



Hungarian Helsinki Committee

**ADDENDUM TO THE SUBMISSION  
BY THE HUNGARIAN HELSINKI COMMITTEE  
REGARDING THE EIGHTEENTH TO TWENTY-FIFTH  
PERIODIC REPORTS OF HUNGARY**

TO THE UN COMMITTEE ON THE ELIMINATION OF  
RACIAL DISCRIMINATION AT ITS  
98<sup>TH</sup> SESSION (APRIL-MAY 2019)

With a view to the questions posed by the distinguished members of the Committee on the Elimination of Racial Discrimination during the consideration of Hungary's eighteenth to twenty-fifth periodic reports, and to the oral responses given by the State Party's Delegation, the Hungarian Helsinki Committee (HHC) hereby respectfully submits the following additional information to the distinguished members of the Committee, supplementing the information provided at the Informal briefing on 29 April 2019 and in the written submission of the HHC to the Committee regarding the eighteenth to twenty-fifth periodic reports of Hungary.

In the present document, information is provided on the following issues:

- Representation of Roma people in Hungary (p. 2);
- Education (p. 2);
- Employment (p. 3);
- Capacity building of legal practitioners on hate crimes (p. 3);
- Access to the asylum procedure, conditions in detention, *refoulement* and collective expulsions (p. 4)

## REPRESENTATION OF ROMA PEOPLE IN HUNGARY

The representatives of the Government referred to the **Minority Roma Self-government System** as the primary basis of the representation of the interests of Roma people in Hungary. These institutions are rather a set of administrative bodies instead of being influent institutions representing Roma interests. A fact demonstrating the lack of genuine will to represent members of the Roma community who are discriminated against is that even though segregation in education was held in a number of cases by the Hungarian Courts (as discussed in our first Submission and hereby below), the Roma self-governments have remained passive. The education segregation lawsuits have not been triggered at all if an NGO, namely the Chance for Children Foundation (who provided legal representation to the impacted Roma people in all of those lawsuits) did not do so.

The **Roma nationality advocate** was referred to by the Government. The current Roma nationality advocate (who does not have a voting right in the Parliament but has the right to speak up on behalf of the Roma people), Félix Farkas remains passive and has delivered only minutes long speeches in a whole parliamentary cycle starting in 2014. He remained silent also when the subject of debate in the Parliament was segregation in education, in housing or harassment committed against Roma victims.<sup>1</sup>

As regards the **National Roma Self-Government**, the Lungo Drom, a Roma organization who has a decisive role in the National Roma Self-Government, has been an ally of the current governing political party, the Fidesz from 2002 on. Its former Chair, Flórián Farkas has to resign when he gained a parliamentary mandate as a member of the governing party in 2014. He was appointed by the Prime Minister to the post of the Prime Minister's Commissioner for Roma affairs. However, since then Flórián Farkas has never said a word in the Parliament although opposition political parties have posed multiple questions to him about his responsibility in criminal cases the National Roma Self-Government was charged with related to fraud and financial malpractice.<sup>2</sup>

The Fundamental Rights Agency of the EU found by a survey that 53% of Roma respondents in Hungary think that discrimination based on ethnic origin is very widespread. At the same time, only 15% of them were aware of organizations offering support or advice to victims of discrimination.<sup>3</sup>

## EDUCATION

The Government mentioned that no data on ethnic affiliation is collected among others in the education system, and support in education is provided based on the socially disadvantaged status of children. As we presented in our first Submission, **due to the amendment of the notion of "multiply disadvantaged" status in 2013**, this earlier proxy for Roma does not cover the majority of Roma anymore. While NGOs and experts have warned the Government that "it is highly possible that many Roma will fall out of the scope of allowances, and/or many will be reclassified from the category of multiply disadvantaged into the category of disadvantaged; the scope of services available will therefore be narrowed", their concerns were disregarded. Ever since the amendment, the number of children in Hungary qualifying for the multiply disadvantaged status have significantly dropped (**in numbers: disadvantaged and multiply disadvantaged students became more than 76 thousand and 19 thousand lower, respectively**<sup>4</sup>), while integration policies are still targeting them. At the same time, for the mainstream measures introduced under the auspices of the National Social Inclusion Strategy, the lack of impact assessment and monitoring makes it impossible to track and to measure their impact on Roma.<sup>5</sup>

