



Input by civil society organisations to the Asylum Report 2024

Dear Colleagues,

The production of the *Asylum Report 2024* is currently underway. The annual [Asylum Report series](#) presents a comprehensive overview of developments in the field of asylum at the regional and national levels.

The report includes information and perspectives from various stakeholders, including experts from EU+ countries, civil society organisations, researchers and UNHCR. To this end, we invite you, our partners from civil society, academia and research institutions, to share with us your reporting on developments in asylum law, policies or practices in 2023 by topic as presented in the online survey (**'Part A' of the form**).

We also invite you to share with us any publications your organisation has produced throughout 2023 on issues related to asylum in EU+ countries. These may be reports, articles, recommendations to national authorities or EU institutions, open letters and analytical outputs (**'Part B' of the form**).

Your input can cover information for a specific EU+ country or the EU as a whole. You can complete all or only some of the sections.

Please note that the Asylum Report does not seek to describe national systems in detail but rather to present key developments of the past year, including improvements and challenges which remain.

All submissions are publicly accessible. For transparency, contributions will be published on the EUAA webpage. For reference, contributions to the 2023 Asylum Report by civil society organisations can be accessed [here](#), under 'Acknowledgements'. All contributions should be appropriately referenced. You may include links to supporting material, such as analytical studies, articles, reports, websites, press releases or position papers. If your organisation does not produce any publications, please make reference to other published materials, such as joint statements issued with other organisations. Some sources of information may be in a language other than English. In this case, please cite the original language and, if possible, provide one to two sentences describing the key messages in English.

The content of the Asylum Report is subject to terms of reference and volume limitations. Contributions from civil society organisations feed into EUAA's work in multiple ways and inform reports and analyses beyond the Asylum Report.

Your input matters to us and will be much appreciated!

*Please submit your contribution to the Asylum Report 2024 by **Thursday, 30 November 2023**.*





Instructions

Before completing the survey, please review the list of topics and types of information that should be included in your submission.

For each response, only include the following type of information:

Part A:

- ✓ New developments and improvements in 2023 and new or remaining challenges;
- ✓ Changes in policies or practices, transposition of legislation or institutional changes during 2023;
- ✓ Across the different thematic sections feel free to make reference to issues related to the implementation of the Temporary Protection Directive at national level.

Part B:

- ✓ New publications your organisation produced in 2023

Please ensure that your responses remain within the scope of each section. Do not include information that goes beyond the thematic focus of each section or is not related to recent developments.

PART A: Contributions by topic

1. Access to territory and access to the asylum procedure (including first arrival to territory and registration, arrival at the border, application of the *non-refoulement* principle, the right to first response (shelter, food, medical treatment) and issues regarding border guards)

As the legal framework regulating the situation of people fleeing from Ukraine and other third-country nationals attempting to seek asylum in Hungary are fundamentally different, this section is divided into two parts accordingly.

Access to territory (non-Ukraine)

Hungary continues to collectively expel unlawfully staying third-country nationals from the entire territory of the country to Serbia, despite the CJEU's judgment in case C-808/18 that found this to be in breach of EU law. The European Commission has decided to bring Hungary back to the CJEU for not implementing the judgment; a hearing was held on 30 November 2023 in the case.

Access to procedure (non-Ukraine)

The so-called embassy system remained in force throughout 2023, restricting access to the asylum procedure to those who receive a special permit to seek asylum at Hungary's embassy in Belgrade or Kyiv (sic!). This system is in flagrant breach of Hungary's international, EU and domestic law obligations. The European Commission has launched an infringement procedure





following the introduction of this system. The Court of Justice of the EU (CJEU) delivered its judgment in case C-823/21 on 22 June 2023 and found that the ‘embassy procedure’ violates EU law inasmuch as it precludes the possibility to apply for asylum on the territory of Hungary. Despite this, the government proposed to extend the system at least until 31 December 2024; at the time of submitting the report, the bill is still pending approval by the Parliament.

Issues regarding border guards (non-Ukraine)

Complaints of unnecessary use of force by border guards and other law enforcement groups present at the Hungarian-Serbian border continued in 2023. A new development was the use of the otherwise inoperational metal container camps that housed the transit zones until May 2020 near the Rösztke and the Tompa border crossing points as temporary detention facilities for those that were then pushed back to Serbia. The purpose and legal ground of their detention is unclear.

