

# HUNGARY

## ARRIVALS

### 1. Total number of individual asylum seekers who arrived, with monthly breakdown and percentage variation between years

Table 1:

Source: Ministry of Interior, Office of Immigration and Nationality (OIN)

Month	2002	2003	Variation +/- (%)
January	612	228	-62.8
February	527	234	-55.6
March	536	183	-65.9
April	544	131	-75.9
May	461	153	-66.8
June	440	238	-45.9
July	565	239	-57.7
August	726	215	-70.4
September	637	283	-55.6
October	639	203	-68.2
November	406	181	-55.4
December	319	113	-64.6
<b>TOTAL</b>	<b>6,412</b>	<b>2,401</b>	<b>-62.6</b>

The sharp decrease in the number of new asylum seekers in 2003 exceeded the drop in the number of newly-arrived asylum seekers experienced globally. In contrast, the number of new asylum seekers received in the Slovak Republic, Hungary's neighbour, which also shares an eastern border with Ukraine, showed a marked increase. This was believed to be a result of the strict detention regime, as well as more effective border control measures applied in Hungary.

### 2. Breakdown according to the country of origin/nationality, with percentage variation

Table 2:

Source: Ministry of Interior, Office of Immigration and Nationality (OIN)

Country	2002	2003	Variation +/- (%)
Afghanistan	2348	469	-80.0
Iraq	2008	348	-82.7
Georgia	91	205	+125.3
Iran	160	170	+6.3
Turkey	124	125	+0.8
Somalia	213	113	-47.0
Serbia and Montenegro	88	112	+27.3
Russian Federation	26	105	+303.9
Algeria	34	79	+132.4
Nigeria	125	74	-40.8
China	83	67	-19.3
Armenia	43	54	+25.6
Pakistan	40	53	+32.5

Vietnam	182	49	-73.1
India	63	46	-27.0
Bangladesh	352	31	-91.2
Palestine	29	23	-20.7
Sudan	130	16	-87.6
Moldova	12	15	+25.0
Ukraine	15	15	-
<i>Others</i>	246	232	-5.7
<b>TOTAL</b>	<b>6,412</b>	<b>2,401</b>	<b>-62.6</b>

### 3. Persons arriving under family reunification procedure

No figures available.

### 4. Refugees arriving as part of a resettlement programme

Hungary does not operate any resettlement programmes.

### 5. Unaccompanied minors

183 (2002: no figures available)

Table 3:

Source: Ministry of Interior, Office of Immigration and Nationality (OIN)

<b>Country</b>	<b>2002</b>
Afghanistan	82
Somalia	28
Bangladesh	13
India	9
Vietnam	9
Nigeria	8
Iraq	7
Pakistan	3
Turkey	3
China	2
Georgia	2
Liberia	2
Moldova	2
Sierra Leone	2
Algeria	1
Iran	1
Serbia and Montenegro	1
Palestine	1
Romania	1
Stateless	6
<b>TOTAL</b>	<b>183</b>

## RECOGNITION RATES

### 6. The statuses accorded at first instance and appeal stages as an absolute number and as a percentage of total decisions

Table 4:

Source: Ministry of Interior, Office of Immigration and Nationality (OIN)

Statuses	2002			2003		
	Number	%*	%**	Number	%*	%**
No status awarded	1,274	16.4	47.5	773	24.5	44.9
Convention status	104	1.3	3.9	178	5.6	10.3
Non-refoulement principle***	1,304	16.8	48.6	772	24.4	44.8
Procedure terminated	5,073	65.4		1,436	45.5	
<b>TOTAL</b>	<b>7,755</b>	<b>100</b>	<b>100</b>	<b>3,159</b>	<b>100</b>	<b>100</b>

Aggregate statistical information, which contains all asylum cases dealt with in the public administrative and the judicial procedure is unavailable. The above figures relate to the total number from two-instance public administrative procedures carried out by the Immigration and Nationality Office (OIN) of the Ministry of Interior, and do not include decisions taken at judicial review.

\* This column indicates the percentage of the total number of decisions (including decisions to terminate the procedure).

