state secretary for healthcare) held a press conference at the Roszke transit zone, announcing that **many migrants were carrying parasites** and had confirmed cases of syphilis and hepatitis A and C ([Hungary Today](#)).



A June 2016 survey concluded that 9 out of 10 Hungarians "oppose illegal migration" ([Hungary Today](#)). Some have taken to hanging up "creepy scarecrows" to deter migrants, and, on 20 August 2016, a Hungarian MEP suggested putting pigs' heads on the border fence ([The Independent](#)).

*Anti-EU sentiment*

PM Orban has been a stark opponent of the EU's Agenda for Migration. In particular, he rejects the proposed "fairness mechanism" which would distribute asylum-seekers according to a mandatory quota system. Hungary will have a national referendum on 2 October 2016 to decide if it will participate in the quota scheme ([Al Jazeera](#)).



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