



## HUNGARIAN HELSINKI COMMITTEE

### ANNUAL REPORT OF ACTIVITIES

2004

The Hungarian Helsinki Committee monitors the enforcement in Hungary of human rights enshrined in international human rights instruments, provides legal defence to victims on human rights abuses by state authorities and informs the public about rights violations. The HHC strives to ensure that domestic legislation guarantee the consistent implementation of human rights norms. The HHC promotes legal education and training in fields relevant to its activities, both in Hungary and abroad. The HHC's main areas of activities are centred on protecting the rights of asylum seekers and foreigners in need of international protection, as well as monitoring the human rights performance of law enforcement agencies and the judicial system. It particularly focuses on the conditions of detention and the effective enforcement of the right to defence and equality before the law.

In 2004, the Hungarian Helsinki Committee carried out the following main activities and projects:

- Human Rights Legal Counselling Office
- Police cell and prison monitoring programmes
- Effective Legal Counselling for Those in Need of International Protection
- Legal Assistance through Refugee Clinics (LARC)
- Refugee law clinics in Hungary
- Model Legal Aid Board Program
- Equal Treatment before the Law for Roma and Non-Roma Suspects in the Criminal Justice System

In 2004, the HHC' staff consisted of 15 persons working in the organization's Budapest-based office, as well as approximately 50 persons involved in a part-time capacity in various legal counseling and monitoring programmes around the country.

The Hungarian Helsinki Committee's activities in 2004 supported by the Hungarian Soros Foundation, the Open Society Institute - Budapest, the Office of the UN High Commissioner for Refugees, the European Community, the UK Foreign and Commonwealth Office's Human Rights Projects Fund, the Dutch Ministry of Foreign Affairs MATRA Programme, the National Civil Fund, the International Visegrad Fund, the European Refugee Fund, the Council of Europe - European Youth Foundation.

More information about our activities is available at our website: <http://www.helsinki.hu>

#### ➤ **Human Rights Legal Counseling Office**

Taking part in legal aid reform: The Act on Legal Aid, adopted in October 2003, entered into force on 1 April 2004. The law brings about reform in legal aid available to indigent persons in extra-judicial and public administrative procedures. Furthermore, the law allows legal aid NGOs to register as legal aid service providers, and the state legal aid budget can reimburse the costs of legal services (albeit at a quite low fee level) falling under the scope of the Legal Aid Act which are provided by the registered NGOs. The HHC was active throughout the legislative process preceding the adoption of the Legal Aid Act and its executive decrees.

In the first half of 2004, the HHC carried out preparatory tasks necessary for its registration as a legal aid service provider under the Legal Aid Act. It was decided that, within this framework, the HHC will limit its legal aid services to asylum cases and cases related to ill-treatment by law enforcement agencies. Internal negotiations were carried out with attorneys involved in the asylum lawyers' network and the Human Rights Legal Counseling Office, in order to clarify attorneys' additional or changed duties and to conclude agreements with attorneys willing to take part in the legal aid scheme. Furthermore, meetings were held with relevant officials of the Ministry of Justice and the Legal Aid Service to clarify details related to the

HHC's participation. The HHC registered with Ministry of Justice as a legal aid provider as of 1 September 2004.

It is anticipated that – despite increased administrative tasks resulting from the requirements of the legal aid scheme and the currently relatively low hourly fees – the HHC's participation as a legal aid service provider would in the mid- to long-term contribute to the sustainability of the Human Rights Legal Counseling Office and the HHC's other permanent legal assistance programs.

Assistance in individual human rights cases: The Human Rights Legal Counseling Office was involved in providing legal advice and legal representation in several typical cases of contemporary human rights violations in Hungary. In 2004, the Legal Counseling Office registered 569 new cases in the following breakdown:

- detention related complaints from police jail and prisons: 288
- immigration cases (visas, residence permits, family unification): 84
- asylum cases: 27
- forced interrogation: 2
- legal advice: 95
- miscellaneous legal advice: 73

In 2004, the HHC began to increase its strategic litigation and advocacy activities related to family re-unification. The situation of foreigners with family ties to Hungarian nationals (spouses and/or children) in Hungary remained problematic and controversial. The right to 'family unity' protected by the Constitution, the Aliens Act and relevant international and European human rights instruments (European Convention on Human Rights, the jurisprudence of the European Court of Human Rights and relevant EU legal documents) is only taken into consideration by Hungarian laws and legal practice against expulsion if the foreign national family member is staying legally in the country. Only these foreigners are entitled to apply for family re-unification visas and residence permits that which does not entitle its holder to work. Working visas can only be obtained from abroad. The conditions of accommodation and maintenance suitable for the purposes of family re-unification are unclear and do not seem to differ from 'ordinary' immigration. Immigration officials failed to exercise their discretionary power to handle such cases in a more lenient way as provided by law (e.g. a family re-unification visa can be requested in the country), whereby rejected asylum seekers and those whose stay became illegal fall out of the scope of the beneficiaries.

The HHC started legal counseling activities in the above-mentioned field last year, as we became aware of a considerable number of cases where rejected asylum seekers after having waited several years for the final decision in the RSDP and having developed family ties in Hungary during their 3- to 4-year stay in the country were facing expulsion orders following the communication of the final negative court decision or the withdrawal of their right to enjoy international protection (typically 'person authorized to stay' status).

- As part of the HHC's strategic litigation activities relating to the right to family life in the immigration context, the HHC successfully brought the cases of two rejected asylum applicants, both married to Hungarian women before the Metropolitan Court (*Fővárosi Bíróság*). Based on the humanitarian clause of the Act on administrative procedure, the court annulled the decisions of the Office of Immigration and Nationality, and ordered the refugee authority to restart proceedings. One client was recognized as a person authorized to stay; the other received a family reunification residence permit under the so-called amnesty provision.
- We have been engaged in litigation in three other cases where the right to residence permit of foreigners who are married to Hungarian women and are staying illegally in Hungary is at issue. We won the first case and are now awaiting the Supreme Court's guidelines in the remaining two. We pressed for the Metropolitan Court to turn to the Supreme Court for guidelines. Furthermore, the HHC furnished the Metropolitan Court with a legal opinion based on the case law of the European Court of Human Rights and the European Court of Justice.

