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HAUT COMMISSARIAT

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*Délégation Régionale  
pour le Benelux  
et les Institutions Européennes*

Rue Van Eyck 11B  
B – 1050 Bruxelles  
  
Téléfax : 627.17.30  
Téléphone : 649.01.53  
Email : belbr@unhcr.org



**UNITED NATIONS**  
HIGH COMMISSIONER  
FOR REFUGEES  
*Regional Office  
for the Benelux  
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**VERENIGDE NATIES**

HOOG COMMISSARIAAT

VOOR DE VLUCHTELINGEN

*Regionale Vertegenwoordiging  
voor de Benelux en de  
Europese Instellingen*

Van Eyckstraat 11B  
B – 1050 Brussel  
  
Telefax : 627.17.30  
Telefoon : 649.01.53  
Email : belbr@unhcr.org

**Background Note on the  
Protection of Asylum Seekers and Refugees  
in Hungary**

**The Status of Asylum in Hungary**

1. This note analyses the developments which occurred in Hungary in the field of asylum during the period January/December 2002 and underlines the main challenges ahead.
2. Six main developments/events are worth mentioning:

**a) New Detention Policy**

Detention of illegal aliens/asylum-seekers continued to be one of the main problems and concerns the Office had to deal with during the period under review. The newly adopted Aliens Act (entered into force on 1 January 2002) introduced new norms, apparently more liberal compared to the past regime, concerning detention of illegal aliens, including those whose asylum application is lodged following their apprehension by the border guards or the aliens police. The initial interpretation of the new norms indicated that the majority of aliens caught illegally in the country prior to having applied for asylum would have been maintained in detention for a maximum period of 30 days, and only under very exceptional circumstances for a maximum period of twelve months. This had certainly to be considered as a major improvement and breakthrough on the detention policy in comparison with the eighteen-month period applied under the previous legislative regime. However, a fact finding mission conducted by UNHCR in all detention centers during May/June 2002 revealed that, if on one hand, the number of persons maintained in detention considerably decreased compared to 2001 (345 persons per month were detained in 2002 compared to an average of 660 persons per month in 2001), on the other hand, the majority of persons apprehended are routinely detained for a twelve month period and only a few of them are released following the first 30 days of detention. In addition, because the new regime clearly qualifies the new limitation to the freedom of movement as detention (in the past people were “confined” in Border Guard Community Shelters), in many instances families are kept separated so that wives and husbands are detained in different places (sometimes in different areas of the same building), while minor children are placed in juvenile institutions. In a few occasions, UNHCR also witnessed the presence in detention of vulnerable cases, such as pregnant women or persons suffering from post trauma stress disorders because victims of tortures in their country of origin. Furthermore and because of a restrictive interpretation of the new norms, several cases

have been detected of persons kept in detention for more than twelve months, as the previous period spent in confinement during the year 2001 was not computed when applying the new detention regime as of 1 January 2002. The UNHCR mission was also able to verify that the majority of the detention centers meet required standards for accommodating inmates, with the exception of the shelter in Nyirbator where material conditions are appallingly below the minimum requirements for guaranteeing adequate hygienic conditions. In this respect, it should be reminded that in its March 2001 monitoring report, UNHCR had already indicated that the shelter in Nyirbator did not comply with the minimum standards required for appropriate living conditions.

### **b) New Asylum and Aliens Legislation**

The newly amended law on asylum, which has been approved in conjunction with the new Aliens Act and a new Citizenship Law with a large majority over the political divide by Parliament in May 2001 introduced, together with its implementing government decrees, as of 1 January 2002, some important positive developments in the asylum legislation. It incorporates, to a large extent, the recommendations of the Action Plan on Asylum adopted by the Government in 2000 within the framework of the EU PHARE Horizontal Programme. It is worthwhile to highlight the following major positive developments:

- documentary evidence of identity is not considered anymore a requirement for granting the Authorised to Stay Status;
- the notion of the “best interest of the child” has been introduced when dealing with separated children seeking asylum in Hungary;
- the obligation for OIN to share court decisions (both the Budapest Municipal Court and the Supreme Court) in asylum cases with UNHCR has been included;
- the introduction in the Aliens Act of additional rights/benefits for Authorised to Stay Persons in order to facilitate their possible “temporary” integration into the society.

Another welcome development is a new legislative norm issued in early 2002 allowing access of children asylum-seekers into Hungarian public schools.