<sup>1</sup> Civil society monitoring report on implementation of the national Roma integration strategy in Hungary, 2018, p 13-14  
<http://autonomia.hu/wp-content/uploads/2018/07/rcm-civil-society-monitoring-report-1-hungary-2017.pdf>

<sup>2</sup> [http://www.romnet.hu/hirek/2016/04/27/lex\\_farkas\\_florian](http://www.romnet.hu/hirek/2016/04/27/lex_farkas_florian), <https://budapestbeacon.com/hungarys-national-roma-self-government-being-investigated-for-fraud/>

<sup>3</sup> EU-MIDIS II., The Second European Union Minorities and Discrimination Survey Roma – Selected Findings, the European Union Fundamental Rights Agency, 2016, pp 39 and 41  
[https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2016-eu-minorities-survey-roma-selected-findings\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-eu-minorities-survey-roma-selected-findings_en.pdf)

<sup>4</sup> Civil society monitoring report on implementation of the national Roma integration strategy in Hungary, 2018, P 48

<sup>5</sup> Shadow Report of the ERRC and the Rosa Parks Foundation to the Committee on the Rights of the Child, February 2018, p 4  
[http://www.errc.org/uploads/upload\\_en/file/hungary-crc-submission-february-2018.pdf](http://www.errc.org/uploads/upload_en/file/hungary-crc-submission-february-2018.pdf)

Public schools have been nationalized as of 1 January, 2013. **A centralized body, the Klebelsberg School Maintainer Centre was established for the central management of the public school system.** When taking over the school, the Centre had the historic opportunity to inspect all schools and take steps against unlawful practices, such as segregation of Roma children. The Centre however has failed to map the situation of Roma children in the nationalized schools and to challenge segregation. **The Centre even expressed its position towards integration** in the lawsuit against the Ministry of Education and Culture (discussed on page 17 of our first Submission) on 17 February 2014, maintaining that **it is not its duty to promote integration in a proactive manner and to monitor segregation in schools.**<sup>6</sup>

Upon a specific question of a distinguished Member of the Committee, the Government drew attention to the **vocational programs targeting Roma women.** One of the largest EU funded programs in support of Roma women titled "Training Program for 1,000 Roma Women in the Fields of Social Services and Health Care" was implemented in 2012-2015. While the training element of the program proved to be successful, the **labour market integration was much less efficient.** The government has never published the list of program beneficiaries.<sup>7</sup>

## EMPLOYMENT

The Minister of Foreign Affairs referred to the 45% employment rate of Roma people as a positive achievement. However, he failed to explain that the increase of the number of the above rate is also due to the **public employment system** that was introduced by the current government as a precondition of social benefits. A large number of Roma people are involved in the public employment system, many Roma juveniles who leave the school early, immediately after the compulsory schools age of 16, decide to go to public employment instead of continuing their studies. The public employment system has been widely criticized for the lack of guarantees since the system does not fall under the regulations of labour law. The Roma NGO, the Legal Defence Bureau for National and Ethnic Minorities received more than a hundred complaints regarding the implementation of the public work system. The complaints were connected to the problems, like insufficient working conditions, delay in payment of wages, or incidents where public employers (mostly municipalities) use their powers to intimidate Roma public workers by threatening them with dismissing them from public employment (that results in the loss of their right to public benefit for a given time).<sup>8</sup>

## CAPACITY BUILDING OF LEGAL PRACTITIONERS ON HATE CRIMES

The Government referred to the development of an **online training material on the efficient prosecution of hate crimes targeting judges and prosecutors.** The only one online training material that has been developed for judges and prosecutors on hate crimes is the Council of Europe's HELP program which was created by an expert Working Group composed of among others the representative of the HHC. This material was launched in May 2016 for a small group of judges and prosecutors under the auspices of the Chief Prosecutor's Office as a pilot program of the HELP modules,<sup>9</sup> but the training program has not been applied after the pilot training was done, therefore, **it reached only a limited number of legal practitioners.**

