

HUNGARY

Hungary is a state party to the United Nations Convention Relating to the Status of Refugees and its Protocol, as well as to the International Covenant on Civil and Political Rights and its First and Second Optional Protocols. During 2000, some 7,802 applications for asylum were filed, and at the end of the year, decisions were pending on 3,296 applications.¹ Some 9,554 asylum applications were lodged in 2001. Afghanistan alone produced 4,311 asylum seekers.² At the end of 2001, there were 2,400 asylum seekers with pending cases;³ 174 persons were granted asylum, 52 of whom hailed from Afghanistan.⁴ In the first quarter of 2002, 1,675 asylum applications were made.⁵ No information was available on the number of asylum seekers detained.

All asylum seekers are interviewed upon arrival by the Border Police. If they are allowed to enter, asylum seekers are granted a 24-hour permit and directed either to an open Office of Immigration and Naturalization (OIN) reception center or to a closed detention center run by the National Border Guard.⁶ A number of these centers are closed and resemble military camps,⁷ and the U.S. Committee for Refugees has referred to them as detention facilities.⁸ Gaining permission to leave the centers is not always easy.⁹

¹ U.S. COMMITTEE FOR REFUGEES, WORLD REFUGEE SURVEY 2001 at 232, *available at* <http://preview.refuges.org/world/worldmain.htm> (Immigration and Refugee Services of America 2001) [hereinafter USCR WORLD REFUGEE SURVEY 2001].

² *Id.* at 188.

³ *Id.*

⁴ *Id.*

⁵ UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, ASYLUM TRENDS IN 28 INDUSTRIAL COUNTRIES: JANUARY TO MARCH 2001—JANUARY TO MARCH 2002, *available at* <http://www.unhcr.ch/cgi-bin/texis/vtx/home/+2wwBmelFXx8wwwwwwwwwwhFqAIRERfIRfgItFqA5BwBo5Boq5AFqAIRERfIRfgIcFqF+8afDm15BGowcoSnmagd1DBGon5Dzmxwwwwww/pendoc.pdf> (June 13, 2002) (last accessed Aug. 29, 2002) [hereinafter *Asylum Trends in 28 Industrialized Countries*].

⁶ DANISH REFUGEE COUNCIL, LEGAL AND SOCIAL CONDITIONS FOR ASYLUM SEEKERS AND REFUGEES IN CENTRAL AND EASTERN EUROPEAN COUNTRIES, *available at* <http://www.english.drc.dk/publications/> (Apr. 1999) [hereinafter DRC E. EUR. REPORT 1999], *Hungary*; U.S. COMMITTEE FOR REFUGEES, WORLD REFUGEE SURVEY 2002 at 189, *available at* <http://www.refugees.org/WRS2002>. (Immigration and Refugee Services of America 2002) [hereinafter USCR WORLD REFUGEE SURVEY 2002].

⁷ DRC E. EUR. REPORT 1999, *supra* note 6, *Hungary*.

⁸ USCR WORLD REFUGEE SURVEY 2001, *supra* note 1, at 232.

UNHCR and NGOs have criticized conditions in the centers, including with respect to separation of facilities by gender.¹⁰ Indeed, the new detention centers were once open community shelters.¹¹ Following reports of poor conditions in refugee reception centers in Hungary during 2000, three reception centers began improvement projects during 2001.¹² In addition, the opening of a new center was announced in October 2001, planned to house 500 European asylum seekers.¹³

Asylum seekers who arrive from a “safe third country” and are referred to the accelerated procedure before the OIN may be detained in the airport transit zone until a decision is reached on admissibility. Conditions in the transit zone have been criticized. In practice, most asylum seekers reportedly are admitted to the normal asylum determination procedure.¹⁴ Rejected asylum seekers who are not removed are detained if they commit a minor offense.¹⁵

The Hungarian Helsinki Committee reported in late 2002 that in many cases, authorities order refusal and detention where an asylum seeker has entered illegally, and secure continued detention until the asylum seeker is removed. They also report that there are a number of cases where requests to apply for asylum are not channeled to the proper authorities.¹⁶

Following September 11, Afghan asylum seekers from reception centers around the country were transferred to a single, closed center, ringed by armed guards. The

⁹ DRC E. EUR. REPORT 1999, *supra* note 6, *Hungary*.