Further to the above, the HHC submitted an analysis to the Director General of the Office of Immigration and Nationality, analyzing all the family unification related cases where the HHC's lawyers had provided legal assistance.

Partly as a result of the HHC's advocacy efforts, the 2004 April amendments of the Aliens Act contain a 2-month long regularization opportunity for certain categories of migrants who have been staying illegally in the country (similar to an immigration amnesty). Thus during the summer the HHC's caseload concerning family unification increased to about 50 cases, as many of the HHC's former and current clients were able to take advantage of the provisional opportunity to apply for a legal status in Hungary.

The HHC continued to provide legal assistance in cases concerning unlawful arrest and ill-treatment by law enforcement agencies. Many clients whose complaints concern detention (short-term arrest, custody or pre-trial detention) have come into contact with the HHC through the police cell and prison monitoring programs.

- In a civil case related to the unlawful enforcement of a short-term arrest (*előállítás*) and ensuing moral and pecuniary damages the HHC provided representation on appeal. The Metropolitan Court of Appeals (*Fővárosi Ítéltábla*) accorded HUF 100,000 for moral damages suffered because of the seizure of the client's mobile phone, the denial of telephone contact to a person who could have identified him, and lack of an immediate discontinuance of his arrest. The claim for pecuniary damages failed on second instance. Judicial review was not allowed. Media reporting about the case on the online news site <http://www.origo.hu> triggered the second highest number of hits during the year until the day of publication.

#### ➤ **Police cell and prison monitoring programs**

In 2004, the HHC continued to carry out monitoring visits to police jails and penitentiary institutions. In 2004, this activity was supported from grants from the Human Rights Projects Fund of the British Foreign and Commonwealth Office, the European Initiative for Democracy and Human Rights (project implemented in partnership with the Bulgarian Helsinki Committee) and the Phare ACCESS 2002 Programme.

In 2004, HHC human rights monitors paid altogether 96 visits to police jails around Hungary. Furthermore, the HHC visited seven penitentiaries during the year.

In November, the HHC and the Mental Disability Advocacy Center (MDAC) released a joint report summarizing the visit the two organizations had paid to the Forensic Observation and Psychiatric Institute (IMEI) in December 2003. Prior to the finalization and publication of the report, the HHC had several rounds of correspondence with the IMEI director and the national commander of the Hungarian Prison Service in order to discuss substantially differing standpoints regarding the findings described in the report.

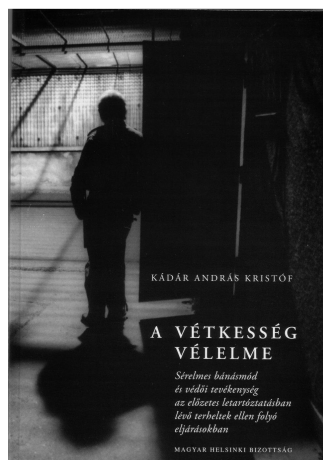
Institutions which had been visited in the course of the monitoring programme provided written feedback to the observations of the monitoring teams. Detainees who seek the Hungarian Helsinki Committee's help in writing following monitoring visits also serve as an indicator of the growing awareness of our activities among this primary target group.

In 2004 the HHC received 190 letters from detainees serving their sentence in penitentiaries, and 98 letters from detainees held in police jails who complained about various problems during their detention.

In some police jails detainees were not allowed to meet their family members in person if they had already made a phone call to a relative in that particular month. This practice was against the law as one conversation in person per month should be provided to pre-trial detainees (with the only exception when the prosecutor considers that a meeting in person would threaten the success of the investigation). This practice was terminated in several police jails as a result of the HHC's intervention with the authorities.

In early 2004 work was started on producing a new extensive report on the situation of pre-trial detainees in police jails and penitentiary facilities based on a questionnaire-based survey. In mid-April, the HHC organized a workshop to share and discuss the draft report's findings with relevant key stakeholders and

authorities. The large scale event was attended by the representatives of the most important stakeholders, such as the National Police Headquarters, the Chief Public Prosecutor's Office, the Supreme Court, the National Bar Association, the National Justice Council, and the National Prison Administration, as well as representatives of the academia (e.g. fellows of the National Institute of Criminology).



As the HHC has already produced two extensive reports focusing on material conditions of detention and issues related to the treatment of detainees in 1997 (*Punished before Sentence*) and 2002 (*Double Standard*), the present report focuses on pre-trial detention: ill-treatment against detainees as well as access to complaint mechanisms and remedies against injurious treatment, the practice of ordering pre-trial detention, problems related to detainee's access to justice and ex officio defense counsels. Both Hungarian and English versions of the publication titled *Presumption of Guilt: Injurious Treatment and the Activity of Defense Counsels in Criminal Proceedings against Pre-trial Detainees* will be released in early 2005.

#### ➤ **Model Legal Aid Board Program**

In Hungary, the defendant's right to defense is legally guaranteed. However, in practice, the Hungarian system of ex officio defense is often dysfunctional. The main reasons for this anomaly are threefold: (i) the lack of adequate financing; (ii) the deficiencies of the legal framework; (iii) deeply rooted structural problems. Whereas the pending amendments of relevant legislation will likely bring improvement with regard to the first two factors, there are no signs of change in connection with structural problems. These problems relate *inter alia* to the management of the legal aid system, the assessment of either the performance of individual counsels or the efficiency of the system as a whole. As a result the Hungarian legal aid system is often unable to provide effective free legal assistance to those who are charged with a criminal offence but do not have sufficient means to pay for it.

The HHC in partnership with the Netherlands Helsinki Committee launched the Model Legal Aid Board project in March 2004. The project is supported by the MATRA program of the Dutch Ministry of Foreign Affairs.

