

**Written submission to the Office of the High
Commissioner of Human Rights in relation to the
Universal Periodic Review of Hungary**

**39th session of the UPR Working group
1 – 12 November 2021**

1. About Refugee Rights Europe (RRE)

- 1.1. Refugee Rights Europe is a human rights organisation and registered charity in the United Kingdom and Belgium. It was founded in 2016 in response to the humanitarian crisis experienced by refugees and displaced people across Europe. The organisation is run by professionals from a range of different sectors, and its advisory group and board of trustees include academics and researchers, human rights specialists, media and communications experts, asylum workers, refugees, policy analysts and students.
- 1.2. The organisation is independent of any political ideology, economic interest or religion. We believe in the indivisibility of human rights and are united by our aim to defend the rights of some of the world's most vulnerable individuals.
- 1.3. Further information is available on our website: www.refugee-rights.eu.

2. Introduction

- 2.1. Refugee Rights Europe regrets Hungary's rejection of numerous recommendations relating to the rights of refugees and migrants, in particular the right to seek asylum, the respect for the principle of *non-refoulement* without exception, and the overall treatment of refugees and asylum seekers.
- 2.2. We are deeply concerned that legal and policy measures at the national level stand in contradiction with international refugee standards.
- 2.3. In line with the recommendations resulting from the Human Rights Council Thirty-third session, outlined in the report of the Working Group on the Universal Periodic Review, dated 8 July 2016, Hungary must align its laws, policies and practices in relation to refugees and asylum seekers. In particular, we urge the Human Rights Council to request the implementation of meaningful measures by Hungary in relation to the following areas specifically.

3. Non-Refoulement and Access to Asylum

- 3.1. In accordance with recommendations 128.184 (Sweden), 128.185 (Switzerland), 128.189 (Brazil), 128.190 (Canada), 128.196 (Egypt), 128.197 (Finland), 128.198 (Germany), 128.199 (Greece), 128.201 (Greece), 128.206 (Honduras), 128.208 (Iceland), Hungary must uphold the principle of *non-refoulement* and ensure that the right to seek asylum is guaranteed for asylum seekers coming to Hungary.
- 3.2. Conversely however, Hungary has taken one of the most hard-line approaches to border protection and crackdown on asylum seekers in Europe.
- 3.3. As the Committee will already be aware, a border barrier between Hungary and Serbia was erected towards the end of 2015, complete with barbed wires, floodlights, and security cameras, which achieved its purpose of effectively stymieing entries across the border.¹ Most centrally, it halted access to Tompa and Röske, the two Hungarian transit zones along the Serbian border. After the fence was built, and in combination with an entry quote imposed, the number of asylum seekers arriving in Hungary decreased significantly.²

¹ V4 Report, [Article](#), The different tactics used by Hungary, Slovenia and Croatia to defend borders: The Hungarian barrier is "top shelf", 31 January 2020.

² ECRE, AIDA Report on Hungary, 2019 [Update](#), February 2020.

- 3.4. However, people have continued to attempt to cross the border, and as a result they experience pushbacks and violence by Hungary border officials, who operate under the State Border Act of 2016.
- 3.5. Since June 2016, the Hungarian police has had the authority to push back asylum seekers, who are caught within 8 kilometres of the Hungarian-Serbian border, to the Serbian side of the border fence, in accordance with the State Border Act.³ This resulted in 19,057 people on the move being denied access to enter and apply for asylum, either by being barred from entry or by being escorted back across the border between 5 July and 31 December 2016.⁴
- 3.6. The police do not register individuals' data, nor allow them to apply for asylum. An amendment made in March 2017 moreover allows the police to push back any displaced person irregularly staying in Hungary to Serbia, therefore extending the 8 kilometres transit zone to the entirety of Hungary. This also includes individuals who have never set foot in Serbia but who have rather entered Hungary via other routes.
- 3.7. Hungary introduced a policy of detention of all asylum-seekers (excluding unaccompanied children under 14) throughout the full procedures in the transit zones. Consequently, the zones operated as centres for prolonged detention that could only be suspended by people being granted international protection, terminating their asylum application or attempting to re-enter Serbia by foot.⁵ In the seminal Ilias and Ahmed v. Hungary case the European Court of Human Rights ruled in March 2017 that these practices amount of deprivation of liberty.⁶
- 3.8. In 2018 NGOs reported that rejected individuals, excluding pregnant or nursing women, were systematically food deprived during their detention in the transit zones.⁷ The practice of food deprivation prompted the European Commission to launch a new infringement procedure against Hungary.⁸
- 3.9. The number of people able to enter the facilities was forcibly reduced until one person per day was allowed into each transit zone in January 2018.⁹ Due to the very low numbers of admissions of refugees to the transit zone and the legalisation in favour of pushback activities, the European Commission referred Hungary to the Court of Justice of the European Union in 2018, on the grounds of non-compliance of its asylum and return legislation with EU law, as this policy clearly hinders access to an asylum procedure and de facto aims to legalise collective expulsions, in contravention of Protocol 4 to the European Convention on Human Rights.¹⁰
- 3.10. The European Court of Justice consequently ruled in May 2020 that asylum seekers may not be detained for longer than 28 days in transit zones. Therefore, the Hungarian government announced the closure of the Röszke and Tompa transit zones and stated that asylum-seekers aiming to enter Hungary will have to apply for asylum at Hungarian consulates in non-EU-neighbouring countries.¹¹ This law means that Hungary has effectively abolished the right to asylum for new arrivals on national territory.¹² The access to the two recently