\*\* This column indicates the percentage of the total number of decisions less the number of decisions terminating the procedure, producing the proportion of 'in-merit' decisions (rejection, recognitions and applications of the non-refoulement principle). Since in Hungary the disappearance rate of asylum seekers is high, and these cases result in the termination of the procedure without any assessment of the claim, the introduction of this column provides a more accurate picture of recognition rates.

\*\*\* In the decision on rejection of Convention status, the OIN indicates if the *non-refoulement* principle applies. This will form the basis of 'subsidiary protection' status, which will be granted by the 'alien policing' agency within the OIN.

Table 5: Decisions made on judicial review procedures

Source: Ministry of Interior Office, of Immigration and Nationality (OIN)

Decisions	Number
Refused	40
without examination on substance	
Application refused	251
(rejection decision upheld)	
Rejection decision annulled	31
(new procedure ordered)	
Other	11
<b>Total procedures ended</b>	<b>336</b>
<b>Total new procedures</b>	<b>364</b>

The following figures relate to asylum cases dealt with by the Metropolitan Court in Budapest in 2003, which carries out judicial review of negative decisions.

## 7. Refugee recognition rates (1951 Geneva Convention) according to country of origin

Table 6:

Source: Ministry of Interior Office of Immigration and Nationality (OIN)

Country of origin	2002			2003		
	Total 'in-merit' decisions	Status	%	Total 'in-merit' decisions	Status	%
Afghanistan	1007	9	0.9	413	28	6.8
Iraq	594	46	7.7	316	33	10.4
Georgia	30	-	-	99	14	14.1
Iran	52	3	5.8	99	9	9.0
Turkey	74	4	5.4	34	9	26.5
Somalia	54	1	1.9	29	1	3.5
Serbia and Montenegro	49	9	18.4	91	19	20.9
Russian Federation	18	7	38.9	70	9	12.9
Algeria	18	-	-	50	2	4.0
Nigeria	81	3	3.7	52	-	-
China	61	-	-	72	-	-
Armenia	27	4	14.8	34	8	23.5
Pakistan	19	-	-	24	1	4.2
Vietnam	156	-	-	44	-	-
India	15	-	-	37	-	-
Bangladesh	195	-	-	32	-	-
Palestinian	39	5	12.8	19	9	47.4
Sudan	55	1	1.8	30	9	30.0
Moldova	10	-	-	9	-	-
Ukraine	13	3	23.1	11	3	27.3
Others	115	9	0.08	1,331	24	1.8
<b>TOTAL</b>	<b>2,682</b>	<b>104</b>	<b>3.9</b>	<b>1,723</b>	<b>178</b>	<b>10.33</b>

This table shows the number of statuses and their proportions against the total number of 'in-merit' decisions (total decisions *less* the number of terminated procedures). Due to high rates of disappearance, this calculation provides a more accurate picture of recognition rates.

## RETURNS, REMOVALS, DETENTION AND DISMISSED CLAIMS

### 8. Persons returned on 'safe third country' grounds

No figures were available.

### 9. Persons returned on 'safe country of origin' grounds

No figures were available.

### 10. Number of applications determined inadmissible

90 (2002: 194)

According to the Hungarian legal system, an application determined to be 'manifestly unfounded' can be considered in an accelerated procedure, often resulting in the rejection of the application.

### 11. Number of asylum seekers denied entry to the territory

According to Hungarian law, undocumented foreign nationals who do not meet the correct requirements (for example do not have a visa or passport) can be denied entry to the territory, unless they declare their intention to seek asylum in Hungary. If a foreign national does declare his/her intention to seek asylum before the 'alien policing' authorities, the 'alien policing' procedure is initiated. According to Section 30 (2) of the Aliens Act, the 'alien policing' authorities (the national police and the national border guards)

must record his/her statement regarding his/her flight and other material circumstances and send the declaration to the refugee authority without delay.

The findings from field visits by the Hungarian Helsinki Committee (HHC) indicate that the right of foreign nationals to access the asylum procedure at the border is not fully guaranteed. The HHC found evidence of unlawful readmissions to third countries of asylum seekers and others of concern, carried out by the Hungarian Border Guard.