When it comes to **public reaction of the highest level of political leadership to harassment cases** against Roma people, a telling example is the one of Érpatak and Tiszavasvári. In these settlements in 2015 and 2016 the municipalities maintained intimidating practices against Roma families (e.g. initiating public safety investigations in their homes, inviting camera crews with the aim of provocation and intimidation). A petition was submitted to President János Áder, which was signed by 600 private persons and 15

<sup>6</sup> Chance for Children Foundation, ERRC, Legal Defence Bureau for National and Ethnic Minorities, Hungary – Submission to the UPR, September 2015, p 5-8

[http://www.errc.org/uploads/upload\\_en/file/hungary-submission-un-upr-september-2015.pdf](http://www.errc.org/uploads/upload_en/file/hungary-submission-un-upr-september-2015.pdf)

<sup>7</sup> Civil society monitoring report on implementation of the national Roma integration strategy in Hungary, 2018, p 27

<sup>8</sup> Chance for Children Foundation, ERRC, Legal Defence Bureau for National and Ethnic Minorities, Hungary – Submission to the UPR, September 2015, p 6

<sup>9</sup> <http://www.gyuloletellen.hu/aktualitasok/nemzetkozi-online-biro-es-ugyeszkepzo-program-osszeallitasaban-vettunk-reszt>

organizations, to request him to outlaw the intimidating local practices. He responded to the petition nearly a year later. The standpoint signed by the President's Office Directorate for Social Relations interpreted the situation as one that is not dangerous to society at all and calls for a simple judgement.<sup>10</sup>

## REFUGEES: ACCESS TO ASYLUM PROCEDURE, CONDITIONS IN DETENTION, *REFOULEMENT* AND COLLECTIVE EXPULSIONS

**The Government** stated that it observed the obligations stemming from the 1951 Geneva Convention Relating to the Status of Refugees and **claimed that 55% of asylum-seekers were given some form of protection in 2018. In fact, according to official data**, there were 367 recognitions and 595 rejections decisions delivered, that is **less than a 40% recognition rate.**<sup>11</sup> **This is a consequence of amendments to the Fundamental Law and the Asylum Act that entered into force on 1 July 2018 and that result in the blanket rejection of all asylum applications lodged in the two transit zones.**<sup>12</sup> Since March 2017,<sup>13</sup> asylum applications can be only submitted in the two transit zones that are located at the Hungarian-Serbian border and are only accessible from Serbia, but the 1 July 2018 amendments rendered inadmissible the claims of those asylum-seekers who passed through Serbia, regardless of their individual reasons for fleeing their country of origin. These legal barriers, coupled with the **arbitrary limit of admittance to the transit zones to an average of daily 1 person per zone** since January 2018<sup>14</sup>, **abolish in practice any remaining access to a fair asylum procedure.**

Although the Government contests that the transit zones are in fact detention facilities, **UN and Council of Europe bodies unanimously consider them as such.**<sup>15</sup>

Contrary to the Government's statements, **conditions in the transit zones remain inadequate**, especially for prolonged detention, and especially for vulnerable groups, including women and children.<sup>16</sup> Once asylum-seekers are rejected, they are ordered to remain in the transit zones pending their deportation. However, once they are rejected, they are no longer given food (with the exception of pregnant and nursing mothers and children under 18 years of age).<sup>17</sup> **HHC attorneys had to request interim measures from the European Court of Human Rights thus far in 13 cases pertaining to 21 starved individuals to ensure that the Hungarian authorities provide food to those detained in the transit zones.**<sup>18</sup>

**The legalisation of collective expulsions that entered into force on 5 July 2016 is tantamount to systemic *refoulement* and collective expulsion:** originally limited to an 8 km zone from the border

<sup>10</sup> <https://www.origo.hu/itthon/20160408-duhos-romak-kerestek-ader-janost.html>

Civil society monitoring report on implementation of the national Roma integration strategy in Hungary, 2018, p 36

