



Submission by the United Nations High Commissioner for Refugees
for the Office of the High Commissioner for Human Rights' Compilation Report
- Universal Periodic Review:

HUNGARY

I. BACKGROUND AND CURRENT CONDITIONS

Hungary became the first State Party to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the 1951 Convention) in Central Europe, when it acceded in 1989. Hungary acceded to the *1954 UN Convention relating to the Status of Stateless Persons* (henceforth the 1954 Convention) in November 2001 and to the *1961 UN Convention on the Reduction of Statelessness* in 2009.

Hungary, a European Union member, broadly transposed the relevant EU asylum-related Directives into national legislation through the Law on Asylum, which was adopted in June 2007.¹ In November 2007, the Government promulgated the enabling provisions to the law, which cover the structures and procedures to determine international protection needs, reception and pre-integration services.² The law introduced subsidiary protection for individuals who do not meet refugee status as defined by the 1951 Convention and measures to decrease repeat applications. The Office of Immigration and Nationality (OIN) has remained responsible for asylum procedures, providing reception services and some limited pre-integration services.

Hungary currently hosts approximately 700 refugees (mainly Iraqis, Afghans, Somalis and persons originating from the former Yugoslavia) and some 3,200 beneficiaries of subsidiary protection. As a result of legislative reform, the number of repeat applications has decreased significantly from the 30% level registered in 2007. In 2009, a total of 4,672 asylum-seekers were registered, mainly from Afghanistan, Serbia and Kosovo, Somalia, Georgia, Turkey, Iran and Iraq. In the first nine months of 2010, 1,755 asylum-seekers applied for asylum, 64 were recognized as Convention refugees, 84 received subsidiary protection and 49 benefited from protection against

¹ Act LXXX of 2007, the law entered into force on 1 January 2008

² Government Decree No. 301/2007 (XI.9.)

refoulement on the basis of tolerated stay, while 1,179 applications were abandoned (usually due to the absconding of the applicant).

Concerning reception of asylum-seekers, newly arriving asylum-seekers, especially families, are supposed to stay in the closed “screening facility” in Bekescsaba for 15 days (to carry out the Dublin II Regulation procedure).³ This facility is not administered by the Border Police, as, legally, it is not an administrative detention facility. Asylum-seekers are not entitled to leave the facility. However, unlike the situation in detention facilities, they are not confined to 24 hour lock-ups.

In cases in which Hungary is directly responsible for the assessment of the asylum claim, the respective asylum-seekers will enter the regular refugee status determination (RSD) procedure and will be accommodated in the open refugee reception centre in Debrecen. Unaccompanied minors seeking asylum in Hungary are hosted in the Home for Separated Children run by the Hungarian Interchurch Aid in conjunction with OIN in Bicske, with funding from the European Refugee Fund. Refugees and beneficiaries of subsidiary forms of protection are accommodated in the open pre-integration facility of the OIN in Bicske.

II. ACHIEVEMENTS AND GOOD PRACTICES

Issue 1: Hungary’s commitment to strengthen international human rights

Hungary is committed to strengthening international human rights law by acceding to international human rights instruments, including those of particular relevance to persons of concern to UNHCR. These include its recent accession in 2009 to the 1961 Convention on the Reduction of Statelessness, the Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession (2008) and the Council of Europe Agreement on the Abolishment of Visas for Refugees (2009). Hungary plays an active role as a Member State of the UN Human Rights Council.

Issue 2: Commitment to support UNHCR driven Age, Gender Diversity Mainstreaming process

The Government actively participates in the annual participatory field assessment process in the context of the *Age, Gender and Diversity Mainstreaming* (AGDM). This process is driven by UNHCR through the application of a rights and community-based approach. The AGDM process is an ongoing undertaking in support of the planning and implementation of activities and programs carried out by a multi-functional team (MFT), including representatives from the Government, NGOs and UNHCR with the participation of refugees and asylum-seekers

The MFT has been carrying out assessments since 2005 to enhance and improve protection, assistance and durable solutions with the involvement of asylum-seekers and refugees. The MFT also visits accommodation facilities (including administrative detention facilities) and prepares recommendations to address any shortcomings identified. The findings are discussed with the management of the facilities and the

³ The Dublin II regulation contains provisions to determine which EU Member State is responsible for assessing and deciding on a claim for asylum and therefore regulates the movement of asylum seekers within the EU.

OIN and certain actions are agreed upon and implemented, followed by monitoring missions to assess the improvement.