During its monitoring missions, UNHCR was able to verify that the way asylum procedure is conducted has considerably improved during the last few years and that the majority of eligibility officers have acquired a high level of professional skills. However, while the application of the new norms have indeed boosted up the number of persons granted authorised to stay status (1,304 persons during 2002 - 49 per cent of all decisions taken minus the number of discontinued procedures - compared to 290 persons in 2001), the number of persons recognised as refugees remained extremely low (only 104 persons, representing 3,9 per cent of all decisions taken minus the number of discontinued procedures). UNHCR believes that this phenomenon is partly due to a restrictive interpretation of article 1 of the 1951 United Nations Convention Relating to the Status of Refugees. The mission also detected a number of co-ordination problems due to the fact that different bodies have different levels of authority on a same case. It is indeed not unusual that an asylum claim is dealt with by an eligibility office under the responsibility of one regional directorate of the Office for Immigration and Nationality (OIN), while the aliens policing procedure for the same case is dealt in parallel with by the aliens police under the authority of a different OIN regional directorate.

### **c) Living and Reception Conditions in Refugee Reception Centers (Asylum-Seekers) and in Open Community Shelters (Persons Authorised to Stay)**

UNHCR was pleased to note during the above mentioned fact find mission that living and reception conditions in the Debrecen Refugee Reception Center, severely criticised last year, substantially improved thanks to refurbishment works carried out during the last few months and to the new management of the camp following the appointment of a new Director. UNHCR was also pleased to note that living conditions in the Bekescsaba Refugee Reception Center continued to remain of good quality and that its management continues to show high levels of professional skills. UNHCR expects that improvements in living conditions and management will soon take place in the Bicske Refugee Reception Center too, where refurbishment works initiated late in the year. UNHCR also appreciated that thanks to an EU contribution, the capacity of the reception centers will be enlarged in 2003 and that some new protected area will be exclusively used for sheltering refugee families, refugee women with or without children and adolescents. The recent composition of the centers' population (mainly young single males) has indeed created some security concerns for women alone and families with children as well, obliged to share the same premises with young single males.

The situation prevailing in community shelters, where persons authorised to stay are accommodated, deserves particular attention. In this respect, it should be recalled that, in a document to the Parliamentary Committee on Human Rights, Minorities and Religious Affairs during the Parliamentary debate on the amendments to the Asylum Law and the introduction of a new Aliens Act (February 2001), UNHCR did not raise objections to the accommodation of authorized to stay persons in the open community shelters under OIN supervision. However, UNHCR clearly stated that this should have taken place on condition that all the necessary services provided in the refugee reception centres would have been provided in the community shelters too. After more than one year since the amended legislation came into force, services provided for authorised to stay persons in community shelters are still far from being up to the required standards (lack of qualified social workers; lack of properly furnished community areas; lack of organised activities for residents; lack of premises for children activities, including informal education; etc.). Such a lack of basic services, coupled with the fact that a *de facto* limitation of the freedom of movement is applied to the shelters' residents (i.e. UNHCR has in several occasions observed that foreigners are escorted by armed guards as well as dogs from the community shelters to the communal canteen or to exit gate of the Border Guard barracks and vice-versa), makes the situation extremely worrisome, even because more and more "vulnerable" groups, such as women and children, are accommodated there. UNHCR also believes that dispersing authorised to stay persons among several facilities increases the financial cost of their care and maintenance. It is therefore felt necessary and urgent that this major issue be soon reviewed, with a view to either ensuring that the conditions in the community shelters meet standard requirements or preferably making amendments to existing legislation and eventually relocating the authorized to stay persons outside of locations where detention facilities exist. The latter option would in addition have the advantage to be more cost effective. The proximity of the detention centres has proved to be not conducive to the well being of the authorized to stay persons, who perceive their accommodation as a detention-like situation. In this respect, UNHCR notes with appreciation OIN's *ad hoc* decision not to accommodate, as of early 2003, newly recognised authorised to stay persons in community shelters. UNHCR expects that such a decision will be properly applied until the necessary modifications to the Aliens Act enter into force. An additional problem to be raised for this particular group is the fact that after more than one year since the new Aliens Act entered into force, persons authorised to stay are not yet, because of technical problems, provided with the humanitarian residence permit. Indeed, they have been until now provided only with

temporary resident certificates (renewable every three months), and therefore are *de facto* unable to fully benefit of certain rights, such as access to work.

#### **d) Statistics**

A total of 6,412 asylum applications have been lodged in Hungary during the year 2002, corresponding to a 33 per cent decrease compared to 2001. Such a low level of applications compared to previous years matches, though at a higher rate, the reduced number of applications all over Europe. According to the number of applicants, the main countries of origin remain Afghanistan (2,348 persons in 2002 compared with 4,311 in 2001) and Iraq (2,008 in 2002 compared with 1,014 in 2001). The number of applicants “disappearing” during the procedure continued to remain high (the refugee status determination procedure concerning 5,073 applicants was discontinued during the year, and it is estimated that some 90 per cent of discontinuation is due to the disappearance of the claimants). This is an indication that Hungary is still perceived as a country of transit rather than a country of destination, and that not a negligible number of socio-economic migrants may try to abuse the Hungarian asylum system.