Access to territory (Ukraine)

Unlike in most of 2022, when, following Russia’s full-scale invasion of Ukraine, Hungarian authorities allowed anyone to enter Hungary at official border crossing points between Hungary and Ukraine, regardless of the migratory status of the person, their citizenship, or the documents they possessed, if any, 2023 saw a growing number of cases where people entering from Ukraine were refused entry. Individual cases included e.g. a mother who holds Russian citizenship arriving with her daughter who holds Ukrainian citizenship. The authorities wanted to refuse the mother’s entry to Hungary for failing to meet entry requirements. The HHC is aware of a number of cases where Ukrainian Roma were (attempted to be) turned back, mainly at the train station at the Záhony border crossing.

Hungary now clearly refuses entry to non-Ukrainian third-country nationals who entered Ukraine following 24 February 2022 and do not fulfill the otherwise applicable entry requirements.

Access to procedure (Ukraine)

The asylum authority is not present at border crossings. Those wishing to request temporary protection must do so at one of the regional offices of the National Directorate-General for Aliens Policing (NDGAP). As opposed to the European Commission’s communication, the Hungarian authorities do not regard temporary protection as a declaratory status meaning that people become eligible for benefits after the asylum authority grants the status, a procedure that can take up to two months.

Hungary erroneously implemented the Council Implementing Decision and defined a narrower personal scope, excluding non-Ukrainian third-country nationals with permanent residency in Ukraine prior to the beginning of the war from those eligible for temporary protection. The Council Decision requires Member States to provide temporary protection or adequate protection to those stateless persons and third-country nationals, who were legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit and who are unable to return to their country of origin in a safe and durable manner. The transposing legal instrument in Hungary is a government decree which states that “it does not apply the Council Decision” with regard to this group of people. According to the TP Decree, the aliens





policing authority shall proceed in line with the general rules in the cases of these individuals. This 'general' procedure, can either mean a residence permit procedure or an aliens policing procedure aiming at the person's expulsion but may result in granting tolerated status. Neither the residence permit procedure, for which the applicant has to fulfil a long list of conditions (e.g. proven income, health-insurance etc.) nor the tolerated stay may qualify as 'adequate protection' within the meaning of the Council Decision.

As, unlike in all other Member States, there is no functioning and accessible asylum system in place in Hungary, those individuals fleeing Ukraine but not deemed eligible for temporary protection under the Hungarian implementation scheme simply do not have any viable option to receive protection in Hungary.

2. Access to information and legal assistance (including counselling and representation)

The HHC as the only non-governmental entity providing free-of-charge legal counselling and representation to asylum-seekers and refugees still lacked access to border crossing points (as well as open reception facilities and detention facilities) in 2023.

3. Provision of interpretation services (e.g. introduction of innovative methods for interpretation, increase/decrease in the number of languages available, change in qualifications required for interpreters)

The provision of interpretation continues to be a problem for those submitting an application for temporary protection. The regional offices of the asylum authority do not have enough interpreters to assist applicants.

4. Dublin procedures (including the organisational framework, practical developments, suspension of transfers to selected countries, detention in the framework of Dublin procedures)

In the period of January-June 2023, 18 incoming transfers have taken place (sending countries are: Slovakia, Norway, France and Germany). In the same period, Hungary transferred a total of 12 people (receiving countries are: Austria, Belgium, France, Germany, and the Netherlands). Data is not yet available for the second half of the year.

5. Special procedures (including border procedures, procedures in transit zones, accelerated procedures, admissibility procedures, prioritised procedures or any special procedure for selected caseloads)

6. Reception of applicants for international protection (including information on reception capacities – increase/decrease/stable, material reception conditions – housing, food, clothing and financial support, contingency planning in reception, access to the labour market and vocational training, medical care, schooling and education, residence and freedom of movement)

Those entering from Ukraine can request emergency accommodation (free of charge), managed by the Disaster Relief Agency. The size, exact location and quality of these places





greatly vary, but all were suitable for short-term stays. However, a new government decree, in force since 1 August 2023, introduced a 3-tier system, significantly reducing available services: TP beneficiaries are either a) eligible for State-sponsored accommodation and services (favourable treatment) b) can get subsidised accommodation through their employment contract or c) can be accommodated in other State-run shelters, including shelters for asylum-seekers, but are not provided with food.

As a result, the State cut funding to several State-appointed accommodation providers, where both TP beneficiary parents were staying together with minor children, and who could not benefit from the subsidised accommodation available for employers. Several families were thus faced with an impossible choice of either splitting up, or uprooting the entire family from one day to the other, which had an extremely detrimental effect on children, especially if they had already enrolled in education. The families concerned had to leave shelters where they had often been staying since their arrival to Hungary in the early months of 2022.