¹⁰ USCR WORLD REFUGEE SURVEY 2001, *supra* note 1, at 232.

¹¹ EUROPEAN COUNCIL ON REFUGEES AND EXILES, STUDY ON THE AVAILABILITY OF FREE AND LOW-COST LEGAL ASSISTANCE FOR ASYLUM SEEKERS IN EUROPEAN STATES at 148, *available at* <http://www.ecre.org/research/legalassistance/index.shtml> (November 2001) [hereinafter ECRE EUR. STUDY 2001].

¹² USCR WORLD REFUGEE SURVEY 2002, *supra* note 6, at 189.

¹³ EUROPEAN COUNCIL ON REFUGEES AND EXILES, COUNTRY REPORTS 2001 at 112, *available at* <http://www.ecre.org/publications/countryrpt01.shtml> [hereinafter ECRE REPORT 2001].

¹⁴ USCR WORLD REFUGEE SURVEY 2001, *supra* note 1, at 232-233.

¹⁵ DRC E. EUR. REPORT 1999, *supra* note 6, *Hungary*.

¹⁶ E-mail from Barbara Pohárnok, Hungarian Helsinki Committee, to Emily O'Connor, Debevoise & Plimpton (September 17, 2002) (on file with Debevoise & Plimpton) [hereinafter HHC Correspondence].

government order by which the transfer was executed was rescinded after an outcry from UNHCR and the Hungarian Helsinki Committee.¹⁷

Is there independent review of the detention decision? Yes.

During the first five days of detention, a detained asylum seeker may request review from the local court. Such review focuses on whether the aliens policing authority correctly applied the law in ordering the detention.¹⁸

After five days, where the administrative body that ordered the detention requests extension, court review is automatic. In this review, however, the court does not focus on the legality of the detention but considers the case as an application for termination of detention. In such cases, the Hungarian Helsinki Committee reports that the court is not obliged to hear from the detainee.¹⁹

Asylum seekers may appeal local court decisions to extend detention to the county court within three days of the extension. The Hungarian Helsinki Committee reports that in practice, many asylum seekers are not effectively informed of their right to appeal, and even where an appeal is lodged, the county court will rarely grant it.²⁰

According to the Hungarian Helsinki Committee, sufficiency of the judicial review process generally has been questioned.²¹

Are there limits on the period of detention? Yes.

The new Aliens Act, which went into effect in January 2002, limits the length of detention permissible for migrants apprehended while entering or staying illegally in the country prior to applying for asylum, as well as detention of rejected asylum seekers who have not yet received expulsion orders, to 30 days. Rejected asylum seekers who have received expulsion orders may be detained for up to 12 months. The total period of detention, including pre- and post-expulsion order cannot exceed 12 months (previously the limit had been 18 months).²²

Is there periodic review of detention? Yes. Monthly and 90 days after 6 months.

¹⁷ USCR WORLD REFUGEE SURVEY 2002, *supra* note 6, at 189.

¹⁸ HHC Correspondence, *supra* note 16.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² USCR WORLD REFUGEE SURVEY 2002, *supra* note 6, at 188; ECRE REPORT 2001, *supra* note 13, at 107; HHC Correspondence, *supra* note 16.

Detention to ensure implementation of a removal order must be reviewed monthly by the local court. After such detention has been extended for six months, the county court must conduct review every 90 days.

Is there access to government-funded legal aid? No.

There is no right to state-funded legal aid. Asylum seekers do have the right to an attorney, and local NGOs provide legal assistance at the detention centers as well as at the reception centers and dormitories.²³ However, provision of legal counsel is inadequate as lawyers are unable to gain sufficient access to the detention centers and transit zone at the Budapest airport.²⁴

Vulnerable groups: Unaccompanied minors under 18 may not be detained and are appointed a temporary guardian to assist with legal proceedings as well as a permanent guardian to represent the minor in matters pertaining to school, health, finance and the like. There are no specific legal requirements for treatment of other vulnerable groups, but in practice some special needs of members of such groups are met by NGOs.²⁵

²³ DRC E. EUR. REPORT 1999, *supra* note 6, *Hungary*.

²⁴ ECRE EUR. STUDY 2001, *supra* note 11, at 149.

²⁵ DRC E. EUR. REPORT 1999, *supra* note 6, *Hungary*.