Issue 3: Commitment to support UNHCR driven access management project

The Government actively participates in a tripartite cooperation between the National Border Guard (currently, the Border Police), the Hungarian Helsinki Committee and UNHCR. The monitoring agreement was put in place in 2006 to monitor external EU borders and ensure access to asylum procedures for persons in need of international protection. The framework agreement and cooperation has had a positive impact on the conclusion of similar agreements in other countries in the region and beyond.

Issue 4: A national system in operation to implement the UN 1954 Convention on the Status of Stateless Persons

Hungary acceded to the *1954 UN Convention on the Status of Stateless Persons* in 2001 and an implementing mechanism was put in place in 2007. Stateless status determination is carried out by OIN in a systematic manner. Since July 2007, 90 applications have been registered and 51 foreigners have been recognized as stateless persons. The Hungarian Government is actively promoting accession to the two UN Convention on stateless among other states.

III. CHALLENGES

Issue 5: Access to the country's territory and to the asylum procedure

Access to the country's territory and to the asylum procedure for asylum-seekers is not ensured with full respect of the principle of *non-refoulement*. The implementation of the border monitoring arrangement⁴ during 2008-2010 resulted in a better understanding of the situation at the EU external borders by all interlocutors and increased awareness of problems in current practice. For example, complaints (confirmed by NGOs) were received from and/or registered by Somali and Afghan asylum-seekers, including separated minors, on their apparently forced return to Ukraine by the Hungarian Border Police. In these cases, the UNHCR position paper on the situation of asylum-seekers in Ukraine⁵ had not been duly considered. Under current Hungarian legislation, there is no requirement for a personal interview before the deportation of a foreigner wishing to enter or entering Hungary unlawfully.

We wish to note that the UN Committee against Torture recommended the following in its Conclusions and Recommendations to Hungary in 2006:

The State party should ensure that it complies fully with Article 3 of the Convention and that individuals under the State party's jurisdiction receive appropriate consideration by its competent authorities and guaranteed fair treatment at all stages of the proceedings, including an opportunity for

⁴ Please refer to Issue 3 mentioned above.

⁵ UN High Commissioner for Refugees, *UNHCR Position on the Situation of Asylum in Ukraine in the Context of Return of Asylum-Seekers*, October 2007, Corr., available at: <http://www.unhcr.org/refworld/docid/472f43162.html>

effective, independent and impartial review of decisions on expulsion, return or extradition.

In this respect, the State party should ensure that the relevant alien policing authorities carry out a thorough examination in accordance with Section 43 (1) of the Aliens Act, prior to making an expulsion order, in all cases of foreign nationals who have entered or stayed in Hungary unlawfully, in order to ensure that the person concerned would not be subjected to torture, inhuman or degrading treatment or punishment in the country where he/she would be returned. The State party should expand and update its country of origin (COI) information database and take effective measures to certify that the internal regulation about the obligatory use of the COI system is respected.⁶

Since 2006, there has been no structural change or improvement in this respect.

UNHCR would like to highlight the importance of effective, independent and impartial review of decisions on expulsion, return or extradition as well as access to the asylum procedure. Whereas training activities have been organized by the Hungarian Helsinki Committee with EU funding, the Government has not set up any formal programmes to ensure training for law enforcement officials and border guards in the field of refugee law.

The Committee against Torture also addressed this training need in its concluding observations in 2006:

The State party should further develop educational programmes to ensure that law enforcement officials, prison staff and border guards are fully aware of the provisions of the Convention that breaches will not be tolerated and will be investigated, and that offenders will be prosecuted. All personnel should receive specific training on how to identify signs of torture and ill-treatment (...) Furthermore, the State party should develop and implement a methodology to assess the effectiveness and impact of such training/educational programmes on the reduction of cases of torture, violence and ill-treatment.⁷

Recommendations: The Government should ensure access to the country's territory and to the asylum procedure for asylum-seekers in full respect of the principle of non-refoulement as established in international refugee and human rights law. Authorities should be required to conduct in-depth personal hearings before any return decision is taken, in order to prevent *refoulement*. In addition, training programmes for law enforcement officials, prison staff and border guards concerning the 1951 Convention should be created.

Issue 6: Penalty of asylum-seekers for unlawful entry

Asylum-seekers are often punished for arriving in Hungary with false or forged travel documents. Persons convicted of unlawful entry or stay, face disproportionately harsh

⁶ Conclusions and recommendations of the Committee against Torture: Hungary, 06/02/2007, CAT/C/HUN/CO/4, para. 10.