The Hungarian Helsinki Committee prepared a sample submission for families obliged to move out, requesting to remain there: <https://helsinki.hu/wp-content/uploads/2023/10/Mintakerelem-a-csaladok-egyutt-tartasaert.pdf>

There is also a submission drafted for accommodation providers to continue to receive the allowance for both parents of underage children. On 1 August, the Hungarian government amended Decree 104/2022 on the care of persons arriving from Ukraine. In violation of the Constitution, government agencies and protection commissions interpret the amended provisions as not including both parents of underage children as eligible for subsidized housing. This creates a difficult situation for families and accommodation providers alike.

<https://helsinki.hu/wp-content/uploads/2023/09/Szallasadoknak-mintavalasz.pdf>

7. Detention of applicants for international protection (including detention capacity – increase/decrease/stable, practices regarding detention, grounds for detention, alternatives to detention, time limit for detention)

8. Procedures at first instance (including relevant changes in: the authority in charge, organisation of the process, interviews, evidence assessment, determination of international protection status, decision-making, timeframes, case management – including backlog management)

Recourse to national security reasons to withdraw statuses or to reject an asylum application has been on the rise in recent years in Hungary. In such cases, the authorities do not have an obligation to provide reasoning and neither the affected individual, nor their legal representative have access to the files or their summary, which empties out any potential remedy. In a case where the HHC provided legal representation, the domestic court decided to submit a preliminary ruling reference to the Court of Justice of the EU related to these issues. In September 2022, the CJEU ruled in C-159/21 that refugees have the right to know why are they considered a risk to national security and denied international protection. Following the judgment, asylum-seekers shall be able to automatically gain access to at least the essence of the grounds of the opinion that declared them a risk to national security, so that they can rebuff the claim. The Court also ruled that opinion of the Security agencies cannot be binding for the Asylum authority.





9. Procedures at second instance (including organisation of the process, hearings, written procedures, timeframes, case management – including backlog management)
10. Availability and use of country of origin information (including organisation, methodology, products, databases, fact-finding missions, cooperation between stakeholders)
11. Issues of statelessness in the context of asylum (including identification and registration)
12. Vulnerable applicants (including definitions, special reception facilities, identification mechanisms/referrals, procedural standards, provision of information, age assessment, legal guardianship and foster care for unaccompanied and separated children)

No vulnerability assessment is taking place in the context of the temporary protection procedures. No special reception facilities have been set up for different vulnerable groups. Beneficiaries of temporary protection living with disabilities are sheltered in two locations that are not suitable for providing them with dignified living conditions and lack the needed personal attention and care. Some people from these venues have decided to return to Ukraine due to the unsuitability of the shelter and the lack of medical attention.

Unaccompanied minors (UAMs) are often not identified as such and are not assigned a legal guardian. The local guardianship office does not monitor the situation of UAMs at accommodation sites to assess whether there is a need to initiate guardianship processes. The asylum authority, although recognizes the need for a legal guardian, frequently has failed to notify the guardianship authorities. This puts UAMs at risk.

13. Content of protection (including access to social security, social assistance, health care, housing and other basic services; integration into the labour market; measures to enhance language skills; measures to improve attainment in schooling and/or the education system and/or vocational training)

Beneficiaries of temporary protection are eligible for cash assistance (cca EUR 100, one time), unless they are employed or receive pension. Beneficiaries of temporary protection under 16 are eligible for cca EUR 35/month as cash assistance. Those with temporary protection have full access to the Hungarian labour market. Beneficiaries of temporary protection enjoy practically the same level of access to medical care as Hungarian citizens with state insurance, regardless of their employment status.

Those beneficiaries of temporary protection that require so, are eligible for free-of-charge accommodation and meals.

Participating in formal education is compulsory in Hungary until the age of 16; beneficiaries of temporary protection until that age are obliged to enroll in the Hungarian school system. Education is generally provided in Hungarian. Many of the school aged children who do not





speaking Hungarian participate in online Ukrainian education, some parallel to their Hungarian courses, some instead of those.

In spite of the enabling legal framework, there has been a systemic lack of access to appropriate education in several locations. Many consulted individuals complained that schooling remains a major source of anxiety. Even if children fleeing Ukraine had access to Hungarian schooling, only a few schools had started integration programmes or Hungarian language courses. As a consequence, children are often frustrated by not understanding the lessons held in Hungarian. In addition, a high proportion of Ukrainian parents would prefer if their children took part in Ukrainian online education, but it is not possible due to compulsory schooling in Hungary.