The MLAB project aims to promote reform of the criminal legal aid system. The project's key goal is to create an input for future legislation aiming at the comprehensive reform of the existing and highly dysfunctional system of legal aid in criminal matters and its replacement with a well-devised and efficient structure, tested in practice, guaranteeing effective legal assistance for indigent defendants.

The core element of the project is the provision of free legal defense for indigent defendants in 120 cases. From September 2004 until September 2006, based on a contract concluded with the HHC, private attorneys provide free legal aid in 120 cases where ex officio appointment of a defense counsel would otherwise be mandatory. 43 attorneys were selected to take part in the project following an open call for tender.

Cases are selected based on a cooperation agreement concluded with the Budapest Police Headquarters, which was also approved of by the Chief Public Prosecutor's Office, the Budapest Chief Public Prosecutor's Office and the Budapest Bar Association. According to this agreement, the police organs designated therein, during a definite period, turn to the round-the-clock duty service of the HHC when being obliged to appoint a lawyer ex officio. After being notified, the duty service approaches one of the lawyers in the list of counsels in order to let her/him know about the fact of the assignment and the time of the interrogation. The lawyer thus can be present at the first interrogation of the suspect and can provide legal assistance from the very beginning of the procedure.

The program is governed by a Model Legal Aid Board, composed of altogether 7 representatives of the Ministry of Justice, the Hungarian Bar Association, law school professors and practicing attorneys. The main task of the Board is to monitor the lawyers' performance and approve their remuneration, based on the monthly report to be submitted by the attorneys. The Board also decides on questions of principal significance arising during the project's implementation, such as selection criteria of cases and attorneys, and professional norms. In doing so the MLAB draws on the Dutch legal aid system's experiences and operations, having taken part in a series of meetings and workshops in Hungary and a study visit (in April 2004) to the Netherlands exposing them to the Dutch model.

By the end of 2004, 118 cases were taken up, but 23 cases had to be excluded from the program due to procedural or other specific developments in accordance with the case selection rules. Therefore, between 1 September and 31 December 2004 altogether 95 indigent defendants were provided with free legal defense by attorneys taking part in the project.

The project has already accomplished an important result and changed the generally followed practice of an *a contrario* interpretation of the Code of Criminal Procedure (CCP). The investigative authorities held that short-time arrest (a form of deprivation of liberty that can be ordered for a maximum of 8 hours by the police) is not deemed detention in the terminology of the criminal procedure, because it is not regulated by the CCP but by the Act on Police. Whether this short-time arrest is in fact detention or not is a crucial question since the *ex officio* appointment of a legal counsel is only mandatory in case of detention. The HHC turned to the Chief Public Prosecutor's Office requesting an authentic interpretation of the controversial provision of CCP. The Prosecutor's Office issued a legal position that short-time arrest does in fact constitute detention and informed each police district in the country about this interpretation.

➤ **Refugee protection programs**

**Effective Legal Counseling for Those in Need of International Protection program**

While in 2004 Hungary experienced a sharp decrease in the number of asylum seekers arriving in the country (in 2002: 6412, in 2003: 2401, in 2004: 1600 asylum seekers), two neighbouring countries, in a geographic situation similar to Hungary's, the Czech Republic and Slovakia, registered a significant increase in newcomers. Moreover, the composition of asylum seekers' country of origin has significantly changed: the number of asylum seekers from Afghanistan or Iraq has decreased dramatically while the number of those arriving from Georgia, the former Yugoslavia, China, Moldova, Vietnam, Turkey and also the number of Palestinians has increased. Contrary to what was experienced in the region, the huge increase in asylum seekers from the Russian Federation, especially from Chechnya, was almost non-existent.

The decline in the number of asylum applications in Hungary can be attributed to fact that migration (and human smuggling) routes have shifted towards Slovakia, for a number of reasons: first, due to the detention policy of the Hungarian authorities, secondly, the use or misuse of the readmission agreements with the neighboring countries. Next, the significant efforts of the Hungarian Border Guard to strengthen Hungary's future external EU borders both personnel-wise and financially matured. The last factor is the rather negligent attitude of the Slovak or Czech authorities, which makes them attractive transit countries.

Under the auspices of the HHC's *Effective Legal Counseling for Those in Need of International Protection* programme, in January 2004 the HHC conducted a fact-finding mission along the southern and eastern border of Hungary, visiting all border checkpoints and border patrol facilities. Permission for the mission was secured from the National Border Guard Headquarters. The mission aimed to gather information from the field about readmission practices concerning third country nationals, particularly asylum seekers to Serbia and Montenegro, Romania, and Ukraine. The findings of the mission highlighted that the fundamental right of asylum seekers to have access to the territory of the country where they wish to seek asylum is in practice not fully respected in Hungary. As a result of Hungary's membership in the European Union the country has become one of the member states with the longest external land border in the EU. This coupled with the trend of ever-increasing border control measures and anti-refugee policies in Europe significantly impacts on refugee protection in Hungary, therefore the HHC has decided to extend its focus to monitoring as much as possible readmission practices applied by the Hungarian authorities.

The HHC produced a report from the mission, which was shared with the Border Guard Headquarters to solicit their response. Following extensive rounds of correspondence with the Border Guard Headquarters the HHC released the report (in Hungarian) from the mission in October.

In the run-up to EU accession, the legal approximation process to finalize the implementation of the EU *acquis* was speeded up. In autumn 2003, the government began to draft proposals for amending the asylum and alien policing acts and respective government decrees. In the course of spring 2004, the HHC carried out intensive advocacy and lobbying activities related to the legislative process amending the Hungarian Aliens Act and Asylum Act. While information about this work and process was hardly provided to NGOs and was carried out largely behind the curtains, the HHC was successful in obtaining draft bills. Several of the HHC's key comments were eventually reflected in the law, bringing about some positive changes with related to family unification, mandatory access to lawyers for detained migrants, a new detention procedure, as well as a re-regularization opportunity for certain categories of illegal migrants. The HHC produced a short outline of the resulting main changes in immigration and asylum law and shared this with refugee assisting NGOs around Europe.

