



## HUNGARIAN HELSINKI COMMITTEE

### ANNUAL REPORT OF ACTIVITIES

2005

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 2005, the Hungarian Helsinki Committee carried out the following main activities and projects:

- Human Rights Legal Counselling Office
- Police cell and prison monitoring programme
- Effective Legal Counselling for Those in Need of International Protection
- Refugee law clinics in Hungary
- Legal Assistance through Refugee Clinics (LARC)
- Model Legal Aid Board Program
- Conference "Human Rights in the Democracy Movement Twenty Years Ago – Human Rights Today"

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

#### ➤ **Assisting victims of human rights violations**

The **Human Rights Legal Counselling Office** is one of the core programmes of the Hungarian Helsinki Committee.

The Human Rights Legal Counselling Office, located in the premises of the HHC's office, provides free legal assistance in human rights violation cases that fall under the scope of the organization's activities. Legal assistance is given in both domestic and international proceedings (e.g. the European Court of Human Rights). The forms of available legal assistance range from verbal advice to drafting legal documents and legal representation before authorities and courts. The majority of cases concern ill-treatment by the police, complaints relating to detention, as well as immigration, family unification and asylum cases.

In 2005, three attorneys and a legal assistant provided legal counselling to clients, the majority of whom seek legal assistance concerning asylum and immigration procedures, complaints relating to detention or abuse by law enforcement agencies.

In 2005, a total of 452 clients received verbal or written legal advice, or legal representation from the Human Rights Legal Counselling Office.

The following section provides an overview of legal assistance activities carried out by the HHC's Human Rights Legal Counselling Office in 2005:

- Complaints from police jails and prisons (from detainees on remand and convicted inmates):  
290 cases of advice in writing and representation / 16 cases of oral advice.

A substantial part of the clients sought legal advice related to their ongoing or finished criminal cases, expressed concerns regarding the activity of their appointed lawyers, which is a well-known and continuing phenomenon. Another part of the complaints referred to various detention problems connected to conditions of detention and detainee rights, including an increasing number of health care-related issues.

A sentencing problem also appeared that is connected to the contradictory and ill-stipulated provisions on the non-concurrence of sentences. Several convicted persons sentenced abroad and transferred back to Hungary to spend the remaining part of their sentence here complained that they suffered some serious disadvantages by that, which they were unaware of prior to giving their consent to the transfer. In one case, a client represented by a lawyer of HHC, succeeded in getting a partial legal remedy at the Supreme Court.

- Immigration cases: 53 cases of written advice and legal representation / 75 cases of oral advice

The majority of the clients were ethnic Hungarians facing various immigration problems (visa, residence permit, etc.). Other foreigners mainly sought legal advice in family reunification issues.

- Asylum cases: 31 cases of legal representation / 6 cases of oral advice.
- Police ill-treatment: 7 cases of legal representation for victims / 5 cases of written advice / 7 cases of oral advice

B S: a middle-aged woman had been brutally beaten by the police on 17 July. She was having a quarrel with her boyfriend at home when a neighbour called the police. For unknown reasons the police officers beat her severely, she was injured all over her body, more seriously than any previous HHC client. She reported the case to the prosecutor's office. As she had resisted the police measures and used violence against the proceeding officers, a criminal procedure was launched against her for violence against an official person. The lady, who used to be a soldier, was afraid of being sentenced with imprisonment for using violence and fled the country with her daughter. The case is still pending at the time of writing.

L L: 4 September 2004, Mr. L. L. was walking in Budapest at 16:00 when his mobile phone was allegedly stolen by a woman. He asked a security guard to call police. Three policemen came to the scene. Mr L.L. behaved oddly as that day he had worked as a decorator and imbibed paint thinner. Mr L.L. wanted to report the case but the police took him to the police station due to his ostensibly dangerous and confused behaviour, and he was taken into short-term arrest. The two policemen who were in charge at the police station that afternoon cuffed his hands to a chair fixed to the floor. At 22:00 the policemen wanted to release Mr L. L. but said he could not leave until he had spoken to the officer on duty. Then one of the policemen grabbed Mr L. L. by his belt, pulled him to the front of the station, hit him at his face several times, kicked him all over his body and trampled on his upper body. The other police hit and kicked Mr L. L. as well but after a short time he told his colleague to stop the beating. Seeing the injuries Mr L. L. had suffered they called the ambulance. In the hospital it was established that three of Mr L. L.'s ribs had been broken, and that there were several contusions on his face and larynx. Mr L.L. reported the case with the help of the HHC. In the first-instance decision the court found both policemen guilty of ill-treatment and bodily harm, however, the sentence was rather light (1-year 8-month imprisonment, both suspended).