⁷ Ibid, para. 11.

detention conditions. Regrettably, even harsher measures are being imposed by the Government. In 2008, UNHCR issued a position paper on this issue, addressed to the Chief Public Prosecutor of Hungary and, despite follow-up actions taken by UNHCR, no major structural change has occurred.

Recommendation: The Government should refrain from imposing penalties on asylum-seekers entering Hungary with false or forged travel documents in line with Article 31 of the 1951 Convention relating to the Status of Refugees.

Issue 7: Detention of asylum-seekers

Hungary imposes prolonged periods of administrative detention on asylum-seekers without providing them with effective remedies to challenge such detention. Current practice qualifies as arbitrary detention, as it does not comply with the requirement of Section 55 (3) of the Asylum Law.

712 asylum-seekers were reported to be in detention for the period of January to September 2010.⁸ Experience indicates that asylum-seekers are increasingly kept in administrative detention beyond the legal limit of 15 days⁹ and are not released when their case is referred to the regular status determination procedure. Since April 2010, detention of asylum-seekers has become the rule rather than the exception. Only separated children asylum-seekers are not detained.

The Prosecutor General called on OIN to terminate the unlawful practice immediately. In addition, the US Department of State's annual human rights report (released in March 2010) explicitly refers to the unlawful detention of asylum-seekers in Hungary.¹⁰ However, no action has been taken to resolve the problem. In fact, proposed amendments to the Asylum Act and the Aliens Act currently discussed by the Parliament clearly seek to legalize current practice. In addition, the Acts will introduce detention for up to 30 days for families with children and separated children and for up to 12 months for all other asylum-seekers. UNHCR has submitted comments to the Parliament on the proposed changes.

A further issue in this respect is that asylum-seekers placed in the OIN screening facility in Bekescsaba, while waiting for their transfer to another EU member states under the Dublin procedure, are deprived of their freedom of movement, sometimes for protracted periods of time. This deprivation, which is not subject to judicial

⁸ In 2008: 387; in 2007: 762

⁹ Section 55 (3) of the Asylum Law: "If the refugee authority refers the application to the in-merit procedure and the applicant is in alien policing detention, the alien police authority shall, at the initiative of the refugee authority, terminate his/her detention".

¹⁰ On April 21, the Prosecutor General determined that the Office of Immigration and Nationality was unlawfully detaining certain asylum seekers. The Prosecutor General sent a notice to the OIN demanding that it immediately enforce the law by releasing all asylum-seekers whose applications had been admitted into the final asylum procedure. The OIN challenged this notice at the Ministry of Justice and Law Enforcement, suggesting an amendment to the law. The HHC reported that the unlawful practice continued at the end of the year despite the Prosecutor General's intervention. The full report is available at:<http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136035.htm>.

review, appears to lack a legal basis, as the Asylum Law¹¹ stipulates that asylum-seekers may only be detained for 72 hours anticipating their transfer.

The CAT recommended that “detention of asylum-seekers is used only in exceptional circumstances or as a last resort and then for the shortest possible time, and that the rules of maximum-severity penitentiaries do not apply to these detention facilities.”¹²

Recommendation: The Government should refrain from imposing prolonged periods of administrative detention of asylum-seekers during which freedom of movement is fully deprived and against which asylum-seekers lack effective remedies. It is furthermore strongly recommended that alternatives to detention be considered for asylum-seekers.

Issue 8: Administrative detention imposed on foreigners.

UNHCR is concerned about the disproportionately strict administrative detention regime in Hungary, including the overall detention conditions, especially in Nyírbátor and Kiskunhalas. According to available information, detainees can only leave their locked rooms at specified times and under strict control. In Nyírbátor, there is only one pay-phone available for all the residents, and access to it is restricted to a few minutes per day. Such an arrangement prevents detainees, including asylum-seekers, from keeping in contact with their families. Moreover, families are separated according to gender.

When in detention, female detainees can be exposed to even harsher conditions than male detainees. As there are relatively few female detainees, it is not unusual for a woman to spend extended periods of time in isolation. Furthermore, almost all guards in the detention facilities administered by the Border Police are males.