The Hungarian Border Guard handed over 114 persons to Ukraine in 2003 based on a Ukrainian-Hungarian readmission agreement. Among these 114 persons, 24 were Iraqis, 16 Somalis and 6 Afghans.

## **12. Number of asylum seekers detained, the maximum length of and grounds for detention**

The OIN does not maintain a specific database on asylum seekers' detention. Detention facilities are run by the Hungarian Border Guard. However, the Border Guard statistics do not show how many detained persons had applied for asylum.

According to the official statistics of the Border Guard, the maximum capacity of detention facilities is 511 persons.

*Table 7: Persons in 'alien policing' detention*

Source: Hungarian Border Guard

<b>Month (2003)</b>	<b>Male</b>	<b>Female</b>	<b>Total</b>
July	93	9	102
September	184	22	206
December	231	24	256

The number of detained foreign nationals decreased in parallel with the number of asylum applications. The data suggests that many detained foreign nationals are/were asylum seekers. In 2002, the HHC estimated that at least 75% of detained foreign nationals submitted an application for asylum.

According to the 2001 Aliens Act, which entered into force on 1 January 2002, the maximum length of detention is one year. The Act stipulates that detention should be ordered, in the interest of implementing an expulsion order. However, in the case of asylum seekers, expulsion cannot be implemented until the final decision on an asylum application has been taken. The law does not call for the compulsory detention of asylum seekers. Nevertheless, if an asylum seeker is not able to reach the asylum authorities before being intercepted by the border guards, he or she will be detained.

## **13. Deportations of rejected asylum seekers**

455 (2002: 564)

This figure relates to the number of persons the authorities made expulsion orders against (the number of cases was 386). According to Section 38(2) of the Asylum Act, the authorities may order the expulsion of a foreign national staying illegally in the country in its decision on the rejection of an asylum application. The refugee authority orders expulsion in the case of a negative decision at first instance, but as there are three more instances in the asylum procedure, the asylum seeker can request an appeal or judicial review twice with suspensive effect. Therefore in practice these expulsion orders were not executed in 2003.

The alien police and border guard mainly order expulsions, but there are no statistics available to indicate the number of expulsion orders executed.

## **14. Details of assisted return programmes, and numbers of those returned**

The assisted return programme was implemented by the International Organization for Migration (IOM). In 2003, the main groups involved in the programme were citizens of China (74 persons), Turkey (30 persons), Serbia and Montenegro, including Kosovo Albanians (28), Mongolia (18) and Egypt (13).

## **15. Number of asylum seekers sent back to the Member State responsible for examining the asylum application under the Dublin Convention (Dublin II Regulation)**

Hungary was not party to the Dublin Convention.

## **SPECIFIC REFUGEE GROUPS**

### **16. Developments regarding refugee groups of particular concern**

#### *Afghanistan and Iraq*

Asylum seekers from Afghanistan and Iraq continued to constitute the two major national groups applying for asylum in Hungary in 2003. The OIN did not apply any specific regime or policy as regards processing Afghan and Iraqi asylum applications. They continued to assess applications on an individual basis. The recognition rate remained low, although a subsidiary form of protection was granted in every case.

#### *Georgia and Chechnya*

There was a sharp increase in the number of Georgian and Chechen asylum seekers arriving in Hungary in 2003. However, compared to what was experienced in the Czech Republic and Austria, the total number of asylum applications submitted by these groups remained very low. Contrary to the high recognition rate of Chechens in Austria, recognition was atypical in Hungary. (It is difficult to estimate the actual number of Chechens who arrived in Hungary, as government statistics only indicate citizenship, and thus many Chechens may be registered as 'Russians').

#### *Palestinian asylum seekers*

The practice of dealing with Palestinian asylum-seekers significantly changed in 2003. Recent UNHCR guidelines were widely-used and accepted by OIN adjudicators. This has required HHC's (and UNHCR's) participation in several individual cases during the last two years. In the year 2003, at least 23 asylum claims from those of allegedly Palestinian origin were adjudicated by OIN. Five of them were recognised as refugees, while three persons were granted subsidiary protection.

