

Amnesty International Report 2021/22; The State of the World's Human Rights; Hungary 2021

In June, parliament adopted a homophobic and transphobic law. Hungary was involved in the Pegasus spyware scandal. The European Court of Human Rights ruled against Hungary's placement of asylum seekers in transit zones and its practice of pushbacks. The right to freedom of peaceful assembly was restricted until 23 May and an existing state of emergency was extended until 1 June 2022. The government resisted putting in place effective measures to protect judges' freedom of expression and other rights from undue interference.

Background

Hungary's Constitutional Court upheld a six-month ban on assemblies and demonstrations in a retrospective decision made in July. A new restrictive asylum system was introduced under the state of emergency. The Equal Treatment Authority, an established human rights protection body, was abolished in January without consultation and its functions transferred to the Office of the Commissioner for Fundamental Rights. In September, the Global Alliance of National Human Rights Institutions recommended downgrading the status of the Commissioner from "A" to "B", in accordance with the Paris Principles, as the office had not engaged with or addressed all human rights issues in Hungary. Hungary took over the Presidency of the Council of Europe's Committee of Ministers in May for six months.

Discrimination

LGBTI people

Hungary adopted a homophobic and transphobic law in June 2021, banning access by those under 18 to material that promotes or portrays "divergence from self-identity corresponding to sex at birth ... or homosexuality". The new law violated the rights to freedom of expression, non-discrimination and education.¹ The European Commission launched an infringement procedure against Hungary in July.

Women

The government was still reluctant to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) that it signed in 2014, alleging that the convention promoted "gender ideology" and "illegal migration".²

Women continued to experience widespread gender-based discrimination. Many government policies and communications actively reinforced gender stereotyping, promoting women's domestic roles while downplaying the importance of gender equality.

The reluctance of employers to provide flexible working arrangements, combined with the traditional allocation of care duties within the family to women, exacerbated the negative impact of the Covid-19 pandemic on gender equality.

Roma

Discrimination against Roma persisted. Children from Roma families living in poverty continued to be separated from their families and placed in long-term state care, even though this practice is forbidden by the Hungarian Child Protection Act.

Alarm about the prevalence of racist hate speech against Roma and other minorities and about hate crimes was raised by the Human Rights Council Working Group that met from 1 to 12 November.

Right to privacy

More than 300 Hungarian nationals were identified as possible targets for the Pegasus spyware produced by surveillance technology firm NSO Group. Media groups identified the Hungarian authorities as a potential client of the company. Experts from Amnesty International were able to

confirm, through technical evidence, several cases where the spyware was successfully installed on phones, some of them belonging to journalists. The Hungarian National Security Services Act remained in violation of Article 8 of the European Convention on Human Rights, according to a European Court of Human Rights (ECtHR) judgment in the case of *Szabó and Vissy v. Hungary* in 2016.

In a unanimous ruling in July in the case of *Vig v. Hungary*, the ECtHR found that enhanced police checks used in 2013 when Dávid Vig – then a lawyer and academic – was stopped and searched under the provisions of the Police Act, were in violation of the right to privacy.

Refugees' and migrants' rights

The European Border and Coast Guard Agency (Frontex) suspended its operations in Hungary in January after the government failed to address a December 2020 ruling by the Court of Justice of the EU (CJEU) against its asylum law and practices. The court ruled that large-scale pushbacks introduced by legislation in 2016 violated Hungary's obligation to ensure effective access to international protection for asylum seekers. In 2021, more than 71,000 pushbacks took place at the Serbian-Hungarian border.

In March, the ECtHR ruled that detaining asylum seekers in areas known as “transit zones” qualified as unlawful detention. The case concerned an Iranian-Afghan family of five (including a pregnant mother with three minors) who were held in the Röszke transit zone in unsuitable conditions without food or proper medical treatment, which amounted to inhuman and degrading treatment. This, combined with the lack of a statutory basis for detention and its duration, also amounted to unlawful detention. After an initial rejection of their asylum application, the applicants were recognized as beneficiaries of subsidiary protection.

In July, the ECtHR ruled on pushbacks for the first time in the case of *Shahzad v. Hungary*, concerning the denial of access to the asylum procedure and the violent deportation of a Pakistani national by Hungarian police officers in 2016. The court found that Hungary violated the prohibition of collective expulsion and the right to an effective remedy. The practice nevertheless continued.

Freedom of expression, association and assembly

The law on “the transparency of civil society organizations capable of influencing public life” (the new LexNGO) came into force on 1 July, leading to further control and stigmatization of NGOs.³ New legislation had been needed following a June 2020 CJEU ruling that the 2017 law on NGO transparency introduced discriminatory and unjustified restrictions to freedom of association. However, while repealing the previous law, parliament introduced new regulations that once again unduly restricted the right to freedom of association. The law prescribed annual audits of NGOs whose total assets exceeded HUF20,000,000 (€55,000). NGOs expressed concern that these new provisions could lead to arbitrarily selective and intimidatory audits by the authorities.

In its decision on 16 November 2021 about the LexNGO 2018 (“Stop Soros”), the CJEU found that Hungary had violated both the Procedures and Reception Directives of the EU by introducing an inadmissibility ground to quasi automatically reject the asylum applications of those arriving in Hungary through a “safe transit country”. The court also found that Hungary had unlawfully criminalized the activities of those who provided assistance to asylum seekers.

Right to a fair trial

Despite a 2016 ECtHR judgment that the dismissal of the president of the former Hungarian Supreme Court, András Baka, violated the right to a fair trial and the right to freedom of expression, Hungary continued to fail to implement the decision or take general measures to protect judges' right to freedom of expression and other rights from undue interference. Hungary failed to submit an updated action plan by December 2021.

In a more positive development, Hungary's Constitutional Court ruled in March that the provision allowing for unlimited pretrial detention pending a first decision was unconstitutional as it violated the right to liberty, and that pretrial detention should have an absolute limit. The provision was accordingly repealed in September.

The European Commission's annual Rule of Law report identified problems severely threatening the rule of law in Hungary. The Commission was not able to identify any substantial improvements as compared to the findings of the 2020 report. Hungary's system of checks and balances, as well as the transparency and quality of the legislative process, remained a source of concern.

1. [*Hungary: The Russian-style Propaganda Law Violates Human Rights and Threatens LGBTI People*](#) (Index: EUR 27/4492/2021), 22 July.

- 2. ["Open Letter: Human rights violations in Hungary ahead of its Presidency of the Council of Europe Committee of Ministers", 20 May.](#)
- 3. [Hungary Repeals Controversial Laws Restricting the Right to Association but Concerns Remain \(Index: EUR 27/4526/2021\), 29 July.](#)

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