Problems with detention include the RSD interviews being conducted in the presence of a guard with the applicant in handcuffs; the inability of guards and detainees to communicate due to language limitations; the difficulties faced by illiterate detainees in making written requests and complaints; the lack of social workers and psychological support/attention. Additionally, the lack of adequate dietary arrangements may seriously impede the full observation of a religion by detainees. This last problem does not exist in the open processing centre of the OIN in Debrecen where asylum-seekers should be held after 15 days.

Unaccompanied asylum-seeking children enjoy the only alternative to detention: accommodation in the abovementioned home run by the Hungarian Interchurch Aid.

UNHCR wishes to note that, in 2006, the Committee Against Torture recommended that measures be taken to ensure that “*detention of asylum-seekers is used only in exceptional circumstances or as a last resort and then only for the shortest possible*

¹¹ Section 49 (5): “The refugee authority shall provide in the resolution on delivery that the foreigner may not leave the place of residence designated for him/her until the completion of delivery but for maximum 72 hours in the interest of securing the implementation of the delivery procedure”.

¹² Conclusions and recommendations of the Committee against Torture: Hungary, 06/02/2007, CAT/C/HUN/CO/4, para 9.

time and that rules of maximum-severity penitentiaries do not apply to these detention facilities.”¹³ Unfortunately, this recommendation has not been implemented.

UNHCR believes that detention of asylum-seekers should only be maintained under very clearly defined exceptional circumstances after examining the principle of necessity and proportionality with regard to the manner and to the purpose of such detention. Detention of asylum-seekers should comply with human rights standards as well as the ones stipulated by the Parliamentary Assembly of the Council of Europe in 2010.¹⁴

Recommendations: The Government should improve the detention conditions for asylum-seekers, *inter alia*, by allowing the conduct of a RSD interview of detained asylum-seekers without the presence of a guard in the interview room and without the applicants being handcuffed. In addition, social workers should be provided in the Border Police detention facilities.

Issue 9: Psycho-social support to victims/survivors of torture who suffer from Post Traumatic Stress Disorder

The Government fails to ensure the appropriate support for, treatment and rehabilitation of asylum-seekers and refugees who are victims/survivors of torture and who suffer from Post Traumatic Stress Disorder (PTSD). UNHCR is concerned about the Government’s policy of outsourcing indispensable basic services. Some local NGOs provide such services. However, reliance on international or private donors means the sustainability of such projects is uncertain.

Recommendation: The Government should take all necessary steps to ensure the appropriate support for and the necessary treatment of asylum-seekers and refugees who are survivors of torture and who are in need of special psychological assistance.

Issue 10: Mechanisms to systematically monitor whether torture, inhuman or degrading treatment occurs

In 2008, the Hungarian Ministry of Foreign Affairs, in conjunction with the Office of the Ombudsperson, initiated the process towards Hungary’s accession to the Optional Protocol of the UN Convention against Torture, in order to establish a relevant domestic mechanism. Despite the Government’s announcement of accession as a goal when lobbying for the membership in the Human Rights Council in 2009, no concrete steps have been taken.

Recommendation: The Government should positively consider accession to the Optional Protocol to the UN Convention against Torture (CAT).

Issue 11: Family reunification

¹³ Conclusions and recommendations of the Committee against Torture: Hungary, 06/02/2007, CAT/C/HUN/CO/4, para. 9

¹⁴ Parliamentary Assembly Resolution 1707(2010) of 28 January 2010 as well as Recommendation 1900 (2010) of 28 January 2010 on the detention of asylum-seekers and irregular migrants

Beneficiaries of international protection have no effective access to family reunification in Hungary. The Asylum Law¹⁵ and the Aliens Act¹⁶ specifically foresee and allow for family reunification of refugees. In practice, however, it is not attainable for family members (mainly Somali nationals) whose national passports are not accepted by the European Union and therefore cannot be issued a Hungarian visa. In addition, ICRC travel documents are not accepted by Hungarian law.

Refugees who are unable to reunite with their family members face extreme integration difficulties. They often migrate irregularly to other EU Member States and are later returned under bilateral or multilateral arrangements.

In 2007, the Committee on Economic, Social and Cultural Rights recommended that:
*the State party review its regulations on family reunification of refugees, with a view to broadening the concept of family members, simplifying and expediting reunification procedures, and protecting the right to family life of all refugees, including persons authorized to stay on the basis of subsidiary protection.*¹⁷

Recommendation: The Government should ensure that all beneficiaries of international protection have effective access to family reunification in Hungary.