Recognized refugee Mr. F. K. was beaten by the security guards of the Debrecen refugee reception center. After he was recognised as a refugee on 1 June 2005, he was released from alien policing detention, and sent to the Debrecen refugee reception center. On the third or fourth day after his arrival, he was ill-treated by the security guards of the center. (The security guards are employees of a company that is subcontracted by the reception center under the Office of Immigration and Nationality.) After the beating, Mr. K. tried on a number of occasions to visit the reception center's doctor, but at first the medical unit was closed because of the weekend, and later he was sent away without examination by an assistant. He only received proper medical care when he was escorted to the doctor by one of the HHC's lawyers. On that occasion, the center's physician sent Mr. K. to the Debrecen hospital, where an official medical report was prepared about his - still visible - injuries. After this case came to light, it turned out that Mr. K.'s case was not in any way unique. Four persons – asylum seekers and recognized refugees – informed the HHC that they had been ill-treated by the security guards. Asylum seeker and Russian citizen, Ms. M. M. also complained to HHC in a letter that on 2 July 2005 one of the security guards accused her of having stolen a plate from the canteen. The guard dragged her to an employee of the canteen who verified that she had not stolen anything. When Ms. M. tried to jot down the guard's name, he grabbed her by the hair and dragged her out to the corridor, and started threatening her with his truncheon. A bunch of torn out hair remained in the guard's fist, and Ms. M.'s arm was also injured. When she visited the doctor, he refused to prepare an official medical report.

- Complaints against police misconduct: 4 cases of legal representation

R A: R. A was walking at night on 20 September 2005 when he was ordered by the police to prove his identity. He did not have his ID card with him but provided his personal data to the officers. The dispatcher at the police-station mistyped his name, and therefore his personal data did not match with that in the official registration. He was then handcuffed, taken to police station and taken into public security detention. While waiting for interrogation he met one of his acquaintances (Cs. S.) who worked for the police. CS. S. recognized R. A. and asked why he was there and in handcuffs. When Cs. S. was told what happened, he checked the registration and realized that R A's name had been mistyped by the dispatcher. The handcuffs were then removed and Cs. S. left the police building. After that R. A. was escorted to another room where he asked the three officers how a thing like this can happen in Hungary in 2005. They answered that R. A. should instead be happy for not having been beaten since beatings happen everyday. R. A. got very upset and asked whether the officer would repeat this assertion publicly as well. The answer was: "Confine him before he makes me angry!" He was escorted to a cell and locked in it for 45 minutes. After that he was released, but R. A. made a complaint about the ill-treatment on the spot. His complaint was refused and R. A. was fined for not having identified himself. He appealed against both decisions through the HHC. The higher authority adjudicating the appeal repealed the first-instance decision and ordered a new first-instance procedure. The new first-instance procedure did not establish anything illegal about the police measures taken against R A but the reasoning of that decision proves that the report written by the policeman taking the measures contained false facts. The case is still pending.

Criminal and civil law cases: 75 cases of written advice / 94 cases of oral advice

An increasing number of clients request information or assistance in connection with the procedure at the European Court of Human Rights. The Ministry of Justice tends to refuse to provide adequate information, due to the 'moral' consideration that the person seeking advice may become an applicant in a future case. The lately introduced Legal Aid Service cannot assign lawyers for these cases, as most of the lawyers lack legal expertise in this field. No state agency has been established either for this purpose to improve the access to justice in these issues.

There is a similar phenomenon in the practice of authorities which direct persons who refer to any kind of human rights abuse to our organization, regardless of the nature of the complaint (it should be added, though, that clients are not always aware of what can be considered as human rights abuses). This seems to highlight the fact that the State avoids taking the responsibility of not being able to establish and operate a system which provides adequate access to justice.

The subject of many complaints in this field is the infringement of fair procedure by authorities and judicial bodies.

- Miscellaneous: 49 cases of written advice

There is a wide range of case types, which may not belong to our scope of core activities; however, we try to give at least some advice that can help the clients to proceed with their case. (The same applies for the majority of criminal and civil law related complaints as well.) Some of the complaints are substantial ones, and may be referred to other organizations or authorities (such as discrimination cases).

