

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,

Neena Acharya, Solicitor

Andrew Alexander, Partner, Alexander & Co Solicitors

Rebecca Amos, Assistant psychologist

Maria Aristedemou, Reader in Law, Birkbeck College, University of London

Ali Naseem Bajwa QC

Liz Barratt, Partner, Bindmans LLP Solicitors

Sir Geoffrey Bindman QC

Jacobo Borrero, Solicitor

Mark Bowman, Solicitor

Nicola Braganza, Barrister

Dr Eddie Bruce-Jones, Senior lecturer in Law, Birkbeck

Susan Bryant, Barrister

Jonathan Butterworth, Barrister

Dr John Campbell, Reader in Anthropology and Law, SOAS

Grace Capel, Barrister
Rebecca Carr, Legal caseworker
Judith Carter, Solicitor
Kathryn Cronin, Barrister
Helen Curtis, Barrister
Liz Davies, Barrister
Tim Davies, Legal caseworker
Christopher Desira, Solicitor
Professor Costas Douzinas, School of Law, Birkbeck
Laura Dubinsky, Barrister
Annette Elder, Partner, Elder Rahimi Solicitors
Nadine El-Enany, Lecturer in Law, Birkbeck
Jane Elliott-Kelly, Barrister
Attieh Fard, Solicitor
Liz Fekete, Director, Institute of Race Relations
Dr Nuno Ferreira, Senior Law lecturer, University of Liverpool
Justine Fisher, Barrister
Professor Peter Fitzpatrick, School of Law, Birkbeck
Helen Foot, Barrister
Kay Foxall, Solicitor
Eric Fripp, Barrister
Professor Adam Gearey, School of Law, Birkbeck
Rosalyn Akar Grams, Solicitor
Celia Graves, Barrister
Jen Greenwood, Solicitor
Amy Grey, Solicitor
Dr Barbara Harrell-Bond OBE, Emerita Professor, Refugee Studies Centre, Oxford
Leonie Hirst, Barrister
Tod Hodson, Solicitor
Raza Husain QC
Majid Hussain
Ariston Ibarondo, Solicitor
Kim Jackson-Blott, Trainee clinical psychologist
David Jones, Barrister
Andrew Jordan, Immigration adviser
Peter Jorro, Barrister
Ian Kane, Legal services manager
Dr Sarah Keenan, Law lecturer, Birkbeck
Baroness Kennedy of the Shaws QC
Charine Khan, Solicitor
Shazia Khan, Barrister
Stephen Knafler QC
Catrin Lewis, Barrister

Gemma Loughran, Barrister
Jacqui Lovell, Community psychologist
Stephen Lue, Barrister
Keelin McCarthy, Barrister
Ian Macdonald QC
Donatus Marcus, Solicitor
Nicole Masri, Solicitor
James Mehigan, Barrister
Elizabeth Millar, Solicitor
Terry Munyard, Barrister
Sonali Naik, Barrister
David Neale, Barrister
Greg O'Ceallaigh, Barrister
Ed O'Driscoll, Solicitor
Raphael Onyango, Solicitor
Alison Pickup, Barrister
Krisha Prathepan, Solicitor
Chris Randall, Solicitor
Raj Rayan, Immigration adviser
Fiona Ripley, Solicitor
Philippa Roffey, Solicitor
Dan Rosenberg, Solicitor
Sadat Sayeed, Barrister
Isaac Shaffer, Solicitor
Sophie Spector, Solicitor
Nikki Swan, Clinical psychologist
Mark Symes, Barrister
Leslie Thomas QC
Ronan Toal, Barrister
Hamza Tramboo, Law student
Shireen Tramboo, Law practice professional
Giulia Tranchina, Solicitor
Anthony Vaughan, Barrister
Annie Campbell Viswanathan, Supervising immigration caseworker
Frances Webber, Barrister (retired)
Mary Westcott, Barrister
Jo Wilding, Barrister
Marc Willers QC
Rebekah Wilson, Barrister
Sheona York, Solicitor