According to the information available to the HHC, prior to 2001 asylum claims lodged by Palestinians were not given special consideration, but were dealt with on the same basis as other applications. In response to an information request from OIN, the UNHCR office in Hungary issued a paper that refers to the special consideration that should be given to Palestinian asylum claims, in accordance with Article 1D of the 1951 Geneva Convention. The above position was reinforced in an individual case in 2002, where UNHCR referred to the same special consideration in a response issued upon the request of the HHC.

Since that time, special consideration for Palestinian asylum claims, in line with Article 1D, has become more standard within the Hungarian asylum system. The implementation of the relevant legal principles was supported by the 'Note on the Applicability of Article 1D of the 1951 Convention to Palestinian refugees' issued by UNHCR in October 2002. This document has been translated into Hungarian and has been widely distributed among eligibility officers, judges and legal counsel active in the field.

According to information provided by UNHCR, decisions in 2003 recognising Palestinian asylum seekers as refugees, were generally taken on the basis of Article 1D of the 1951 Geneva Convention and in line with the suggestions of the UNHCR note. However, some asylum claims submitted by Palestinian asylum seekers from the United Nations Relief and Works Agency (UNRWA) area of operation still received a negative decision. Applicants were granted subsidiary protection (which explicitly refers to the prohibition of return to the territory of origin) instead. It is HHC's contention that these decisions are not in line with Article 1D of the 1951 Geneva Convention and the relevant UNHCR guidance as they do not consider entitlement to UNRWA assistance and the impossibility of return to the territory of origin.

If a Palestinian asylum seeker is entitled to refugee status according to the relevant UNHCR note, he/she will be granted either refugee status (with the correct application of Article 1D) or subsidiary protection. As regards the latter, there might eventually be some reference to Article 1D or to the UNHCR note, but

refugee status is denied with regard to the lack of well-founded fear of persecution as defined in Article 1A of the 1951 Geneva Convention. Subsidiary protection is granted according to Section 43(1) of Act XXXIX of 2001 on 'the entry and stay of foreigners' (Aliens Act), which guarantees the principle of *non-refoulement* to territories where "*there is good reason to suppose that the returned, refused or expelled foreigner would be exposed to torture, inhuman or degrading treatment or the death penalty*". It seems that as there is no formal rule which differentiates between the above two categories, decisions are likely to be taken on a case-by-case basis without any obvious logic.

#### Unaccompanied minors

There were no changes in the legal framework in 2003.

In July 2003, a new NGO-operated accommodation centre for unaccompanied minors seeking asylum was opened in Békéscsaba (a small town situated close to the Hungarian-Romanian border where a refugee reception centre also operates).

#### Subsidiary form of protection

The unlawful practice of the OIN, highlighted in the *ECRE Country Report 2002* (p.136), concerning foreign nationals granted 'person authorised to stay' ('PAS') status remained almost unchanged into 2003. However, in the second half of 2003 (after a delay of one and a half years) the OIN started to issue 'permission to stay on humanitarian grounds' for those granted 'PAS' status. In spite of this, OIN officers did not follow lawful practice in every part of the country and the validation of these residence permits was carried out in an arbitrary manner. In most cases the permits were issued for a one-year period based on Section 43(6) of Government Decree No. 170/2001 on the implementation of the Aliens Act, which states that "...the regional alien policing authority shall review the existence of the impediment of return continuously, or at least annually...". Partly due to OIN's legal practice and partly due to shortcomings in the legislation there were still problems with, for example, those with 'PAS' status exercising their right to work (as the rules concerning the period of validity of the permits were not clear). It was also a major concern that the OIN's legal practice failed to clarify the nature of the procedure for reviewing 'PAS' status. Proceedings lacked individual examination of whether the *non-refoulement* provision continued to be applicable. Formal decisions were not taken on status withdrawal and if expulsion was ordered simultaneously, it could not be legally challenged. The HHC became aware of cases where the OIN Alien Policing Department had contacted the authorities of the country of origin to explore whether the conditions that served as a basis for granting 'PAS' status remained.