In 2004, the asylum lawyers' network coordinated by the HHC provided legal assistance (verbal legal counseling and/or representation in asylum and alien policing procedures before the administrative and judicial bodies) to approximately 330 asylum seekers and other foreigners in need of international protection.

Among the project's goals the HHC set as priorities: (i) challenging through legal action and advocacy the widespread practice of detaining bona fide asylum-seekers and (ii) challenging detention breaching the provisions of national law and international human rights instruments.

Although the practice of the Office of Immigration and Nationality (OIN) and the courts concerning aliens' detention remained unchanged, due to the decrease in the number of asylum seekers, the number of those who were detained during 2004 has gone down since 2003. Most detainees were Chinese, Bangladeshi, Indian, Ukrainian and Moldovan citizens. As a result of continuous strategic litigation, finally in 2004 the HHC's lawyer successfully challenged the lawfulness of detention ordered by the OIN Alien Policing Authority in a number of cases. The cases are expected to positively influence jurisprudence through future litigation. In addition, in June 2004 a Turkish asylum seeker detained in the alien policing jail in Szombathely was recognized as a refugee as a result of the asylum network lawyer's submission to the OIN refugee authority. The case was the first of the kind as no detained asylum seeker had ever been recognized as a refugee before.

- The HHC provided legal assistance in two cases relating to women seeking asylum on grounds of persecution based on sexual identity, i.e. persecution phrased in the Geneva Convention as being based on membership of a social group. Our Afghani client was a *sur place* refugee, who, following an arranged marriage and wedding in absence of her fiancé in Afghanistan joined her husband in Budapest. He refused to cohabit with her and threatened to send her back to Afghanistan, where she would have been viewed by villagers as an immoral bride and would have run the serious risk of being stoned to death. The client was recognized as a refugee in the public administrative procedure.
- The second client fled Morocco where her father arranged for her to marry a Berber man, over 20 years her senior. She had previously had a romantic relationship with a non-Berber man. On administrative appeal it was established that if forced to return to Morocco, she would face treatment contrary to the prohibition of inhuman and degrading treatment, thus she was recognized as a person authorized to stay.

The HHC turned to the OIN on behalf of a group of vulnerable ethnic Hungarians from the region of Voivodina in Serbia and Montenegro who had fled from the war about 15 years ago. Since that time, these persons have been living in refugee camps and still do not meet legal requirements for immigrating to Hungary. Now that the conflict has ended, they are threatened with the prospect of being expelled from Hungary, because their authorization to stay had been granted on the basis of the war and conflict in their home country. During the past 15 years, while residing in Hungary, they have lost all of their connections and social relationships in Voivodina. For this reason, any expulsion measures against these people would

be unreasonable and unjust. The HHC petitioned the Minister of Interior to grant the group residence permits on the basis of exceptional reasons. (The Minister is authorized to exercise equitable treatment according to the Aliens Act.)

The Minister responded positively to the HHC's petition, and ordered the OIN to inform those with authorized to stay status about this possibility, and to inform them further about the circumstances under which they can apply for a residence permit. Based on information from OIN, until November 2004, 118 applicants have submitted their requests and they are still under official review. These requests are expected to be successful.

However, the greater issue remains unresolved: some of these people have had their authorized to stay status withdrawn. Without this status, they are not even able to apply for residence permit out of equity or on the basis of exceptional reasons. For these above-mentioned reasons, the HHC will continue to call for measures to assist this group in obtaining legal status in Hungary.

In 2004, the HHC participated as an expert partner NGO in a regional project co-coordinated by the German NGO Pro-Asyl. The project called 'ICF-Information and Co-operation Forum' was financed by the European Refugee Fund and the HHC staff participated in several monitoring missions paid by the ICF group to reception centers and detention facilities located in the countries participating in the project. A comprehensive report focusing mainly on these Member States' compliance with the provisions stipulated in the Council Directive on Minimum Standards for the Reception of Asylum Seekers will be submitted to the EU Commission.

In the framework of cross-border co-operation with partner NGOs operating in the neighboring countries, the HHC had meetings with the Slovak Society of Goodwill, the Ukrainian NEEKA, the Czech OPU and the Romanian National Council for Refugees.

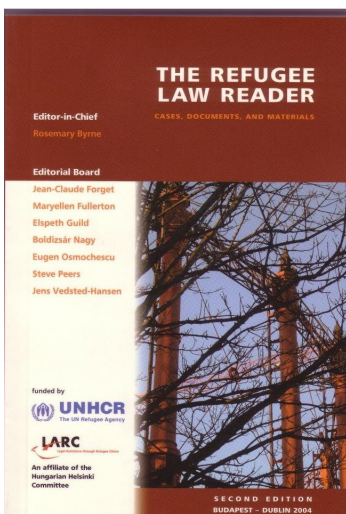
In May and in November 2004, the HHC organized two legal trainings for asylum lawyers, students of the three refugee law clinics, HHC staff, judges, representatives of the OIN and the Border Guard National Headquarters, members of the HHC's Advisory Board, social workers of Menedék-Hungarian Association for Migrants, and representatives of Oltalom Charity Association. These meetings act as fora for collecting relevant and reliable information about legal practice in the field of asylum and immigration. They allow for the formulation of harmonized policies concerning lawyers' submissions, through which the practice of authorities and courts can be influenced in a way that is favorable for the beneficiary population. On the other hand, these meetings in part serve as discussion fora where the representatives of courts, refugee authorities other experts and the project participants all have an opportunity to present their views on possible interpretations of the laws and where the OIN's standpoint on the implementation rules regarding the provisions of the Asylum Law and Aliens Act, and courts' jurisprudence could be analyzed in an informative manner.