³ Hungarian Helsinki Committee, Hungary: Access denied, Information [Note](#), 14 July 2016.

⁴ ECRE, Report, Access to the territory and pushbacks, 30 November 2020

⁵ Heinrich Böll Stiftung, [Article](#), Deny, Deter, Deprive: the demolition of the asylum system in Hungary, 19 December 2019

⁶ The European Court of Human Rights Judgement, Case of Ilias and Ahmed v. Hungary Application no. 472287/15, 14 March 2017

⁷ Hungarian Helsinki Committee, Data tracker, Cases of interim measures issued under Rule 39 by the European Court of Human Rights to the Government of Hungary, to ensure that migrants detained in the Hungarian transit zones are not deprived of food, Accessed on 23 March 2021

⁸ Heinrich Böll Stiftung, [Article](#), Deny, Deter, Deprive: the demolition of the asylum system in Hungary, 19 December 2019

⁹ Heinrich Böll Stiftung, [Article](#), Deny, Deter, Deprive: the demolition of the asylum system in Hungary, 19 December 2019

¹⁰ ECRE, AIDA Report on Hungary, 2019 [Update](#), February 2020.

¹¹ ECRE [News](#), Hungary: Abolishment of Transit Zone Following CJEU Ruling, 22 May 2020; Hungarian Helsinki Committee, Information [Update](#), 12 August 2020.

¹² BVMN, Monthly [Report](#), p.14, June 2020.

closed transit zones have consistently been very restricted, with only 394 applicants being able to enter in 2019.¹³ Hungary has continued to militarise its border, by furthering its border surveillance infrastructure and utilising additional assets such as helicopters for monitoring from the air.¹⁴ The European Commission announced in October 2020 that it would launch infringement procedures against Hungary as the new asylum procedures set out by Hungary preclude persons, including at the border, from applying for international protection in the country.¹⁵

3.11. The European Court of Justice furthermore ruled in December 2020 that the country's pushback practices are in breach of EU rules and that access to asylum applications were virtually impossible.¹⁶ In January 2021 EU announced that all Frontex operations would be suspended in Hungary after the European Court of Justice (ECJ) ruling. The news was welcomed by the Commissioner for Home Affairs.¹⁷

3.12. Despite the ruling UNHCR was alarmed at new decisions by the government at extending the decree that gives the police mandate to automatically and summarily remove anyone caught having entered irregularly.¹⁸

4. Evidence of Pushbacks

4.1. The ongoing reporting by civil society actors on pushbacks evidence that pushbacks are an official state practice. In 2017, 9,136 people on the move were pushed back from Hungarian territory and 10,964 individuals barred from entry at the border fence. The following year, 4,151 pushbacks took place. The corresponding numbers for 2019 were 11,101 pushbacks from Hungarian territory and 961 blocked entries.¹⁹

4.2. In May 2019 the UNHCR condemned the pushback of two asylum-seeking families from Afghanistan that had been detained since January 2019 in the transit zone. They were taken to the border gate with Serbia at night and given the option to walk into Serbian territory or to be deported to Afghanistan, without any investigation of their individual asylum claim. They were eventually accommodated in a Serbian reception centre.²⁰