Although the *non-refoulement* principle is enshrined in both the Asylum Act and the Aliens Act, in most cases it is not adjudicated individually but on a country-specific basis and decisions lack merit-based examination and reasoning on the question of *refoulement*. The OIN do not examine the *non-refoulement* clause in reaching 'in-merit' decisions. Therefore, any applicant at judicial review procedure can not legally challenge it.

#### Detention

There were no changes in the legal framework in 2003.

Statistical data was not available, but it was estimated that approximately 60-70% of detained foreign nationals were asylum seekers. Detention of asylum seekers and other foreign nationals entering or residing in Hungary illegally was still applied as a general rule in the case of those who were apprehended by the Border Guard or the police and belonged to certain nationalities. The length of detention was in general extended to the legal maximum of 12 months. An exception to this rule were Afghan and Iraqi asylum seekers, who were (despite the same factual and legal circumstances as cases from Bangladesh, India or China) released after 30 days of detention and placed in open reception centres. The OIN Alien Policing Department did not order detention of asylum seekers from Afghanistan and Iraq, as these countries were not considered 'safe countries of origin'. Thus the expulsion and detention of illegal aliens seeking asylum appeared to depend on the applicant's country of origin, indicating potentially discriminatory practice under Article 3 of the 1951 Geneva Convention.

On the whole, judicial practice on detention remained inconsistent. 'Alien policing' authorities are obliged to petition the court to extend detention and courts can be requested to review the lawfulness of detention. However, following the county courts' ruling that courts may not examine the lawfulness of

detention, they have simply tended to extend the detention of asylum seekers to the maximum of 12 months on request.

Under the provisions of the 'Co-operation agreement' concluded between the HHC and the National Border Guard Headquarters in September 2002, asylum seekers in detention were entitled to access legal assistance through weekly visits paid by the HHC's lawyers to detention facilities. As regards access to the refugee status determination procedure (RSDP), there were delays in the transferral of asylum applications to the relevant refugee authority in certain cases.

Legal representation of asylum seekers in detention is often cumbersome, since in many cases the competent OIN regional department/eligibility officer adjudicating the asylum claim, who has possession of all relevant documentation, is not located in the place of detention. Often, by the time the lawyer has his/her first substantive interview with the client, they have been transferred to an alternative location or facility.

Minor asylum seekers cannot legally be placed in detention. However, during the HHC's missions to detention facilities in 2003, it came across a number of cases where asylum seekers that were less than 18 years old had been placed in detention for several months. In these cases, the Border Guard, the OIN's Alien Policing Department as well as the court contravened the law by ignoring the actual age of the asylum seeker they had ordered to be detained. The HHC took one case (concerning a Nigerian unaccompanied minor girl) to the European Court of Human Rights.

## LEGAL AND PROCEDURAL DEVELOPMENTS

### 17. New legislation passed

In the run-up to harmonizing Hungary's national legislation on migration and asylum with EU standards, the OIN and other governmental agencies started work on amending the Asylum and Aliens Acts. The amended laws were adopted by the parliament on 26 April 2004 and came into effect on 1 May 2004.

### 18. Changes in refugee determination procedure, appeal or deportation procedures

The HHC provided legal assistance in a number of cases that concerned the 1951 Geneva Convention's definition of a refugee as a person with a well-founded fear of persecution on the basis of 'membership of a particular social group'. As a result, there was a significant development in the practice of the OIN eligibility officers on the application of this Convention concept and a large number of applicants were recognised on this basis.

A five-year-long, highly-symbolic refugee status determination procedure was finally concluded by a decision of the Metropolitan Court that recognised the applicant as a refugee (after this status had been denied several times in previous procedures). The decision was significant because, although the Metropolitan Court has the power to change the OIN's decision, thus far the court has seldom issued decisions that recognise asylum seekers as refugees. The Metropolitan Court also held a court hearing in the case of an asylum applicant in the course of its review procedure for the first time. Although courts are entitled to conduct a personal interview with asylum applicants during the refugee status determination procedure (RSDP), this opportunity was not been taken up until 2003.

In 2003, cooperation between the country of origin information units and staff from the HHC, the OIN and the Metropolitan Court improved markedly. The practice by which OIN, the Court and HHC or UNHCR frequently consult on questions related to country of origin information (COI) and share all public COI translations with each other is both unique and exemplary.