14. Return of former applicants for international protection
15. Resettlement and humanitarian admission programmes (including EU Joint Resettlement Programme, national resettlement programme (UNHCR), National Humanitarian Admission Programme, private sponsorship programmes/schemes and ad hoc special programmes)
16. Relocation (ad hoc, emergency relocation; developments in activities organised under national schemes or on a bilateral basis)
17. National jurisprudence on international protection in 2023 (please include a link to the relevant case law and/or submit cases to the EUAA Case Law Database)
18. Other important developments in 2023

Positive judgments reached before European courts (ECtHR and CJEU):

- ECtHR judgment in the **asylum detention case** of [Dshijri v. Hungary](#): Since the detained asylum seeker got humanitarian residence this cannot be considered detention for the purpose of unauthorised entry, so his detention fell out of the scope of the Convention. Please find our summary of this case [here](#).
- ECtHR judgment in the **push-back case** of [Alhowais v. Hungary](#): The case of a young Syrian man who drowned in the river Tisza at the Serbian-Hungarian border after police assaulted him and pushed him back to Serbia in 2016. Please find our summary of the case [here](#).
- The first ever ECtHR judgment in the **push-back case of an unaccompanied minor** in [R.N. v. Hungary](#): The case of a 14-year-old unaccompanied minor from Pakistan who was violently pushed back by Hungarian park rangers ('mezőőr') to Serbia. Please find our summary of the case [here](#).
- ECtHR judgment in the **detention case** of [M.M. v. Hungary](#): The 17-year-old unaccompanied minor from Afghanistan was detained by the authorities for almost 3 months. Although, according to Hungarian legislation unaccompanied minors should not have been detained, however, the authorities did not believe that H.N. was under 18. Later he was placed in the shelter for unaccompanied minors in Fót and was granted asylum in Hungary. Please find our summary of the case [here](#).
- ECtHR judgment in the **detention case** of [H.N. v. Hungary](#): Despite being a severely traumatised and torture survivor asylum-seeker, H.N. was detained by Hungarian





authorities for over 3 months. Later he was granted asylum in Hungary. Please find our summary of the case [here](#).

- ECtHR judgment in the case of [S.S. and Others v Hungary](#): The joint case of a Yemeni family of seven and an Afghan three-member family, who were pushed back to Serbia in 2019. They all applied for asylum at Budapest Airport but were pushed out via the border fence. Please find the HHC summary [here](#)
- ECtHR judgment in the case of [Shahzad v Hungary](#): Khurram, an asylum-seeker from Pakistan, was one of the first to be automatically pushed back to Serbia by the Hungarian police officers in August 2016, in accordance with the then new law. He was assaulted by police officers during pushback. They were punched, kicked and beaten with batons and a metal rod. Even though the investigating prosecutor's office had a lot of weighty evidence at its disposal, it failed to investigate the perpetrators. The judgment in his case found that there was no effective investigation and that the state failed to provide an acceptable explanation of our client's injuries. It also stated that the man had been ill-treated by the Hungarian police officers. Please find the HHC summary [here](#)
- ECtHR judgment in the case of [P.S. and A.M. v Hungary](#): An Iraqi mother and her minor child were held in detention for four months in the Hungarian transit zones in 2017. The lengthy and arbitrary detention contributed to the deterioration of the mother's mental health condition. Please find the HHC summary [here](#)
- ECtHR judgment in the case of [M.A. and others v Hungary](#): The case of an Afghan family of five (the children were aged 4-months, 8 and 10 years old at the time of the detention), who were detained in the Hungarian transit zones for almost 4 months in 2018. The applicants complained about the heat, the inadequate quality and insufficient quantity of the food, the children's loss of weight and the family members' deteriorating mental health as a consequence of their confinement in the transit zone. Two of the five applicants were in need of specialised mental health support. Please find the HHC summary [here](#)
- ECtHR judgment in the case of [O.Q. v Hungary](#): The case of a Syrian man, who was detained in the transit zone for 8 months between 2018 and 2019. Both his mental and physical health were deteriorating during his confinement, he did not receive adequate medical and psychological detention. The applicant was also starved by the authorities for 6 days in 2018. Please find the HHC summary [here](#)
- ECtHR judgment in the case of [M.N. v Hungary](#): The Hungarian authorities detained the Afghan PoC for almost five months in 2015, failing to consider the applicant's individual circumstances, his poor health, and the favourable judgments of the courts in the asylum procedure, which showed that the delay was not the applicant's but the authorities' fault. The lengthy and arbitrary detention also contributed to the deterioration of the PoC's physical and mental health condition. Please find the HHC summary [here](#)
- ECtHR judgment in the case of [A.A. v Hungary](#): As soon as the Algerian PoC lodged his asylum application in 2014, he was immediately detained, despite the fact that the authorities had documents to prove his identity and that a friendly Hungarian family would have provided him with accommodation and livelihood. Still, the asylum authority and court invoked the absence of proof of identity and the risk of absconding when ordering and maintaining his detention. Please find the HHC summary [here](#)
- ECtHR judgment in the case of [AB. S. and AR. S. v Hungary](#): The case of an Iranian PoC and his 9-year old son, who were detained in the Hungarian transit zones for 1.5 years. Please find the HHC summary [here](#)