#### **e) Integration of Refugees**

In June 2002, OIN set-up an integration committee which included representatives from relevant ministries (Social and Family Affairs, Interior, Education, Labor), NGOs specialised in refugee issues (Menedek – Hungarian Association for Migrants, The Hungarian Red Cross, Autonomia Foundation, the Foundation for Development of Democratic Rights) and UNHCR. Refugees also participated in the working group. As a result of the committee work, a pilot integration project for recognised refugees has been designed. The project started in early January 2003 for an initial group of 26 refugees and is implemented by OIN and Menedek. The beneficiaries are accommodated in recently renovated pre-fabricated houses and for a period of six months will undergo intensive Hungarian language and cultural orientation courses; the project should also facilitate their contacts with local employers. UNHCR is a member of the project steering committee. Although UNHCR has reservations on the location where the project is implemented (within the Debrecen refugee reception center), as the environment does not seem to be conducive to integration activities (no employment opportunities in Debrecen), and feels that the project has not developed a comprehensive policy for effective access to the labour market, this project has to be considered as a first and welcome step for the designing of a proper and sustainable integration policy.

#### **f) Separated Children**

In early 2002, OIN has officially endorsed a National Action Plan on Separated Children drafted in conjunction with UNHCR and Menedek within the framework of the Separated Children in Europe Programme managed by Save The Children Alliance and UNHCR. The Plan identifies the gaps and shortcomings of the recent system to deal with separated children seeking asylum and articulates the actions to be taken to address the shortcomings. For instance, it foresaw the revision of the registration and statistical data collection system with a view to getting a more realistic picture of this special group of asylum-seekers (these statistical data are available as of July 2002). One of the main elements of the plan also foresees the establishment of a “Home for separated children”. Thanks to a generous offer from the Municipality of Bekescsaba a building has been put at the disposal of the project and its refurbishment is underway with funds donated by the American Ministry of Defence. A project steering committee has been established to monitor the implementation of the project and it includes OIN, the Ministry of Social Affairs, the Ministry of Defence (in charge of

refurbishment), OLTALOM (the NGO in charge of running the center), the American Embassy, the EU Delegation (for possible future funding of the project) and UNHCR. It is expected that the “Home” will be inaugurated within the first semester of 2003.

3. Considering the above, the main issues at stake in the coming months are the following:

- While some of the main problems identified during the monitoring missions are already being addressed by OIN (i.e. accommodation of authorized to stay persons in reception centers and accommodation of “vulnerable” asylum-seekers in protected areas of the reception centers), it is felt that **amendments to the current legislation** on asylum and aliens are urgently required. In this context, UNHCR is pleased to note that the relevant authorities too (OIN, Border Guards, Parliamentary Committee on Human Rights) share this position and indeed the Speaker of Parliament has confirmed that a revision of the two laws is scheduled to take place in the second half of the year 2003. In this respect, UNHCR has suggested that in order to enhance harmonization among the two laws and properly address the legislative gaps so far identified, including organizational issues, the drafting process of the amendments should be overseen by a working group composed of the main actors involved (i.e. OIN, Border Guards, Ministry of Justice, UNHCR as expert observer, etc.).
- UNHCR believes that the current pilot project for the **integration of refugees** has to be considered as an important tool for the designing of a proper and comprehensive integration policy. It is therefore recommended that an evaluation, possibly external, of the project be undertaken, as soon as possible and while the project is in progress, so to identify both the achievements and the shortcomings. The results of the evaluation should allow the working group on integration, whose works shall soon resume, to elaborate a comprehensive policy document to be translated, whenever needed, into appropriate legislative modifications.
- Although works for the establishment of the “Home” for **separated children** are progressing, three major issues have to be dealt with in the coming months: counteracting a campaign of some inhabitants of Bekescsaba who are opposed to the opening of the “Home”, amend the Asylum Law so to fill the gaps identified in the Action Plan (i.e. establishment of a proper age assessment procedure; establishment of an efficient family tracing procedure; etc.) and devise adequate funding for the “Home” running costs. On the latter point, while UNHCR appreciates the recent EU contribution of Euro 30,000 to the NGO Oltalom, fund raising efforts with other potential donors will be continued. The expectation is that OIN will take over the running costs of the NGO Oltalom.
- With the accession to the European Union, Hungary will also be expected to start funding, at least partially, the costs of the NGOs involved in the asylum field. So far, such costs have been provided by UNHCR. However, with the accession to the EU, UNHCR will be required to phase down from funding to NGOs. The NGOs involved have acquired over the years a solid experience in asylum matters and can play a constructive role in complementing the endeavours of the government on asylum in the near future.