### 19. Important case-law relating to the qualification for refugee status and other forms of protection

In December 2003, an Afghan woman rejected by her husband was recognized as a '*sur place*' refugee on the basis of persecution for membership of a particular social group. The woman married her husband (who is a recognised refugee in Hungary) *in absentia* in Afghanistan. Following the ceremony, she

moved with travel documents and a valid visa, issued on the basis of family reunification, to Hungary to join her husband. However, after some months the husband rejected the woman he had chosen. The woman submitted a claim for refugee status claiming that she would be subject to persecution (as is the case with rejected Afghan women) if she were to be returned to her home village in Afghanistan.

For the first time, a Chinese asylum seeker received protection in Hungary. Since 2000, the number of asylum seekers arriving from China has gradually increased year by year. Most of them allege that they are persecuted for membership of the 'Falun Gong'. None of them were recognised as refugees or given subsidiary protection prior to 2003. The case involved a Chinese woman who had been living in Hungary since 1993 and who had become a member of the 'Falun Gong' during this time, who went to the Chinese Embassy to have her passport extended in 1998. During her period of residence in Hungary she always possessed a valid residency permit and she was the owner of a Hungarian company. At the Chinese Embassy, she was informed that her passport could only be extended if she resigned from the 'Falun Gong' and quit all related activities. As she rejected this 'request', she was not able to extend her residency permit in Hungary. The OIN granted her 'PAS' status in its first and second instance decisions. She requested the Metropolitan Court review the rejection of the application for refugee status. A decision on this case is still pending.

## **20. Developments in the use of the exclusion clauses of the 1951 Geneva Convention in the context of the national security debate**

Since 1998, according to the Asylum Act and its implementation decree, the National Security Office (NSO) should take part in the RSDP as an expert authority. The refugee authority is obliged to contact the NSO no later than five days following the interview with the applicant. Although the NSO may interview the applicant, in the majority of cases it only checks its database. With the exception of the accelerated procedure, the time limit for the delivery of an opinion on a case by the NSO is 45 days from the date of the request, unless the NSO requests a further 15 days. If the expert authority does not give an opinion within the prescribed time limit, it is assumed that the NSO concurs in the judgement.

Recognition as a refugee or refugee status is withdrawn if the conduct of a refugee violates national security interests under Article 32(2) of the 1951 Geneva Convention. This provision applies equally to family members.

## **21. Developments regarding readmission and cooperation agreements**

Readmission agreements that are enforceable or applicable from 2003 are:

- a bilateral readmission agreement with Romania, promulgated by Act LX of 2002 and enforceable since 30 November 2002;
- a bilateral readmission agreement with Serbia-Montenegro, promulgated by Act XXII of 2003 and enforceable since 29 March 2003;
- a bilateral readmission agreement with Slovakia, promulgated by Act VII of 2004 and enforceable since 22 October 2003;
- a bilateral readmission agreement with Croatia, promulgated by Act XXXV of 2003 and enforceable since 10 May 2003;
- a bilateral readmission agreement with the Benelux states, promulgated by Act CXXI of 2003 and enforceable since 1 December 2003;
- a bilateral readmission agreement with Estonia, promulgated by Act XLIV of 2004 and enforceable since 7 December 2002;
- and a bilateral readmission agreement with Greece, concluded on 30 January 2003 but not enforceable at the time of writing.

Cooperation between border agencies with respect to the implementation of readmission agreements between Hungary and its neighbouring countries (Ukraine and Romania) improved significantly in 2003. Due to technical improvements, removal of illegal entrants falling under the scope of these agreements became quicker and more efficient.

Experience has confirmed that the right of illegal entrants seeking access to the Hungarian asylum procedure is not fully guaranteed at the border. A significant number are denied access to Hungarian

territory and asylum procedure. Those caught by the Border Guard crossing the border illegally are taken into short-term custody at the nearest Border Guard field unit. Following this, the interview and paper work are carried out within 24 hours, followed by rapid removal. During this initial interview, the border guards frequently ignore applications for refugee status. The issue of *non-refoulement* is not considered before readmission, as Ukraine and Romania are on the 'safe third country' list. This practice has resulted in a significant number of Iraqi, Afghan and Iranian citizens being readmitted to Ukraine during 2003.