#### ➤ **Taking part in legal aid reform**

Enforcing one's rights must not remain the privilege of those who can afford to hire a lawyer. Accordingly the Hungarian Helsinki Committee advocates for securing high-quality and accessible state-funded legal aid for the disadvantaged as well as for improving the overall quality of the legal aid system. In the interest of improving access to justice in Hungary, the HHC analyses and evaluates the current situation and makes legislative and structural recommendations.

As of September 2004, the HHC has been registered with the Ministry of Justice Legal Aid Office as a legal aid provider in refugee proceedings and cases involving detention issues by law enforcement agencies. We were able to involve several of the lawyers and law firms cooperating with the HHC in providing legal assistance to asylum seekers, thus the state funded legal aid scheme has become a supplementary source of financing for this part of the HHC's activities. However, given the still relatively low fee levels, the lack of state funding for essential activities required for effective legal aid to foreigners (e.g. translation costs), as well as the fact that the legal aid scheme only covers public administrative proceedings without extending to judicial procedures, the state funded legal aid system has not become an important source of income for the HHC's legal assistance work.

During the 2005 year, the HHC commented on the newly reformed legal aid system on several occasions. In June 2005, upon the request of the Ministry of Justice (MoJ), the HHC summarized its experiences about the functioning of the reformed legal aid system. In September, reacting to an impact study prepared by the MoJ on the legal aid system, the HHC highlighted its main experiences and put forward several recommendations on the further improvement and development of the system. The MoJ prepared draft amendments to the ministerial decree on the detailed rules of the legal aid system, which it also sent to the HHC for comments, thus the HHC submitted its comments on the draft legislation in October 2005.

The HHC also liaised with the Public Interest Law Initiative during the course of the year regarding activities on access to justice and the promotion of pro bono work by lawyers in Central Europe. In this framework, HHC staff took part at several professional events aimed at promoting legal aid reform, such as the 2<sup>nd</sup> Access to Justice Forum (Budapest, February 2005), organized by the Open Society Justice Initiative and the Public Interest Law Initiative of the Columbia Law School. In the framework of the panel "From Theory to Implementation: Reforming Legal Aid in Central and Eastern Europe", project coordinator András Kádár gave a presentation on the situation of legal aid in Hungary and the Model Legal Aid Board Program, and a summary of the Program appeared in the Forum's resource book. Additionally, HHC staff took part at the First Regional Seminar on Access to Justice in Western Balkans (Budva, Montenegro, November 2005) and the forum on state guaranteed legal aid in Central Europe (Brno, Czech Republic, November 2005), organized by the Czech League for Human Rights.

In cooperation with the Netherlands Helsinki Committee, the HHC continued the **Model Legal Aid Board (MLAB) project** (launched in March 2004), which is supported by the MATRA programme 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.

During the 2005 year, the project progressed and resulted in the following achievements and activities.

The period of taking up cases (and thus the period of directly cooperating with the police) was closed down in January 2005. In the period between September 2004 and February 2005 the system and principles of reporting on cases became clear to attorneys, and a general agreement on the principles and methods of evaluation developed among members of the MLAB. The provision of legal defense in the 137 cases taken up between September 2004 and January 2005 is still in progress. So far 18 criminal proceedings have come to a conclusion. The project has continued to be successful in terms of the realizations of its goals. The pilot-model for a legal aid board in criminal matters has continued to perform its functions efficiently, and from the results achieved so far it seems that the attorneys participating in the project have been providing truly high quality defense: out of the 18 cases, which have already come to a conclusion, only 7 (less than 40 percent) led to conviction of the defendants.

András Kádár also published a study based on the Program's results in the prestigious legal Hungarian human rights law journal "Fundamentum" and presented the study's conclusions at a professional seminar organized by the Hungarian Association of Criminology in the premises of the Budapest Bar Association. The presentation was frequented by representatives of the Legal Aid Service of the Ministry of Justice and close to 30 attorneys regularly acting as ex officio appointed defense counsels. The Program's experiences were also presented to foreign audiences, when project assistant Balázs Tóth summarized the MLAB achievements at the National Conference on Access to Justice in Serbia (Belgrade, May 2005).

#### ➤ **Protecting refugees**

#### **Legal Counselling for Persons in Need of International Protection**

The principle of respecting the right to asylum and the obligation of protecting refugees is enshrined in numerous international human rights instruments that form an integral part of European civilization.