Part B: Publications

1. If available online, please provide links to relevant publications produced by your organisation in 2023

In English

1. https://asylumineurope.org/wp-content/uploads/2023/04/AIDA-HU_2022-Update.pdf
https://asylumineurope.org/wp-content/uploads/2023/04/AIDA-HU_Temporary-Protection_2022.pdf
2. <https://helsinki.hu/en/third-party-intervention-at-the-ecthr-in-trapitsyna-and-isaeva-v-hungary-app-no-5488-22/>
<https://helsinki.hu/en/wp-content/uploads/sites/2/2023/03/Trapitsyna-and-Isaeva-v.-Hungary-TPI.pdf>
3. <https://helsinki.hu/en/no-access-to-asylum-on-the-territory-since-27-may-2020/>
<https://helsinki.hu/en/wp-content/uploads/sites/2/2023/03/Access-to-asylum.pdf>
4. <https://helsinki.hu/en/labour-exploitation-of-refugees-from-ukraine/>
https://helsinki.hu/en/wp-content/uploads/sites/2/2023/03/Labour-exploitation_-Jan-2023.pdf
5. <https://helsinki.hu/en/the-situation-of-romani-refugees-fleeing-ukraine/>
<https://helsinki.hu/en/wp-content/uploads/sites/2/2023/04/Romani-refugees-from-Ukraine.pdf>
6. <https://helsinki.hu/en/submission-of-the-refugee-program-to-the-cpt/>
https://helsinki.hu/en/wp-content/uploads/sites/2/2023/05/HHC_Refugee-Program_CPT2023.pdf
7. <https://helsinki.hu/en/right-to-family-life-of-hungarian-citizens-and-third-country-national-family-members-at-stake/>
https://helsinki.hu/en/wp-content/uploads/sites/2/2023/05/info-note_TCN_FINAL.pdf
8. <https://helsinki.hu/en/no-access-to-asylum/>
<https://helsinki.hu/en/wp-content/uploads/sites/2/2023/06/Embassy-info-note.pdf>
9. <https://helsinki.hu/en/franet-response-human-rights-violations-at-eus-external-borders/>
<https://helsinki.hu/en/wp-content/uploads/sites/2/2023/09/HHC-response-to-FRANET-service-request-15.pdf>
10. <https://helsinki.hu/en/responses-to-franet-national-focal-point-for-hungary/>
https://helsinki.hu/en/wp-content/uploads/sites/2/2023/10/HHC-reply_FRANET-service-request-no-14_20230928.pdf
11. <https://helsinki.hu/en/statements-at-the-osce-whdc-2023/>





<https://helsinki.hu/en/wp-content/uploads/sites/2/2023/10/OSCE-WHDC-2023-HHC-refugees-and-displaced-persons-statement.pdf>

12. https://helsinki.hu/en/wp-content/uploads/sites/2/2023/08/Protection_update_August_2023-1.pdf

In Hungarian

1. <https://helsinki.hu/semmitse-meg-az-alkotmanybirosag-az-visszakenyszeritest/>
<https://helsinki.hu/wp-content/uploads/2023/03/Amicus--final.pdf>
2. <https://helsinki.hu/a-magyar-helsinki-bizottsag-velemenye-a-kozbiztonsag-megerositese-kapcsan-benyujtott-salatatorvenyrol/>
https://helsinki.hu/wp-content/uploads/2023/09/MHB_velemenyezes_20230928.pdf
3. <https://helsinki.hu/a-magyar-helsinki-bizottsag-velemenye-az-uj-idegenrendeszeti-torveny-tervezeterol/>
<https://helsinki.hu/wp-content/uploads/2023/11/Magyar-Helsinki-Bizottsag--tarsadalmi-egyeztetes--2023-nov-22.pdf>

2. If not available online, please share your publications with us at:
Asylum.Report@euaa.europa.eu

3. For publications that due to copyright issues cannot be easily shared, please provide references using the table below.

	Title of publication	Name of author	Publisher	Date
1				
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