Readmission practices are significantly different between the three neighbouring countries of Hungary. Serbia and Montenegro does not accept third country nationals under readmission. The Romanian authorities readmit third country nationals if the Hungarian authorities can produce clear evidence that these persons crossed the border from Romania. In 2003, the Ukrainian authorities accepted the readmission of 161 third country nationals and rejected the request of the Hungarian authorities in 41 cases. Among those who were forcibly returned to Ukraine there were 13 Afghans, 32 Iraqis and 20 Kurds from Turkey. This procedure violates the 1951 Geneva Convention as well as the Hungarian law on asylum and the law on the protection of the state border. According to the Hungarian laws, if a foreign national declares his/her intention to seek protection before an 'alien policing' authority (such as the Border Guard or the police), these authorities have to forward this declaration immediately to the asylum authority.

Upon the request of the HHC, the Border Guard handed over anonymous transcripts of interviews with 'illegal migrants'. Although the interviewees were mainly asked about the transit routes from their home countries, the vehicles used by the smugglers or, in the case of Iraqi citizens, about the whereabouts of chemical weapons or weapons of mass destruction, many of them said they were persecuted in their country and had come to Hungary for political reasons, because their family had been killed in the war or because they were looking for a safe country in Europe. While these statements were recorded, they were not taken into account. One officer stated: "A Border Guard officer has to have a selective ear".

The Hungarian migration and border guard services continued to participate in the Cross-Border Co-operation/Söderköping Process (CBCP), a project financed by the European Commission and implemented by UNHCR in partnership with the Swedish Migration Board and International Organization for Migration (IOM). The HHC participated as an observer at several events organised in the framework of the CBCP.

The Co-operation Agreement concluded between the HHC and the National Border Guard Headquarters, which establishes the legal basis for the HHC's access to foreign nationals detained in 'alien policing' prisons maintained by the Border Guard, was cited on several occasions as a unique and exemplary initiative in the region.

## THE SOCIAL DIMENSION

### 22. Changes in the reception system

The Border Guard's Community Shelters (accommodating persons authorised to stay) were closed down in 2003 due to reconstruction work. The inhabitants were moved to the refugee reception centre in Debrecen.

There was a new quarantine block built in the Bicske Reception Centre and all other accommodation buildings were refurbished. During the refurbishment, some of the inhabitants were placed in the new quarantine block. The rest were moved to the reception centre in Debrecen. During the reconstruction work (which took place throughout the year), Bicske did not receive new asylum seekers.

The crisis home of Oltalom Charity Association was not subcontracted by the OIN. In most cases OIN did not approve the relocation of recognised refugees to the Hungarian Red Cross refugee shelter, which had previously been routine practice.

### **23. Changes in the social welfare policy relevant to refugees**

There was no change in the legislation that regulates social support for refugees. The assistance available seldom helps the social integration of refugees. The amount received from the state is low, the way it is administered is unrealistic, and the application process is over-complicated and lengthy.

The way in which recognised refugees receive a social insurance card is haphazard. Some social security offices issue them and some do not. In some places refugees are only given a registration number, but not a card (to which they are entitled).

### **24. Changes in policy relating to refugee integration**

There was a six-month experimental part-integration project undertaken by the OIN in a separate centre attached to the refugee reception centre in Debrecen. Since the programme ended (with rather controversial results), no other integration schemes have been initiated. There is a project, which ends in June 2004, co-ordinated by a Dutch consultancy and financed by the Dutch Matra Fund, which involves drafting an integration plan. The OIN and various other ministries and NGOs are participating in the project. As part of this initiative a public work scheme was launched in Bekescsaba last year. Also, the OIN organised and offered free Hungarian language courses to recognised refugees in all the three reception centres. This had been an obligation of the OIN since 1998.

### **25. Changes in family reunion policy**

The Asylum Act provides that any immediate family member of an asylum applicant must also be recognised as a refugee if a joint application is submitted, or if an immediate family member submits a request for reunification before the decision on his/her recognition as a refugee has been made. Upon the request of a refugee parent, a minor child born in Hungary is to be recognised as a refugee.