<sup>11</sup> Data provided by the Hungarian Immigration and Asylum Office to EUROSTAT, available at <https://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database#>

<sup>12</sup> For more on the content of this amendment, see the European Commission's statement on launching an infringement procedure against Hungary after the changes entered into force: [http://europa.eu/rapid/press-release\\_IP-18-4522\\_en.htm](http://europa.eu/rapid/press-release_IP-18-4522_en.htm)

<sup>13</sup> See paras 45-50 of the UN Human Rights Committee of 9 May 2018 of the Concluding observations on the sixth periodic report of Hungary, CCPR/HUN/CO/6 available at

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=60K61d%2FPPRiCAqhKb7yhsnm97%2BRfSonZvOyDICMC7to7IkIHViwiffCrijxJVYr7AYGd1bD3LqpWwx7fjwdowp0XO09j1KeHx2S0%2Be4%2FGUzf4WEtz0X6rsDTnt6FAcrQ> and also

<https://www.helsinki.hu/en/hungary-law-on-automatic-detention-of-all-asylum-seekers-in-border-transit-zones-enters-into-force-despite-breaching-human-rights-and-eu-law/>

<sup>14</sup> Acknowledged by the Minister of the Prime Minister's Office at his press conference on 1 February 2018:

<https://index.hu/belfold/2018/02/01/kormanyinfo/>

<sup>15</sup> See for example UNHCR's statement <https://www.unhcr.org/news/briefing/2017/3/58be80454/unhcr-deeply-concerned-hungary-plans-detain-asylum-seekers.html> or the statement of the UN Working Group on Arbitrary Detention on suspending their visit to Hungary after denied access to the transit zones in November 2018:

<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23879&LangID=E> or the Report to the Hungarian Government on the visit to Hungary carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 20 to 26 October 2017: <https://rm.coe.int/16808d6f12>

<sup>16</sup> For a detailed description of the conditions in the transit zones, see pp. 90-92 of the AIDA Hungary country report of 2018, available at: [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_2018update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_hu_2018update.pdf) and pp. 37-41 of Crossing a Red Line – How EU Countries Undermine the Right to Liberty by Expanding the Use of Detention of Asylum Seekers upon Entry, a report published in February 2019 and contains testimonies of former detainees as well as pictures from within the zones, available at [https://www.helsinki.hu/wp-content/uploads/crossing\\_a\\_red\\_line.pdf](https://www.helsinki.hu/wp-content/uploads/crossing_a_red_line.pdf)

<sup>17</sup> See in detail the legal background of food deprivation in the transit zones: <https://www.helsinki.hu/en/hungary-continues-to-starve-detainees-in-the-transit-zones/>

<sup>18</sup> See footnote no. 17. above, as well as the Hungarian Government's official statement on starved detainees here:

<https://amp.theguardian.com/world/2019/apr/26/hungary-denying-food-to-asylum-seekers-say-human-rights-groups>

fence, Hungarian law enforcement agencies are to push back third-country nationals without the right to stay to the Serbian side of the border fence without any formal procedure, identification, assessment of their potential needs. Those pushed back do not have the right to seek asylum.<sup>19</sup> **Amendments that entered into force on 28 March 2017 extended the 8 km zone to the entire territory of Hungary: since then, anyone found anywhere in Hungary without the right to stay is pushed back to Serbia, without the right to seek asylum.**<sup>20</sup> **According to official Police statistics, there were 46 985 push-backs and blocked entries between 5 July 2016 and 26 March 2019.** That access to the asylum system is extremely limited while collective expulsions remain a regular phenomenon is exemplified by the fact that **in 2018, 5 819 push-backs and blocked entries were registered by the Police while only 671 individuals were allowed to apply for asylum.**

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<sup>19</sup> See more on the legalisation of push-backs: <https://www.helsinki.hu/en/hungary-latest-amendments-legalise-extrajudicial-push-back-of-asylum-seekers-in-violation-of-eu-and-international-law/>

<sup>20</sup> See more on the changes: <https://www.helsinki.hu/en/hungary-governments-new-asylum-bill-on-collective-push-backs-and-automatic-detention/>