In 2004, the HHC continued to maintain three Refugee Law Clinics (RLC) in Budapest, Debrecen and Győr. RLC students received weekly training on the domestic laws on asylum and immigration matters, and also received lectures on international asylum law and on the EU asylum acquis. More experienced law students provided assistance to lawyers in case management and in verbal counseling, took part in preparing case submissions to the authorities and courts, and paid regular visits to reception centers, community shelters or alien policing jails. Most of the students were involved in providing interpretation for the lawyers, and in carrying out 'country of origin information' research. In the summer the students received an extensive 3-day long training on the amended asylum and immigration law.

Since early 2004, the HHC has been a partner of the ERF-financed "COI Network and Training" project, co-coordinated by ACCORD. Within the framework of this project, the HHC's information officer was involved in the finalization and the international test-run of the COI research handbook prepared by ACCORD and other experts. Furthermore, the information officer represents the HHC in an international project aiming at monitoring the use of COI in RSD decisions, co-coordinated and financed by UNHCR RSUB.

## **Legal Assistance through Refugee Clinics (LARC) program**

In February, the HHC's Legal Assistance through Refugee Clinics (LARC) programme launched The Refugee Law Reader ([www.refugeelawreader.org](http://www.refugeelawreader.org)), the first on-line model curriculum for the study of the rapidly evolving field of international asylum and refugee law. The Reader was updated in the summer to reflect the important legal developments that have occurred since its first publication.



The Refugee Law Reader is aimed for the use of professors, lawyers, advocates and students across a wide range of national jurisdictions. It provides a flexible course structure that can be easily adapted to meet a range of training and resource needs. The Reader also offers access to the complete texts of up-to-date core legal materials, instruments and academic commentary. In its entirety, the Refugee Law Reader is designed to provide a full curriculum for a 48-hour course in International Refugee Law and it contains over 350 documents and materials. To this day, over 7,000 people from more than 50 countries have used The Reader for their work.

LARC also published the syllabus of the Refugee Law Reader in print to assist legal clinics and professors without permanent internet connection easily find up-to-date legal resources on refugee law.

The Fourth Annual International Asylum Law Moot Court Competition, organized by HHC/LARC in partnership with Slovenska Filantropija and ELSA-Ljubljana, gathered students from 26 refugee law clinics in Central and Eastern Europe, the Baltic States and the Western CIS to test their knowledge, lawyering skills and legal English in international asylum law. The competition provided the students a unique opportunity to draw professional advice directly from leading practitioners in the asylum field – UNHCR officers, refugee law judges and NGO activists. Participants attended lectures, presentations, and workshops related to the protection of asylum seekers and refugees, professional conduct, and opportunities for international cooperation. The oral phase of the Moot Court Competition was held in Ljubljana, Slovenia on 1- 4 April 2004 and was hosted by the Law Faculty of the University of Ljubljana. The competition was supported by the Youth Programme of the European Union, the European Youth Foundation, and UNHCR.

On 5-6 May, the Hungarian Helsinki Committee organized the workshop "Advocating for Higher Standards in Refugee Protection" for representatives of Central European assisting-refugees NGOs. The goals of the advocacy workshop were to expose participants to relevant and successful media and governmental advocacy campaigns, to develop the participants' advocacy skills, and to ultimately prepare them to conduct advocacy campaigns related to the transposition of the EU asylum *acquis communautaire* into the national legislation of the new EU member states. The workshop was the second part of the project "Asylum Advocacy in Accession States", supported by the Phare Small Projects Programme of the European Commission, and followed the workshop on EU asylum *acquis* which took place in Budapest in 2003.

On July 4-7, LARC conducted a support mission in Tirana, Albania. The goal of the mission was to assess the legal framework of the Albanian asylum system in order to better understand the environment that asylum seekers and refugees face, and therefore better assist them by providing support to the Tirana refugee law clinic (RLC). In order to achieve this goal, LARC met students and professionals of the LCR to learn more about their work and find new and innovative ways for the clinic's sustainable development. The LARC team also met all important actors involved in the asylum field in Albania, including UNHCR staff, officials of the government's Directorate for Refugees, Chief of International Public Law Sector at the Department of Public Law of Tirana University, and local NGO partners.

In late May – July LARC carried out an assessment of the financial situation of the refugee law clinics. Based on this assessment a Fundraising Tool Kit for refugee law clinics was developed. The Tool Kit aims to help



members of the refugee law clinics responsible for fundraising improve their fundraising skills and develop successful funding proposals. The Tool Kit considers the changing funding field in Central and Eastern Europe, the re-orientation of traditional donors towards new priorities, as well as the emerging of new donors. It also considers the new funding opportunities for activities in refugee protection, related to the accession of eighth states of Central Europe and the Baltic region to the European Union. The Tool Kit, consisting of manuals on proposal writing and budgeting, and an electronic searchable database of donors in Europe was distributed to all refugee law clinics of the LARC network.

On October 27-28, LARC organized and facilitated a workshop entitled "Representing recognized refugees and beneficiaries of other forms of protection: legal assistance as part of the integration process." The goal of the workshop was to train refugee law clinic staff from countries with an integration profile on the legal needs of refugees. The workshop utilized case studies, existing models, international standards, and participant involvement, and encouraged clinic professionals to explore their capacity, know-how and vision for taking on refugee rights and subsidiary protection/humanitarian status cases. In addition, the workshop identified best practices, encouraged refugee law clinics to look for mentoring and expertise, and elucidated topical representation issues in the participating clinics' national context.

On November 16-18, LARC conducted an assessment mission to Serbia and Montenegro. The project plans to expand the network of refugee law clinics in South-Eastern Europe: to Bosnia and Herzegovina, Croatia, Macedonia, and Serbia and Montenegro in order to boost the effective and high-quality free legal assistance to asylum seekers and refugees in the region. The mission assessed the legal framework for providing free legal assistance and met the most important refugee-assisting organizations – governmental and non-governmental – operating in the country. LARC held discussions with the UK Department for International Development (DfID), UNHCR, refugee assisting NGOs and the law faculty of the Belgrade and Novi Sad Universities.