Issue 12: Integration strategy, legislation and support

UNHCR notes that Hungary has no legal or policy framework or strategy dealing specifically with the integration of international protection beneficiaries. Under the Asylum Law, beneficiaries have the same rights and obligations as Hungarian nationals. They are furthermore entitled, for six months usually, to accommodation, meals and pre-integration services provided at the OIN-run¹⁸ Bicske Pre-Integration Centre. This period can be extended for another six months in justified cases and for another 12 months in exceptional cases.

The present system has proven to be ineffective in equipping beneficiaries of international protection with the skills required for integration. As a result, some refugees opt to move to other EU Member States once their refugee status is

¹⁵ Sections 2 (j) and 7 (2) of the Asylum Law

¹⁶ Section 13 (1) e)-g) of the Aliens Act (Act II of 2007) and Section 57 of Government Decree 114/2007.(V.24.) on the implementation of the Aliens Act

¹⁷ Conclusions and recommendations of the Committee on Economic, Social and Cultural Rights: Hungary, 16/01/2008, E/C.12/HUN/CO/3, para 44.

¹⁸ Section 41 (1)-(3): “(1) Refugees and beneficiaries of subsidiary protection are entitled to free accommodation and provisions at a reception centre for a period of six months counted from the date of the final document recognizing their status, given that no other lodgings are provided for them.

(2) The period specified in Subsection (1) can be prolonged by the refugee authority once for six more months.

(3) The refugee authority may grant accommodation and provisions to a refugee or a beneficiary of subsidiary protection at the reception centre beyond the time limits specified in Subsection (2) if the refugee or beneficiary of subsidiary protection is at least 60 year old and/or is not suitable for integration in the society, to carry on an autonomous life due to his/her long-term and irreversible health deterioration, psychic/body deficit, or illness resulting from a serious trauma, given that such health deterioration or deficit does not necessitate specialized institutional care of the refugee or beneficiary of subsidiary protection.”

recognized. Following deportation to Hungary, they become homeless. Homeless refugees reportedly face various violations of their physical integrity, with single women being particularly at risk.

UNHCR has been informed by a number of homeless refugees that if their living conditions were not to improve, they would consider returning to Somalia despite the risk of persecution, torture and other forms of serious human rights violations upon return.

Furthermore, UNHCR observes that in the case of families with children, eviction from the Pre-Integration Facility of the OIN may run counter to the principle of the best interests of the child, as enshrined in the Convention on the Rights of the Child.

In the absence of a governmental agency with the specific responsibility to promote refugee integration at community level and mainstream service providers, many refugees have no effective opportunity to exercise their rights as provided under the 1951 Convention and in other international and regional human rights treaties, including the right to adequate housing. They rely mostly on fragmented, under-funded and project-based refugee support services in Budapest, which cannot provide solutions to what constitutes a structural problem, requiring a strategic and cross-departmental response.

Recommendations: The Government should develop a strategy on integration of refugees, especially homeless refugees, in co-operation with all relevant stakeholders, in order to prevent refugees from becoming destitute and preventing spontaneous return without safeguards to their country of origins, where they may be at risk of torture and/or cruel, inhuman or degrading treatment.

Issue 13: Statelessness

The current wording of Section 76 (1) of Act II of 2007 on the entry and stay of third country citizens (Harmtv) is not in compliance with Article 1 of the 1954 UN Convention on the Status of Stateless Persons, as it excludes applicants staying unlawfully in the country. Article 38 (1) of the Convention expressly prohibits reservations to Article 1. Consequently, the *de facto* exclusion clause should be discontinued.

Although domestic legislation on nationality seems to remove the possibility of statelessness, the following situations have been detected by the Hungarian Helsinki Committee, the Office of the Ombudsman and the National Police as impeding children's right to acquire a nationality and generating statelessness in Hungary:

Children born of parents who later leave Hungary without prior notice and abandon their newly born child.

It is not unusual for foreign women to come to Hungary to give birth and leave the child in Hungary. As the mother is considered "known" in this case (even if she provides false personal details), the child will be registered as being of unknown nationality. Efforts to establish true nationality often prove to be unsuccessful, for

various reasons. Cases have been recorded where such children live in Hungary for several years without any authority taking steps to establish their nationality.

Children born of foreign parents who are unable to confer their nationality to the children, for example due to discriminatory nationality legislation of the mother's country of origin and/or limitations on jus sanguinis transmission of nationality to children born abroad.