As of 1998 the Hungarian Helsinki Committee is an implementing partner of the UN High Commissioner for Refugees (UNHCR). The HHC coordinates a national network of asylum lawyers who provide free legal assistance to asylum seekers in Hungary. The organization regularly visits reception centers and community shelters where asylum seekers and migrants are accommodated. It also comments on draft legislation in the field of asylum and immigration as well as analyses legal practices. In addition, the HHC provides legal advice and country of origin information to our network of asylum lawyers. HHC also organizes professional trainings on domestic, European and international asylum and immigration law and practice.

The refugee law clinic program, based at law faculties in Budapest, Győr and Debrecen, provides law students an insight into Hungarian and international asylum law and its implementation. This program creates a pool of young professionals in Hungary who are trained in a highly complex and specialized legal field.

In 2004 and 2005, the HHC began to place increased emphasis on how asylum seekers are able to exercise their right to seek asylum and to have access to the territory of Hungary. In this context, on January 26-30, 2004 the Hungarian Helsinki Committee visited Hungary's southern and eastern borders with Serbia and Montenegro, Romania and Ukraine as well as the border between Slovak and Ukraine. The purpose of the visit was to gather information about the number and composition of asylum seekers arriving at the "green border" (unchecked border areas), the immigration and refugee procedures in their cases, as well as the implementation of relevant laws. Following this mission, the HHC reported that border security was strengthened both by manpower and by technical facilities of the Hungarian border guard. The HHC sharply criticized the Hungarian border guards' practices and their use of readmission agreements. Due to the strengthened protection of the Hungarian border, the forced return of potential asylum-seekers and the threat of the one-year alien policing custody, the number of the asylum-seekers in 2003 and 2004 decreased much more radically than in the old member states of the European Union as well as neighbouring Slovakia.

Following the first visit in 2004, the HHC carried out a similar mission in October 2005, but this time focusing on the border between Hungary and Ukraine only. The goal of the visit was to speak with asylum seekers who had been stopped at the Hungarian or the Slovak border and sent back to Ukraine under the readmission agreements. During the mission the HHC met and spoke with a number of aliens in detention facilities and asylum seekers in open accommodation centers who were either captured by the Ukrainian Border Guard or by the Slovak Border Police. The HHC staff did not meet returned persons from Hungary, a fact which confirmed earlier assumptions that during the past few years the trafficking routes have changed and most asylum seekers enter the European Union in Slovakia and Poland, and not in Hungary. Both the Hungarian and Ukrainian Border Guard told the HHC that less than 10 third-country nationals tried to cross the common border of the two countries in 2005, compared with hundreds of people who had been returned from Slovakia so far this year. However, the recent practices of the Slovak Border Police, which often breach international asylum and human rights treaties, may change the route again in the coming years.

In its report to UNHCR summarising its findings from the mission, the HHC made several recommendations concerning how continued human rights monitoring of the border, and legal counselling activities by Ukrainian NGOs in Western Ukraine could be further developed in order to ensure that asylum seekers, returned from the EU to Ukraine, have proper access to the Ukrainian asylum procedure and benefit from effective legal assistance in the asylum procedure.

In Hungary, the HHC continued to provide legal counselling to asylum seekers and other persons in need of international protection in both Budapest and the major (open and closed) facilities where migrants/asylum seekers are accommodated. Through the nationwide network of attorneys and refugee law clinics, the HHC provided legal assistance – consisting of legal advice and representation – in 297 new asylum cases. The number of cases handled by the HHC's asylum lawyers' network reflected the overall low number of asylum seekers (totalling 1609 persons) arriving in Hungary in the course of 2005.

In the course of spring 2005, the HHC carried out intensive advocacy and lobbying activities related to the legislative process amending the Hungarian Aliens Act and Act on Citizenship. The above amendments took place with a view to providing preferential legal opportunities to foreign national ethnic Hungarians in the field of settlement and naturalization in Hungary. In addition, the amendments included certain new provisions relating to refugees partly because of the need to transpose minimum standards regulated in the Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification. As a result, more favourable rules on family reunification for recognized refugees will be applicable from 2006.

In November 2005, the HHC published an updated version of its information leaflet for asylum seekers in Hungarian, English, Arabic and Russian. The leaflets are distributed to asylum seekers accommodated at refugee

reception centers, alien policing jails and community shelters as well as through attorneys and refugee law clinic students working with the HHC.