➤ **Miscellaneous**

As of 1 May 2004, András Kádár was delegated by the Hungarian government to serve on the management board of the European Union Monitoring Centre on Racism and Xenophobia. From 2003 until Hungary's accession to the European Union, András was an observer on the EUMC management board.

Interns: Several interns contributed to the HHC's work in 2004:

- Fiona McKinnon (US)
- Katalin Erdélyi (Hungary)
- Andrea Reyna (US)
- Andrea Matolcsi (US/Hungary)
- Greg Csiszár (Canada/Hungary)
- Kristóf Semjén (France/Hungary)

Office move: During the summer the HHC succeeded in negotiating a long-term lease under favorable financial conditions for an office space owned by the Budapest Municipal Government. The HHC moved offices in October.

Budapest, 28 January 2005

Ferenc Kőszeg  
President  
Hungarian Helsinki Committee

# **Annex**

## **CALENDAR OF ACTIVITIES**

### **2004**

23-24 January: The HHC took part in the opening conference of the Information – Cooperation Forum project organized in Schlaining in Austria near the Hungarian Border. The project aims at sharing information and experience on asylum issues between NGOs from Germany, Austria, Poland, Czech Republic, Slovakia and Hungary. The HHC also arranged for conference participants to visit the alien policing jail in Szombathely.

28-30 January: Visit to the Állampuszta National Penitentiary Institution.

5 February: The HHC organized a roundtable meeting to discuss the draft report resulting from the "Equality before the Law for Roma and non-Roma Suspects" project.

18-21 February: Ferenc Kőszeg took part in the international human rights monitoring mission into detention conditions in Moscow prisons, organized in the framework of the project "Prevention of Torture in the Closed Institutions of Central and Eastern Europe".

25-26 February: Visit to the Zala County Penitentiary Institutions.

26-27 February: Marta Pardavi attended the executive committee meeting of the European Council on Refugees and Exiles (ECRE) in London.

4-5 March: András Kádár was an observer at the Management Board meeting of the European Union Monitoring Center Against Racism and Xenophobia.

17-19 March: András Kádár participated at the conference marking the 10<sup>th</sup> anniversary of the Council of Europe's European Commission on Racism and Intolerance, in Strasbourg, France.

24-26 March: Visit to Units I and II of the Budapest Metropolitan Penitentiary Institution.

25-28 March: Ferenc Kőszeg and Marta Pardavi attended the ECRE bi-annual general meeting in Soesterberg, the Netherlands.

1 April: Barbara Pohárnok project coordinator held a workshop on asylum law at the Human Rights Students' Initiative request at a conference organized for young persons by the HRSI in Budapest.

1-4 April: LARC organized the 4<sup>th</sup> Annual Moot Court Competition in International Refugee Law in Ljubljana, Slovenia. In the past four years, over 140 students from 23 refugee law clinics in Central and Eastern Europe and the former Soviet Union have taken part in the competition.

2 April: Gábor Gyulai, country of origin (COI) information officer took part at the meeting of national co-ordinators (from Romania, Poland, Czech Republic, Hungary), ACCORD and UNHCR RSUB, for the preparation of a UNHCR-financed project on monitoring the use of COI in asylum decisions.

15 April: Attila Tari program coordinator took part at a UNHCR-organised meeting on identifying and preventing sexual and gender based violence in the Debrecen refugee camp.

16-17 April: Roundtable meeting with representatives of the police, penitentiary administration and prosecutorial authorities, Ministry of Justice and the Bar Association to discuss the draft report on the situation on pre-trial detainees resulting from the police and prison monitoring programmes.

19-22 April: As one of the first activities in the Model Legal Aid Board program, the MLAB members paid a study visit to the Netherlands to gain experience about the Dutch legal aid system.

19-22 April: Barbara Pohárnok, project coordinator took part in the 'First Regional Forum on Border-monitoring/Networking: A Role for NGOs' organized by the UNHCR- Regional Support Unit Budapest in Trakai, Lithuania.

21-28 April: Marta Pardavi spent a week at the Migration Policy Institute in Washington DC as part of MPI's European Visitor series; she briefed an audience of US government officials and migration researchers and policy-makers on the impact of EU accession on refugee protection in Central Europe.

22 April: Attorney János Somogyi took part at a roundtable discussion on prison conditions in Hungary, organized by the professional journal of prosecutors at the National Institute of Criminology.

26-28 April: Visit to the Baranya County Penitentiary Institution.

26-28 April: Attila Tari program coordinator participated in a visit to refugee reception centres and detention facilities in eastern Germany, organized in the framework of the Information and Cooperation Forum project.

28-29 April: The LARC programme hosted UNHCR staff from Bosnia and Herzegovina, Serbia and Montenegro and Croatia on a visit to Hungary to introduce the refugee law clinic concept.

3 May 2004: Gábor Gyulai, country of origin (COI) information officer attended the regular meeting and consultation of Hungarian COI units (OIN, Metropolitan Court, Hungarian Helsinki Committee) with UNHCR as observer.

4-5 May: József Kárpáti and Lilla Farkas attorneys presented papers at the Ministry of Justice conference on "Harmonisation and implementation of the EU Directives on Anti-discrimination".

5-6 May: The HHC organized a workshop titled "Asylum Advocacy in Accession States" for 20 representatives of Central European refugee assisting NGOs.

7 May: Attorney János Somogyi was a trainer for prison governors on human rights issues in prisons in the framework of a training organized by the National Prison Administration on the occasion of Hungary's accession to the European Union.

7-8 May: The HHC organized the first training during the year for participants of the project "Effective Legal Counselling for Those in Need of International Protection".

10-11 May: Marta Pardavi attended the periodic meeting of ECRE's advocacy network in Brussels.