4.3. In June 2020, the weather conditions and the closure of border camps due to the pandemic contributed to an increase in attempted border crossings. Reports of violent pushbacks by border police have increased alongside the numbers of people trying to cross, evidenced by volunteers' reports of an increase in the need for medical attention following pushbacks. People have been found injured due to physical challenges such as border rivers, fences, and rough terrain, while many were victimised and beaten by the Hungarian border police.²¹

4.4. Due to the high level of securitisation of the Serbian-Hungarian border, displaced people are forced to take dangerous routes leading to tragic deaths. Notably, three people drowned in the River Tisa while trying to reach Hungary in August 2020.²²

4.5. Since the ruling by the European Court of Justice in December 2020 human rights organisation Hungarian Helsinki Committee has continued to register instances of pushbacks. In the period between the day of the announcement and their latest data from 28 February 2021, a total

¹³ EASO, Asylum [Report](#) 2020.

¹⁴ FRA, [Report](#), Migration: Fundamental Rights issues at land borders, 8 December 2020

¹⁵ European Commission, [Press release](#), October Infringements Package: key decision, 30 October 2020.

¹⁶ EU Observer, [Article](#), "Hungary 'ignoring EU court ruling on asylum'", 11 January 2021

¹⁷ Politico, [Article](#), EU border agency suspends operations in Hungary, 27 January 2021

¹⁸ UNHCR, [News](#), UNHCR concerned by Hungary's latest measures affecting access to asylum, 10 March 2021

¹⁹ ECRE, Report, Access to the territory and pushbacks, 30 November 2020

²⁰ UNHCR, [News article](#), Hungary's coerced removal of Afghan families deeply shocking, 8 May 2019

²¹ BVMN, Monthly [Report](#), p.15, June 2020.

²² BVMN, Monthly [Report](#), August 2020.

- of 4128 pushbacks to Serbia were registered on their online tool. Since July 2016 they calculated a staggering 65,890 pushbacks.²³
- 4.6. Border Violence Monitoring Network (BVMN) published a report which included 68 testimonies of pushbacks affecting 1,114 people. 69% of the testimonies involved minors and head injuries, broken bones, the use of batons and the use of dogs were recorded as standardised methods of violence during pushbacks.²⁴ Another key method is humiliation, e.g. stripping people on the move to their underwear and asking them to walk in the snow for kilometres.²⁵
 - 4.7. Moreover, large numbers of prospective asylum seekers end up being trapped in Serbia, where destitution is common, and where people are faced with intensified threats, arrests, and harassment,²⁶ as well as police violence. According to the humanitarian group Collective Aid, police officers are continuing the practice of driving apprehended individuals some 30 kilometres away from their accommodation. This practice usually involves theft and destruction of belongings, such as mobile phones and/or money.²⁷
 - 4.8. Pushbacks at the border between Hungary and Ukraine have moreover been occurring since 2009, despite not garnering much attention. Cases have however been reported since then, though they have not been as prevalent or registered as often as at other EU borders.
 - 4.9. People seeking to enter the EU from Ukraine are typically intercepted by police officers operating at the border to Ukraine, who routinely ignore requests for asylum. Individuals therefore keep being readmitted to Ukraine without an opportunity to claim asylum in the EU. According to border police, very few of those who cross wish to apply for asylum, though this contradicts evidence gathered through interviews with people who tried to cross (in some cases, more than once). In a report from back in 2010, all of the 15 people interviewed claimed they had requested asylum at the Hungarian or Slovakian border to Ukraine and were still returned to Ukraine.²⁸
 - 4.10. Ukraine is not considered a ‘safe third country’ by the EU. The pushbacks from Hungary are mainly conducted under readmission agreements with Ukraine, yet Hungary has denied using the agreement to conduct these summary return practices to Ukraine.²⁹

5. The Disproportionate Use of Force and the Overall Treatment of Asylum-seekers and Refugees

- 5.1. In accordance with recommendations 128.204 (Holy See), 128.15 (Malaysia), 128.16 (Morocco), Hungary must avoid the disproportionate use of force and ensure that enforcement authorities comply with international human rights obligations in the treatment of migrants and asylum seekers.
- 5.2. Conversely however, since 2016, there have been wide-ranging reports of excessive force and physical violence perpetrated by the Hungarian police border guards, including insulting and humiliating language, humiliating practices such as forced undressing, pepper spraying, dog

²³ Hungarian Helsinki Committee, [Online tracking document](#), Accessed on 20 March 2021. The pushbacks have also been located on their [Google map](#)

²⁴ BVMN, Report Volume I, Black Book of Pushbacks, 15 December 2020

²⁵ Info Migrants, [Article](#), Hungary: 4,903 pushbacks after EU Court declare them illegal, 1 February 2021

²⁶ BVMN, Monthly [Report](#), February 2020.