The above activities were made possible through support from the UNHCR Regional Representation in Hungary and the European Refugee Fund (administered by the Ministry of Interior Office of Immigration and Nationality.)

The HHC's executive director continued to serve on ECRE's executive committee and was re-elected for another two-year term in September 2005.

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

The **Annual International Asylum Law Moot Court Competition and Seminar** aims to strengthen the legal protection of asylum seekers and refugees in Central and Eastern Europe by enhancing the professional capacity of the next generation of asylum law experts in the region. Students of refugee law clinics in 11 countries in the region have a chance to participate in the event every year. The Moot Court is based on a fictitious asylum case developed by the organizers. It allows students to craft arguments both on behalf of the applicant (asylum-seeker) and the respondent (fictitious host country). The performance of the students is evaluated by international experts in asylum and human rights law. The oral rounds of the Fifth International Asylum Law Moot Court Competition (organised by the HHC in April 2005 in Budapest), provided an opportunity for 32 law students from refugee law clinics around Central and Eastern Europe to present their lawyering skills in front of a panel of 12 internationally renowned experts of asylum law.

The **Refugee Law Reader: Cases, Documents and Materials** (3rd ed.) ([www.refugeelawreader.org](http://www.refugeelawreader.org)) is a comprehensive on-line model curriculum for the study of the complex and rapidly evolving field of international refugee law. It was initiated and is supported by the Hungarian Helsinki Committee and funded by the United Nations High Commissioner for Refugees (UNHCR) and the European Refugee Fund. As a 'living book', The Reader is updated twice a year to reflect the important developments in international and European refugee law that have occurred since its first on-line publication April 2004. Since then, it has doubled the amount of material available, with over 600 documents in an easily accessible framework. The 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.

On 16-17 October 2005 in Kyiv, Ukraine, in the framework of the LARC program, the HHC carried out a training session for refugee law clinics from Ukraine (Kyiv, Kharkhiv, Lviv, Odessa, and Uzhgorod) and Moldova (Chisinau) on the European Union Asylum Acquis. LARC secured two renowned experts on EU asylum law and policy (Prof. J. Vedsted-Hansen, University of Aarhus, Denmark, editor of the Refugee Law Reader and member of the Odysseus Network for Asylum in Europe; Dr. L. Peral, Carlos III University in Madrid, Spain, and researcher at the FRIDE Foundation and the Ministerio de la Presidencia of the Spanish government).

Furthermore, to facilitate networking and exchange between clinics, LARC provided support for a the twinning exchange between the refugee law clinics in Krakow, Poland and Lviv, Ukraine, which took place in October 2005.

During the year, the LARC program increased its activities with respect to the promoting the concept of refugee law clinics as a refugee protection tool. In the Western Balkans, LARC carried out assessment missions to Croatia (January 2005) and Bosnia (April 2005) as well as hosting a Croatian team composed of NGO, law faculty and UNHCR representatives from Zagreb, Croatia (June 2005) on a study visit to Budapest. These activities contributed to achieving progress in all three countries: the first refugee law clinic in Bosnia was set up in Sarajevo in Autumn 2005, UNHCR and the Belgrade Law Faculty agreed to start cooperation with some lectures and training in the field of asylum law in summer 2005, while in Croatia the curricula for a refugee law clinical course are already under development. LARC also visited Minsk, Belarus in September 2005 in order to assess the feasibility of setting up a refugee law clinic in the country.

### **Involvement in regional and European projects**

The HHC is a partner of the trans-national **"Country of Origin Information Network and e-Training"** project, co-ordinated by ACCORD/Austrian Red Cross and supported by the European Refugee Fund. Within the framework of this project, the HHC's asylum training and information officer held several trainings in Hungary and abroad (Poland, Italy, Slovenia) on both the legal and technical aspects of country of origin information (COI) research and use in the asylum procedure. The information officer is currently involved in the preparation of an e-

learning tool based on the training manual "Researching Country of Origin Information", published by ACCORD. Based on the highly positive feed-back received from participants, HHC is planning to formally include this training activity in the regular educational agenda of Hungarian refugee law clinics.

In the framework of the aforementioned "COI Network and e-Training" project, the HHC was a co-organiser of the international COI seminar held in Budapest, in December 2005, which brought together about 80 asylum experts, mainly from Europe.