During 2003, HHC lawyers represented a number of applicants whose applications for family reunification had been submitted after the applicant's family member had been recognised as a refugee by the OIN. The OIN, according to provisions, handled these applications as separate cases. The family members that arrived later were not recognised as refugees but the principle of *non-refoulement* was always applied.

## **OTHER POLICY DEVELOPMENTS**

### **26. Developments in resettlement policy**

Hungary does not operate any resettlement programmes.

### **27. Developments in return policy**

There were no changes in the legal framework in 2003.

Although the refugee authority is entitled by law to arrange the expulsion of asylum seekers rejected at the first stage of the RSDP, to the HHC's knowledge no such decision was executed in 2003.

### **28. Developments in border control measures**

There were no changes to the legal framework in 2003.

The Hungarian Border Guard made significant efforts in 2003 to strengthen Hungary's external EU borders. As part of the preparation for EU accession, border guard forces were re-deployed from the Austro-Hungarian border to the borders with Romania, Ukraine and Serbia and Montenegro. With EU support, the Hungarian Border Guard was equipped with dozens of heat-sensitive cameras. A considerable amount of money was spent on reconstructing border-crossing points and 'alien policing' jails. People living close to the border are regularly rewarded for reporting on illegal border crossings or on groups of foreign nationals discovered in the border region.

The Hungarian Border Guard reported significant success in the fight against smugglers and traffickers. A relatively high number of criminal proceedings were initiated against them.

While Hungary experienced a sharp decrease in the number of asylum seekers arriving in the country, two neighbouring countries, the Czech Republic and the Slovak Republic, registered a significant increase in newcomers. The HHC believes that the decline in the number of applications for asylum in Hungary can be attributed to the fact that migration and smuggling routes have shifted towards the Slovak Republic. There are a number of possible explanations for this trend. Firstly, it may be influenced by the detention policy of the Hungarian authorities: it appears entirely unpredictable who will be sent to an open reception centre and who will be detained, and the threat of a year-long detention has been a deterrent, discouraging migrants and smugglers from choosing Hungary as a destination or as a transit country for seeking refuge. Instead, they choose the Slovak Republic or Poland as a route to the West. Secondly, it may be influenced by the use or misuse of the readmission agreements with neighbouring countries. Thirdly, it may be influenced by the significant efforts of the Hungarian Border Guard to strengthen Hungary's future external EU borders.

### **29. Other developments in refugee policy**

Partly due to the dramatic decrease in the number of asylum seekers arriving in Hungary and the resultant significant decrease in case-load, the refugee status determination procedures conducted by OIN's eligibility officers improved in quality, with decisions taking longer and being better-reasoned. While the refugee status determination procedure has become more thorough, the quality of the decisions still very much depends on the individual eligibility officer however.

## **POLITICAL CONTEXT**

### **30. Government in power during 2003**

Prime Minister Péter Medgyessy led a coalition-government formed by the Hungarian Socialist Party (MSZP) and the Alliance of Free Democrats (SZDSZ) after multiparty elections in April 2002. The Ministry of Interior (MSZP) was headed by Ms. Mónika Lamperth.

### **31. Governmental policy vis-à-vis EU developments**

Government representatives began to participate, as observers, in EU decision-making processes and bodies. Hungary sent 24 observers to the European Parliament starting from May 2003. In the run-up to EU accession, the legal approximation process to finalise the implementation of the EU *acquis* was speeded up. In the autumn, the Government began to draft proposals for amending the Asylum and 'Alien Policing' Acts and respective government decrees. Information on this process was rarely provided to NGOs and the process was carried out largely behind closed doors. It continued into 2004.

Hungary persisted with build-up of its technical and infrastructural border control capacities in preparation for becoming one of the EU's eastern border states.

In September 2003, the OIN announced the first call for applications under the European Refugee Fund, inviting projects to be implemented after July 2004.

### **32. Asylum in the national political agenda**

Asylum issues were not at the forefront of public debate in Hungary during 2003.