Peter Szabadhegy,
Ambassador of Hungary to the UK,
Hungarian Embassy,
35 Eaton Place
London SW1X 8BY

23 October 2015

We, the undersigned, Lawyers and other professionals in the UK concerned with criminal, immigration and asylum Law, and with civil liberties and human rights, are writing to ask you to convey to your government our grave concern at the measures it has recently drafted into Law in response to the humanitarian crisis on Hungary's borders.

The new offence of unauthorised entry into the territory through a closed border, which is punishable by up to three years' imprisonment (or up to five years if carried out with a weapon or as part of a riot) appears to violate Article 31 of the Refugee Convention, which prohibits penalties against unLawful entry if undertaken by refugees (including asylum seekers, who are presumptive refugees), provided they have come directly from the country of persecution and present themselves to the authorities promptly. The requirement to 'come directly' from the country of persecution, as the travaux préparatoires to the Convention and the UNHCR Guidelines, make clear, is designed to prevent secondary movements of refugees who have been granted asylum in third countries. It should not be used to criminalise refugees who have merely transited through third countries.

Similarly, the new offence of damaging the border closure, punishable by up to five years' imprisonment) violates the Refugee Convention insofar as damage to the fence is necessary to effect entry to the territory.

We understand that around 500 prosecutions have been brought in the first two weeks of operation of the new measures. But criminal procedures for those arrested appear to breach human rights standards as set out in Article 6 ECHR (fair trial provisions) in several respects, such as:

- Failure to provide interpreters, so as to ensure that defendants understand the charge and can participate fully in the trial process;
- Deprivation of normal protections offered to juveniles facing criminal charges;
- House arrest in camps where normal preparations for trial (meeting with defence Lawyers, access to trial documents, telephone calls, etc.) are denied or rendered impossible.

Measures and practices which violate equality of arms and render trials unfair have no place in any Council of Europe member state.

Other new Laws which cause grave concern include:

- Authorisation of the use of rubber bullets, tear gas and 'all available measures' by security forces at the border, which, together with the erection of the border fence, denies access to the border by refugees, contrary to the Refugee Convention;

- The criminalisation of any assistance to anyone who has entered the country unLawfully, including the offering of lifts, food and shelter for humanitarian purposes, under the rubric of a crackdown on smuggling;

- The creation of 'transit zones' on Hungarian territory, on the border with Serbia, at which asylum seekers are routinely detained;

- Impossibly fast processing of asylum claims and appeals;

- Returns to unsafe third countries

We wish to add our voices to those of the more than 160 Hungarian Lawyers who have signed the declaration of Dr Sandor Esik and Dr Balazs Csire expressing their concern and anger at the violations of due process and lack of procedural safeguards for defendants in the new Laws. We urge your government to respect Hungary's international obligations to refugee rights, human rights and the rule of Law.

Yours sincerely,

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Rebecca Amos, Assistant psychologist
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