The information officer represented the HHC in the "Common COI Standards Initiative" regional pilot project, co-ordinated and financed by UNHCR Regional Representation in Hungary. He was in charge of monitoring first-instance asylum decision from the COI prospective, using a preliminarily established research methodology, followed by the preparation of a detailed draft report containing major findings, methodology, recommendations and legal/technical background information, a short leaflet on the project, and a know-how document "How to establish a COI-monitoring mechanism" based on the experiences of project partners.

In early 2005, a comprehensive report focusing on the new Member States' compliance with the provisions stipulated in the Council Directive on Minimum Standards for the Reception of Asylum Seekers was submitted to the EU Commission. The Report was the final outcome of the project titled "**Information and Co-operation Forum**", which had been financed by the European Refugee Fund and where the HHC takes part as a partner of the German NGO ProAsyl.

The HHC co-operated with BADIL Resource Center for Palestinian Residency and Refugee Rights, an international NGO based in Palestine, in the preparation of the publication "Closing Protection Gaps: Handbook on Protection of Palestinian Refugees in States Signatories to the 1951 Refugee Convention". The HHC assisted by providing them with data on relevant legal practices and drafting the chapter on Hungary, following an in-depth research in the field. The Handbook was first presented to the public at the 2005 annual UNHCR NGO Consultations held in Geneva in September. It is intended to serve as a practical guide for refugee experts, lawyers, judges, UNHCR offices, national authorities, NGOs and others who are involved in asylum claims submitted by Palestinian refugees. The Handbook addresses problems and protection gaps facing Palestinian refugees who seek protection under the 1951 Refugee Convention and/or the 1954 Stateless Convention in third countries outside the Arab world. It aims to strengthen implementation of legal protection standards applicable to Palestinian refugees, in particular the rights embodied in Article 1D of the 1951 Refugee Convention.

The HHC contributed to the research materials and position papers issued by the **European Council on Refugees and Exiles** (ECRE) throughout the year. In May 2005, the HHC hosted ECRE's bi-annual general assembly meeting in Sopron, Hungary. The conference brought together over 70 representatives of refugee assisting NGOs from Europe. It focused on the theme of "The New Europe – Old Challenges", exploring current issues such as the external dimension of asylum and migration in the EU, capacities and gaps in refugee protection in the new Central European EU member states one year after enlargement, reception conditions for refugees and the protection situation of Chechen asylum seekers and refugees. The meeting provided an opportunity for the HHC to showcase its own activities and to highlight the challenges of refugee protection in Central Europe to its NGO partners around Europe.

➤ **Monitoring and advocacy on conditions of detention in police jails and penitentiary institutions**

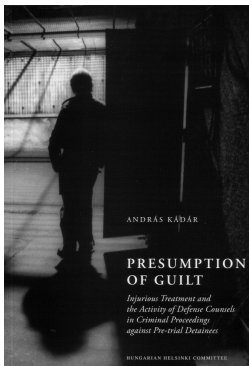
The Hungarian Helsinki Committee began human rights monitoring of police jails in 1996 pursuant to an agreement of cooperation with the National Police Headquarters. Monitoring teams of attorneys, doctors and sociologists are entitled to enter without advance notice and at any time of the day any police building in the country where persons can be detained. They observe the physical conditions of detention and may speak with detainees without supervision. Should the human rights monitors find any concerns or irregularities, the HHC notifies the police unit in charge of the jail or the National Police Headquarters or the prosecutor's office immediately.

Based on the success of monitoring police jails, in 2000 the HHC started to carry out human rights monitoring in prisons as well, after negotiating an agreement of cooperation with the National Prison Administration.

In 2005, the HHC continued its human rights monitoring program in police jails and prisons with support from the Phare ACCESS 2002 program and the Open Society Institute. The project consisted of monitoring visits to police jails (162 visits) and prisons (7 visits) and advocacy activities, as well as legal assistance and information provision. The HHC achieved a number of tangible results with regard to the monitoring activity, such as:

- Numerous detainees in police jails were unaware of the identity of their ex officio appointed defense counsels. The HHC monitors requested information from the police to this effect and provided verbal advice about contacting the defence counsel. In the Budapest 6-7<sup>th</sup> district police jail, based on the HHC's initiative, a new information sheet was prepared about how detainees can exercise their right to contact the outside world;
- In several jails, detainees complained about not being able to purchase basic necessities from their deposited money in a lawful manner. The HHC's actions resulted in changing the house rules in 2 Budapest jails.
- In the national prison in Nagyfa, the HHC noted unlawful practices with regard to inmates serving their sentence in the low-security grade. Following the HHC's report, the unlawful practice ceased and the freedom of movement within the prison of these inmates was later regulated in compliance with the law.
- Also in the Nagyfa prison, the quality of drink water in the prison gave rise to serious health concerns. The HHC called the attention of the prison service to this problem, which – as it requires a new water sanitation system to be installed in the prison – will be remedied by 2008 to comply with EU standards.
- The HHC called the attention of the prison service to various practical limitations on how inmates can exercise their right to maintain contact with their family members while in prison. In relation to all concerns raised, either practical solutions or future legislative amendments have been achieved.
- The HHC succeeded in assisting several prison inmates to be transferred to other prisons where maintaining contact with family members is less difficult.

The HHC also published individual monitoring reports following each prison visit, which were made public on our website.



Additionally, in February 2005 the HHC published *Presumption of Guilt: Injurious Treatment and the Activity of Defense Counsels in Criminal Proceedings against Pre-trial Detainees* (available in both Hungarian and English). The publication was based on the HHC's 2003 study on the subject.

Altogether more than 40 articles appeared in the Hungarian press about the HHC's human rights monitoring activity and its findings in police jails and prisons.

In March 2005, upon the request of the Ministry of Justice, the HHC submitted comments to the draft text of the new Penitentiary Code. Following up on this activity, on 8 July 2005, the HHC organised an expert roundtable about the new draft Penitentiary Code. As this forum was the only professional opportunity for each interested agency/NGO to share its views on the new code with other stakeholders, therefore all stakeholders expressed a lot of interest in the event. Participants, totalling 50 persons, included those governmental agencies and NGOs which took part in or commented on the drafting of the new code: the Ministry of Justice, the National Prison Service, the Legal Aid Office, judges and law professors as well as several NGOs.

One of the direct results of the roundtable was that the HHC successfully lobbied the Ministry of Justice to share the latest version of the draft Code with the HHC just before it was submitted for approval to the Government. Thus in early August the HHC submitted a second set of comments to the draft Code. As a result of the HHC's intensive advocacy efforts and recommendations, a number of positive developments have been achieved in the draft text of the Code, for example:

- the system of legal remedies against decisions taken by prison authorities regarding detention has been improved in the draft text,
- the inmate and his/her defence counsel and not only the prison authorities may also launch proceedings for changing the security grade of the prisoner,
- penitentiary judges will have to hear the inmate in all proceedings, and inmates may be represented by defence counsel,
- the daily one hour of open air exercise was re-introduced into the text,
- in addition to family members, the defence counsels may also send packages to inmates,



- placement in a special security cell shall be reviewed after six months by a specially constituted expert committee and not the reception committee.

In September 2005, the HHC published two information leaflets to raise awareness about human rights and detainees' rights in relation to law enforcement agencies and detention:

- *Information leaflet for persons in short-term arrest, custody and pre-trial detention:* Published in altogether 13,500 copies and in 7 languages (Hungarian, English, Russian, German, Romanian, Arabic and Serbian), this leaflet is being distributed to detainees in all penitentiary institutions (except convicted inmates) with the cooperation of the National Prison Service. The HHC's own human rights monitors also take part in distributing the leaflets to detainees in police jails.
- *Information leaflet on police measures, means of force and ill-treatment in official procedure:* The leaflet is published in 5,500 copies in Hungarian. The HHC sent copies of the leaflet for further distribution to numerous human rights NGOs, minority self-governments, family support centers and regional legal aid offices.

The HHC continued to participate in the project "**Preventing Torture in the Closed Institution of Central and Eastern Europe**", led by the Bulgarian Helsinki Committee in partnership with the IHF and several Helsinki Committees in the region. The project is supported by the European Commission under the EIDHR program. In 2005 within the project, the HHC organised an international human rights monitoring mission to detention facilities in Hungary and took part in a monitoring mission to Serbia and Montenegro and to Poland.

#### ➤ **Domestic and international human rights advocacy**

In addition to domestic legislative advocacy activities related to access to justice and the penitentiary code (see above under 2.1 and 3.2) the HHC commented on several draft pieces of legislation during the 2005 year and also carried out advocacy activities vis a vis international human rights protection fora.

In Spring 2005, the HHC was requested by the Minister of Justice to submit comments on the draft amendment of the Criminal Procedure Code already in the phase of the inter-ministerial negotiations. As the comprehensive plan for amending the CPC contained many provisions falling into the HHC's scope of interest and activities, the HHC commented on the following issues: injunctions in domestic violence cases, ex officio defense counsels and the restrictions on the right of complaint.