Such children may become stateless because the Citizenship Act does not apply due to the fact that the parents are neither stateless nor “unknown”, as required by the Act.

Children of stateless persons living in Hungary without a permanent residence permit.

Children of parents who do not have a permanent residence permit will remain stateless. Only those stateless persons, who have already officially established a “place of residence” in Hungary, are considered “stateless persons residing in Hungary” as required by the Citizenship Act.

Persons with permanent/open-ended residence permits, e.g. refugees and other beneficiaries of international protection, are considered to have officially established a place of residence. In the case of persons with different permits, permanent/open-ended residence can only be obtained after three years of continuous stay in Hungary and only if the person fulfils all the conditions set forth in law, such as livelihood, accommodation and full health insurance.

Children born in Hungary of non-stateless foreigners benefiting from international protection in Hungary such as refuge, subsidiary protection or tolerated stay.

Children born in Hungary of refugee parents are registered as “unknown” nationals, since the Hungarian authorities do not consider themselves competent to establish the child's nationality. Parents are often reluctant to (and should not have to) contact their national authorities, in order to obtain confirmation of the child's nationality. Consequently, the children remain of “unknown” nationality, which may result in statelessness.

Under-age children can be naturalized under more favourable conditions,¹⁹ in line with States' obligation under the 1954 Convention. However, the law does not address the particular situation of refugees, despite the obligation in article 34 of the 1951 Convention.

¹⁹ Section 4 (4) and (5) of the Act on Citizenship:

“(4) A non-Hungarian citizen who has resided in Hungary continuously for at least five years prior to the date of submission of the petition, and if the conditions set out in Paragraphs b)-e) of Subsection (1) are satisfied, may be naturalized on preferential terms if he/she:

- a) was born in the territory of Hungary;
- b) had established residence in Hungary before reaching legal age;
- c) is stateless.

(5) The criteria of continuous residence in Hungary, for the periods of time defined in Subsections (1)-(4), may be waived in the case of minors, if the minor's petition for naturalization is submitted together with that of the parent's or if the minor's parent was granted Hungarian citizenship.”

Recommendation: The Government should review domestic legislation on nationality and its application in order to comprehensively ensure the right of all children to acquire a nationality and to prevent statelessness.

Issue 14: The best interest of the child

Although the Hungarian Law on Asylum specifically stipulates the principle of the best interest of the child²⁰, law and practice differ in many respects. The current system of three-phase reception requires families to migrate from Békéscsaba to Debrecen and if recognized, from Debrecen to Bicske. It is not suitable for families with children, especially those of school age, as the best interest of children demands a stable environment for the child's growth and well-being.

Another problematic issue is access to education. Despite legislation to improve the situation, access of asylum-seeking Roma children and children placed with their families in the OIN screening facility in Bekescsaba has not been fully facilitated.

As far as age assessment of unaccompanied minors is concerned, the Parliamentary Commissioner of Human Rights in his report of AJB 7120/2009 (May 2010) found that the manner in which it is currently conducted is highly problematic. The Commissioner suggested that the relevant law (Section 44 of the Asylum Law) be amended: to require medical examinations with the consent of the person or their legal representative; to ensure that a lack of consent to an examination is never the sole grounds for a refusal of an application and to ensure that the examination be conducted in a child and gender-sensitive manner and include investigation into the psychological maturity of the applicant and the relevant ethnic and cultural facts/components. Any uncertainty should result in a decision in favour of the person. In addition, the examination should be carried out by an independent paediatrician with appropriate expertise and persons claiming to be children shall be treated as such, until age determination has taken place.²¹

Recommendation: The Government should adapt the three-phase reception procedure to take into account the need of children to live in a stable environment. In addition, legislation concerning age assessment should be reformed to meet the standards set in the UNHCR Statement of Good Practice²² and the General Comment No. 6 of the Committee on the Rights of the Child.²³

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November 2010**

²⁰ Section 4 (1): "When implementing the provisions of the present Act, the best interests and rights of the child shall be a primary consideration."

²¹ See UNHCR provisional comments to Article 17 (15(5) of the Asylum Procedure Directive.

²² STATEMENT OF GOOD PRACTICE, (4th Revised Edition, 2009), available at: http://www.separated-children-europe-programme.org/separated_children/good_practice/index.html

²³ UN Committee on the Rights of the Child (CRC), CRC General Comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, 1 September 2005, CRC/GC/2005/6, available at: <http://www.unhcr.org/refworld/docid/42dd174b4.html>