

Amnesty International Report 2015/16 - The State of the World's Human Rights - Hungary

Hungary constructed fences along its southern borders, criminalized irregular entry to its territory and expedited the return of asylum-seekers and refugees to Serbia, effectively transforming Hungary into a refugee protection-free zone. Roma continued to be at risk of forced eviction and inadequately protected against hate crimes.

Background

In March, the NGOs Eötvös Károly Institute, Hungarian Helsinki Committee and Hungarian Civil Liberties Union published a report concluding that the replacement of judges of the Constitutional Court and the 2010 constitutional amendments undermined the Court's independence.

Refugees and asylum-seekers

In response to a significant increase in the number of refugees and migrants entering the country since January, the government adopted measures aimed at keeping them out of the country. On 15 September, the government declared a "state of crisis due to the situation caused by mass immigration". On the same day, the construction of a fence on the border with Serbia was finished, while amendments to the Criminal Code and Asylum Law entered into force, making it an offence to enter the country through the border fence and establishing "transit zones" at the border. On 17 October, a fence on the border with Croatia was completed. Within two days, the number of refugees and migrants entering Hungary daily dropped from over 6,000 to a few dozen. By the end of the year, over 900 people were prosecuted for "illegal border crossing" and subjected to expulsion proceedings.

Criminalization of irregular entry and the sealing off of the borders complemented legislative measures adopted in the summer that had restricted access to asylum more generally. On 1 August, an amendment to the Asylum Law entered into force, authorizing the government to issue a list of "safe countries of origin" and "safe third countries of transit". As a result, asylum applications by people from "safe countries of origin" could be rejected, and those who transited through "safe third countries" before reaching Hungary could be returned to the transit country. Serbia, Macedonia and EU member states, including Greece, were subsequently deemed "safe" by the authorities. This led to concerns expressed by NGOs that the application of the law could lead to the violation of Hungary's obligation of *non-refoulement*, as Hungary would not assess whether an individual applicant would be at risk of serious human rights violations in the country of origin or transit. In October, the European Commission expressed a number of concerns in response to these measures, including that Hungary is carrying out a "possible quasi-systematic dismissal" of asylum applications submitted at the border with Serbia. In December, the European Commission initiated infringement proceedings against Hungary for breaching the EU asylum law.

Freedom of association

NGOs critical of government policies faced harassment and threats of losing their registration. In January, four NGOs responsible for managing and distributing the European Economic Area

(EEA)/Norway Grants faced a criminal investigation and were threatened with suspension of their tax registration number. The proceedings initiated to withdraw their registration were suspended by the courts in February and May. On 19 June, following a motion submitted by NGOs, the Administrative and Labour Court of Eger requested the Constitutional Court to clarify whether the attempt to suspend the NGOs' registration was in breach of the Basic Law of Hungary (the Constitution). On 5 October, the Constitutional Court found that the procedure did not violate the Constitution.

One of the affected NGOs, the Ökotárs Foundation, reported in January that the Office of the Public Prosecutor was also investigating the lawfulness of activities of two NGOs that received funding from the Grants. In June, it concluded its investigation into the NGOs and found no criminal wrongdoing. In May, the Norwegian Ministry for European Economic Area and EU Affairs announced the results of an independent audit into NGO programmes funded by the Grants in Hungary and concluded that the programmes were run in line with legal requirements.

A district court in Buda held in January that a police raid carried out on the offices of two NGOs in September 2014 following a criminal complaint by the Government Control Office for misappropriation of assets was unlawful.

Discrimination – Roma

Discrimination against Roma in access to housing and the failure to protect Roma and other minorities from hate crimes continued. In June, the European Commission against Racism and Intolerance noted that racist motivation still doesn't feature as a specific aggravating circumstance for offences in the Criminal Code.

Hate crimes

In September, the County Court in Eger held that police discriminated against Roma in the town of Gyöngyöspata when it failed to protect them from far-right groups in the spring of 2011. The complaint was submitted by the Hungarian Civil Liberties Union, which alleged that police failed to intervene against various paramilitary groups that held patrols in the Roma neighbourhood in Gyöngyöspata for several weeks.

In October, the European Court of Human Rights found in *Balázs v. Hungary* that Hungary had violated the prohibition of discrimination, resulting from the failure to investigate a racist attack against a Romani man in Szeged in 2012. The man suffered bodily injuries and alleged that they were aggravated by the perpetrator's racist motive. The European Court of Human Rights held that the prosecuting authorities failed to identify the racist motive of the crime despite "powerful hate crime indicators", in breach of the European Convention on Human Rights.

Access to housing

Around 100 families, mainly Roma, remained at risk of forced eviction in the "Numbered Streets" neighbourhood of Miskolc. Between March and June, roughly 120 families were forcibly evicted. Many had to move in with relatives, to houses requiring renovation, or face homelessness. The vast

majority of previously evicted families were not provided with adequate alternative housing or compensation.

On 14 May, Hungary's highest court ruled that the Miskolc municipality violated the country's equal treatment legislation when it forcibly evicted hundreds of Roma from a long-established neighbourhood, as well as their rights to a private and family life and to freedom of movement.

On 5 June, the Office of the Commissioner for Fundamental Rights published a report on the situation in Miskolc, criticizing the municipality's approach to so-called "slum clearance". The report also urged the municipality to prevent evictions, develop a plan for families facing homelessness and devise a holistic approach with the Ministry of Human Capacities to deal with slum eliminations.

In July, the Equal Treatment Authority upheld a discrimination complaint by the Hungarian NGO NEKI against the municipality. The municipality's appeal was pending at the end of the year.

Freedom of religion

Freedom of religion continued to be restricted. Following the 2011 Church Law that required churches and other religious organizations to re-register and the 2014 European Court of Human Rights judgment in *Magyar Keresztény Mennonita Egyház and others v. Hungary*, which held that the deregistration had violated the right to religious freedom, the government proposed an amendment to the law in September. However, according to the NGO Forum for Religious Freedom, the amendment did not address the arbitrariness of the deregistration procedure that was criticized by the European Court of Human Rights. The Forum further voiced concerns that a number of religious communities would continue to be denied rights they held previously as churches.