Near the end of 2005, the HHC started to work on compiling comments to the draft amendments to the Police Act, to be submitted in January 2006 to the Ministry of Interior.

In March 2005, the HHC was invited to meet with the delegation of the Council of Europe Committee for the Prevention of Torture (CPT) on the first day of the CPT's periodic visit to Hungary. The HHC's oral briefing and its written submission focused on detention conditions and the treatment of detainees in police jails and prisons and the detention of migrants and asylum seekers.

In September 2005, the HHC was invited to meet with the representative of the Council of Europe Commissioner for Human Rights at a meeting with Hungarian NGOs organized to follow-up the Commissioner's visit and ensuing report on Hungary. The HHC briefing focused on the legal aid reform and access to justice, the protection of refugees and asylum seekers and detention conditions.

Also in Fall 2005 work was started on the HHC's alternative report to the UN Committee Against Torture (CAT) in preparation of the CAT's periodic review of the report submitted by the Hungarian government, scheduled for the November 2006 session of the CAT. The HHC will submit the shadow report in Spring 2006 and will follow-up with an updated of developments prior to the CAT's session.

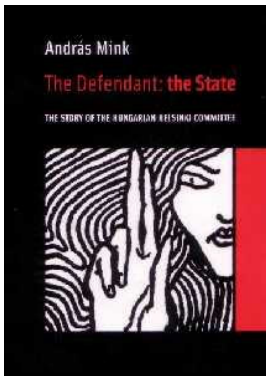
#### ➤ **Miscellaneous**

On 17-20 November 2005, the HHC hosted the **annual general assembly meeting of the International Helsinki Federation for Human Rights**, which was held in Budapest. The meeting brought together more than 60 human rights defenders from the Balkans, the Caucasus, Central Asia, Europe and North America representing the 44 national Helsinki Committees and cooperating organizations of the International Helsinki Federation for Human Rights (IHF).

On 20-22 November 2005 in Budapest, the HHC held an international conference "**Human Rights in the Democracy Movement Twenty Years Ago – Human Rights Today**". The conference, organized in partnership with the Open Society Archives and the International Helsinki Federation, took place twenty years

after the Alternative Cultural Forum in 1985, when the CSCE had organized one of its regular Helsinki follow-up conferences in Budapest that was called the Cultural Forum. Through the Forum governments of the Soviet Block countries wanted to demonstrate that Communist countries fully complied with all the requirements of the Helsinki Final Act. The American Helsinki Watch and the IHF invited writers and human rights activists to Budapest to speak about censorship, oppression of culture, and about writers in prison or in exile. Due to state authorities preventing the meeting from taking place at the original venue, the meeting was held in private flats and received much wider coverage in the Western press than the official Forum.

The November 2005 conference focused on the role of human rights in the democracy movement and in international politics during the final phase of the cold war. The conference also examined what happened with human rights after Communism and the Cold War had ended. It tackled what is happening to human rights throughout the entire world today as a "new war on terrorism" has started and what is happening in the former Communist countries where old forms of authoritarian thinking have survived the political changes. Speakers at the conference included distinguished guests such as former *Czech President Vaclav Havel*, former *Hungarian President Árpád Göncz*, *Russian human rights defenders Ludmilla Alexeeva and Yuri Orlov*, former *IHF President and member of the Czech Senate Karl von Schwarzenberg* and many other notable human rights activists from Europe and North America who have committed many years to the protection of human rights.



Coinciding with the above conference, the HHC published *The Defendant: the State*, authored by historian and HHC member András Mink (Open Society Archives). The book is about the history of the past ten, twenty, thirty years of the Hungarian Helsinki Committee.

The publication is available in both Hungarian and English.

### **Funding**

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### **Personnel**

In 2005, 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 counselling and monitoring programmes around the country.

We would like to express our thanks to the following interns who contributed to the HHC's work in 2005: Ms. Aynur Gulieva (Azerbaijan), Ms. Boglárka Benko (Hungary), Mr. Mike Matheson (Canada), Mr. Greg Csiszár (Canada), Ms. Cozette Thanh-Thao Tran-Caffee (US) and Mr. Márton Székhelyi (Hungary).

Budapest, 25 February 2006

Ferenc Kőszeg  
President  
Hungarian Helsinki Committee