²⁷ *Ibid.*

²⁸ See Border Monitoring Project Ukraine, [Report](#), Access to Protection Denied, 2010; Amnesty International, [Report](#), Stranded hope: Hungary’s sustained attack on the rights of refugees and migrants, September 2016; CPT, [Report](#) on the visit to Hungary from 20 to 26 October 2017, 18 September 2018; Council of Europe, [Report](#), Parliamentary Assembly: Pushback policies and practice in Council of Europe member states, 8 June 2019

²⁹ Irina Muetzelburg, The EU’s external asylum policy in Ukraine. 9th Pan-European Conference on International Relations: The Worlds of Violence, EISA, Sep 2015.

attacks, confiscation of private belongings, abuse, and ignorance to refugees' physical well-being. The victims of these forms of abuse include women and children as well.³⁰

- 5.3. Other grotesque forms of violence and abuse have been reported as well, including the act of forcing individuals to sink their heads into water.³¹
- 5.4. People have also reportedly been threatened by the police that they would be put in jail if they were caught again.
- 5.5. Moreover, police have reportedly taken photos with their mobile phones, threatening that these would be sent to all police officers at the border to ensure they would be caught if they tried crossing again.³²
- 5.6. Other brutal tactics have been reported, such as attack dogs, forcing people to strip naked in freezing temperatures, and beatings with batons as a part of this approach.³³
- 5.7. In 2017, 56 reports on abuse at borders were filed. The prosecutor's office subsequently launched 50 investigations, yet only one police official and one army member had been convicted in court.³⁴

6. Promotion of Human Rights of Asylum-seekers and Refugees

- 6.1. In accordance with recommendations 128.188 (Argentina), 128.205 (Honduras), 128.210 (Indonesia), 128.211 (Islamic Republic of Iran), 128.218 (Pakistan), Hungary must advance its measures in terms of assistance, treatment and promotion of the human rights of people on the move, in compliance with Hungary's international human rights law obligations.
- 6.2. Conversely however, Hungary is continuously violating Article 14.1 of the Universal Declaration of Human Rights through its use of pushbacks and a lack of access to asylum (as outlined in Section 3 above).
- 6.3. It is moreover violating Article 3 of the Universal Declaration of Human Rights by depriving people on the move of their right to safety (as outlined in Section 4 above).
- 6.4. Furthermore, Hungary is violating Article 5 of the Universal Declaration of Human Rights by subjecting people on the move to cruel, inhuman or degrading treatment or punishment (see Section 4 above).

7. Concluding remarks

- 7.1. Refugee Rights Europe is deeply concerned about Hungary's rejection of numerous recommendations relating to the rights of refugees and migrants, in particular the right to seek asylum, the respect for the principle of *non-refoulement* without exception, and the overall treatment of refugees and asylum seekers.
- 7.2. Based on an abundance of evidence demonstrating that legal and policy measures at the national level in Hungary stand in stark contradiction with international refugee standards and Hungary's obligations under international human rights law, we recommend that the Human Rights Council, within the context of the 39th session of the UPR Working group, firmly urges Hungary to implement all of the above-mentioned recommendations without delay.

³⁰ HCIT [Report](#), Forcible irregular returns to the Republic of Serbia from neighbouring countries, May 2017.

³¹ Klikaktiv, Pushbacks from Hungary to Serbia – [Summary](#), 2 April 2020.

³² Klikaktiv, Pushbacks from Hungary to Serbia – [Summary](#), 2 April 2020.

³³ BCHR, MYLA, Oxfam, Joint Agency Briefing [Paper](#): A Dangerous 'Game', April 2017.

³⁴ ECRE, Report, Access to the territory and pushbacks, 30 November 2020