14-16 May: Gábor Gyulai, country of origin (COI) information officer participated at the "COI Network and Training" programme meeting in Amsterdam to finalize a handbook on COI research for use within the context of asylum. Participants included ACCORD, Dutch Refugee Council, Refugee Documentation Centre Ireland, Informationsverbund Asyl, Refugee Legal Centre UK.

21 May: The HHC met with the Hungarian section of Amnesty International to discuss issues related to refugee protection in Hungary and to establish closer cooperation in this field between the two NGOs.

24 May: Marta Pardavi presented the complementary protection regime for refugees in Hungary and Central Europe at the Irish Refugee Council's conference on "Complementary Protection and Detention of Asylum Seekers in Europe", held in Dublin.

24-27 May: Attila Tari, project coordinator took part in the second monitoring mission in the framework of the project 'Information and Cooperation Forum'. The mission visited the detention facility at the airport in Vienna, the refugee reception centre in Aspang, Austria; the refugee reception centre in Bicske, the detention facility/community shelter in Győr, Hungary; the reception centre in Gapcikovo, and the accommodation facility for separated children, single women/men asylum seekers with children in Rohovce, Slovakia.

26-28 May: Gábor Gyulai, country of origin (COI) information officer was a participant in Dublin, Ireland at the 9th European Country of Origin Seminar, organized by the Refugee Documentation Centre, Ireland.

3-5 June: Lilla Farkas staff attorney was a speaker at the conference "Democracy and human rights in the EU-member and candidate countries" in Opole, Poland. The conference was organised by the House for Polish-German Cooperation.

5-6 June: Attila Tari, program coordinator of the HHC asylum lawyers' network and Boyan Konstantinov, regional coordinator of the LARC project attended the conference "Asylum and Migration, Policy and Practice in the EU Accession Countries". The conference was organized by the Refugee Studies Centre (UK), the Czech Helsinki Committee and the Human Rights Centre at Charles University in Prague.

7-8 June: Ferenc Kőszeg spoke about obstacles faced by asylum seekers in accessing the territory of Hungary and the use of readmission agreements at the ECRE conference "Detention and Deportation", held in Mukachevo, Ukraine for NGOs and migration authorities from Ukraine, Russia and Moldova.

11 June: The new Representative of the UN High Commissioner for Refugees to Hungary paid an introductory visit to the HHC.

14-15 June: Marta Pardavi attended the executive committee meeting of the European Council on Refugees and Exiles (ECRE) in Vienna.

21-22 June: Ferenc Kőszeg spoke at the 4<sup>th</sup> Berlin Symposium on Refugee Protection. The conference was organized by the UNHCR Representation in Berlin.

24-25 June: Marta Pardavi presented the recent Hungarian reforms in legal aid in civil cases at the roundtable meeting "Access to justice: legal aid in civil cases in Bosnia and Herzegovina", organized by the Council of Europe and the Public Interest Law Initiative in Sarajevo, Bosnia and Herzegovina.

25-27 June: Gábor Gyulai, country of origin (COI) information officer took part at the "COI Network and Training" programme test run of handbook (with the participation of several European NGOs involved in COI research) and evaluation meeting of participants/future trainers. The meeting was held in Vienna and was organized by ACCORD.

28-29 June: András Kádár took part at the meeting of the Management Board of the European Union Monitoring Center on Racism and Xenophobia as the delegate appointed by the Government of Hungary to represent Hungary in the EUMC.

28-29 June: Barbara Pohárnok, project coordinator took part in 'RSUB Forum on Supporting UNHCR Teams to Strengthen Integration as a Durable Solution in Central Europe', organized by the UNHCR Regional Support Unit in Budapest, Hungary.

28 June-2 July: The HHC took part in the international human rights monitoring mission into detention conditions in Macedonia, organized in the framework of the project "Prevention of Torture in the Closed Institutions of Central and Eastern Europe".

1-14 July: Barbara Pohárnok attended the "European Summer School, European Union Law and Policy on Immigration and Asylum" in Brussels, Belgium. The programme was organized by the Academic Network for Legal Studies on Immigration and Asylum in Europe at the Institute for European Studies of the Université Libre de Bruxelles.

July-November: Boyan Konstantinov, Regional Project Coordinator of the LARC programme completed the Protection Learning Programme for Implementing Partners, developed and carried out by the Protection Division at UNHCR Headquarters in Geneva. The Programme included a four-month period of self-study, followed by a four-day workshop and a follow-up phase of reporting. It provided an opportunity for participants to learn more about UNHCR standards, policies and priorities on protection.

5-6 July: András Kádár took part at the Annual Conference of the Action Programme to Combat Discrimination. The conference was organized in Prague by the European Commission's Anti-discrimination Unit in DG Employment & Social Affairs.

5-6 July: LARC staff conducted a support mission to Tirana, Albania to meet with the Tirana-based refugee law clinic and organizations assisting refugees in Albania.

23-26 July: The HHC organized a 3-day long training for students of the three Hungarian refugee law clinics. The training was held in Békéscsaba in the home for separated minor asylum seekers.

25 August: Lilla Farkas staff attorney spoke about Hungarian anti-discrimination legislation at a conference on equal treatment organized by the National Alliance of Deaf and Hearing Impaired Persons.

1-3 September: Márta Pardavi attended the conference on "Future European Union Cooperation in the Field of Asylum, Migration and Frontiers", organized by the Dutch EU Presidency.

8-12 September: Lilla Farkas staff attorney was a trainer at a training on actions against discrimination for Russia-based Roma rights organizations, organized by the Open Society Justice Initiative in Ekaterinburg, Russia.

16-19 September: The HHC took part at the final conference titled "New Borders – New Bonds: Asylum and Reception politics in the enlarged European Union" organised within the Information - Cooperation Forum (ICF) project in Bad Boll, Germany.

20 September: In a meeting with the Advisory Board set up under the Council of Europe Framework Convention on the Protection of National Minorities, the HHC presented its view with regard to government report submitted in the course of the second monitoring cycle on Hungary.

23-24 September: The LARC programme, in cooperation with the Menedék – Hungarian Association for Migrants, organized a regional workshop titled "Sustainability and fundraising prospects of refugee-specific social work education programmes: best practices and new challenges" for representatives of social clinics from Central and Eastern Europe.

25-29 September: Ferenc Kószeg took part in the international human rights monitoring mission into detention conditions in Bulgaria, organized in the framework of the project "Prevention of Torture in the Closed Institutions of Central and Eastern Europe".

30 September – 1 October: Visit to the Heves County Penitentiary Institution.

1-3 October: Márta Pardavi, Barbara Pohárnok and Gábor Gyulai attended the ECRE bi-annual general assembly meeting in Geneva, Switzerland.

13-14 October: Lilla Farkas and András Kádár were trainers at a training workshop on anti-discrimination legislation organized for Hungarian judges.

15 October: Lilla Farkas staff attorney spoke about equal treatment in labour issues at the 2<sup>nd</sup> Labour Law Conference organized in Visegrád, Hungary.

20 October: Attila Tari staff attorney presented the situation of refugees in Hungary to students of the Central European University at the CEU Refugee Day, organized by the Human Right Students' Initiative (HRSI).

27 October: András Kádár was a resource person at the training workshop titled "The role of litigation in implementing the EU Race Equality Directive", organized for judges from the Slovak Republic by the ERRC and the Ministry of Justice of the Slovak Republic.

27-28 October: The LARC programme organized a workshop in Budapest on "Representing recognized refugees and beneficiaries of other forms of protection: legal assistance as part of the integration process", attended by representatives of refugee law clinics in Central Europe.

28-29 October: Attila Tari staff attorney was an NGO participant at the Central and Southern European cluster meeting of the chiefly intergovernmental Cross-Border Cooperation Process in Budapest.

2-5 November: The HHC took part in a workshop in Oradea, Romania with Romanian refugee assisting NGOs and border guard officials, discussing methods to monitor the treatment of refugees at the border.

3-5 November: Gábor Gyulai country of origin information officer participated as a trainer at the UNHCR-organised training on refugee law for OIN immigration officials.

8 November: Gábor Gyulai country of origin information officer participated at the consultation meeting of national focal points for the project "Use of country of origin information in asylum decision", organized at the UNHCR Regional Office in Budapest.

8-11 November, 6-9 December: HHC staff and consultants attended a training for immigration officials on the Dublin II regulation. The training was organized in the framework of a twinning project between the Hungarian Office of Immigration and Nationality and the Swedish Migration Board.

10-12 November: Lilla Farkas staff attorney spoke about strategic litigation at a seminar organized in Madrid, Spain by the Open Society Justice Initiative on actions to combat racial discrimination.

11-14 November: Ferenc Kószeg attended the general assembly meeting of the International Helsinki Federation in Moscow, Russia.

12 November: Gábor Gyulai country of origin information officer gave a presentation on the importance of country of origin information in asylum claims, organized as part of the curriculum for social workers working with refugees at the ELTE Institute of Sociology.

15-16 November: Márta Pardavi participated at the regular meeting of ECRE's advocacy network, ECRAN in Brussels.

16-18 November: LARC staff conducted a mission to Belgrade and Novi Sad in Serbia to meet with UNHCR, local NGOs and local university and to explore the potential of establishing refugee law clinics in Serbia.

18-19 November: Balázs Tóth presented issued related to criminal legal aid reform and the Model Legal Aid Board project at the conference Access to Justice in Bosnia and Herzegovina, organized in Sarajevo by the Public Interest Law Initiative.

19-20 November: The HHC organized the second training in 2004 on asylum and immigration law. The training was attended by over 60 participants: attorneys, refugee law clinic students, social workers, judges as well as asylum and immigration officials from the OIN.

22-23 November: Márta Pardavi attended the executive committee meeting of the European Council on Refugees and Exiles (ECRE) in London.

23-26 November: Visit to the Central Hospital of the Hungarian Prison Service in Tököl.

23-26 November: Visit to the Penitentiary Institution for Juvenile Offenders in Tököl.

26-27 November: Lilla Farkas was a speaker at the "World Conference on the right to and rights in education" in Amsterdam.

30 November-1 December: Gábor Gyulai took part at the expert meeting on developing international cooperation and responsibility sharing in the field of asylum in view of recent EU developments, organized by ECRE in London.

1-2 December: Márta Pardavi spoke about the Hungarian legal aid reform at "The Second Dongfang Forum on Public Interest Litigation: Legal Aid and Law Reform in Transitional Societies", held in Beijing, China by the Institute of Law of the Chinese Academy of Social Sciences and organized in cooperation with the Danish Center for Human Rights.

2-3 December: Boyan Konstantinov spoke on "Creating Refugee Law Clinics in the West Balkan region – can we use the experience of Central Europe?" at a seminar organized in Skopje, Macedonia by UNHCR and the European Commission on the role of civil society in the asylum procedure. The presentation highlighted the successes and challenges in the work of the existing 23 refugee law clinics in 10 countries of the Central, Eastern and Southeastern Europe. It also explored the opportunities for using the Central European experience while creating refugee law clinics in the West Balkan region.

6 December: Lilla Farkas took part at the expert meeting held in the framework of the project "Mapping capacity of civil society dealing with anti-discrimination in new member states countries and in Romania, Bulgaria and Turkey", organised by the Migration Policy Group in Brussels.

9-10 December: Attila Tari described the Hungarian legal and practical framework at the expert meeting on "Factors hampering and/or stimulating the return of illegal aliens and rejected asylum seekers in detention centers in various EU member states", organized by the University of Tilburg in the Netherlands.

10 December: Lilla Farkas spoke about the role of trade unions in enforcing equal treatment legislation at a conference organized by the Democratic League of Independent Trade Unions (LIGA) in Budapest.

13 December: Gábor Gyulai met with Spanish refugee assisting NGOs (ACCEM, Rescate) in Madrid to discuss possible ways of strengthening cooperation in the future.