Access to procedures and non-refoulement - Hungary

Overview

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Relevant EU legislation

Hungary is bound by the recast Asylum Procedures Directive (APD) and has transposed its provisions through Law LXXX of 2007 on asylum (Asylum Law).

National legislation

Asylum Law, Article 32/D, 32/E, 32/F, Chapter IX/A

Asylum Decree, Article 35, Chapter VII/A

Government Decree 361/2024. (XI. 28.) on the applicability of the temporary arrangements for the asylum procedure [361/2024. (XI. 28.) Korm. Rendelet a menekültügyi eljárás átmeneti szabályainak alkalmazhatóságáról].

Competent authority and stakeholders

Area	Competent national authority	Assistance to competent authority (if applicable)
Screening at the external border	(not yet applicable)	(not yet applicable)
Biometric data	Police | Rendőrség	Not applicable

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Area	Competent national authority	Assistance to competent authority (if applicable)
Making an application	**At the border:** Border Guard | Határrendészet **In case of mass influx:** Border guard in transit zones (in place between March 2017 and 26 May 2020) Embassy of Hungary in Belgrade or Kyiv (currently in place, since May 2020 - although the CJEU ruled that the legislation unlawfully restricted access to the asylum procedure, in breach of the recast APD, article 6. European Union, Court of Justice of the European Union [CJEU], European Commission v Hungary, C-823/21, ECLI:EU:C:2023:504, 22 June 2023. Link redirects to the English summary in the EUAA Case Law Database.), if the applicant also confirms it in person before the Hungarian Border Guard. **On the territory:** National Directorate-General for Aliens Policing (NDGAP) | Országos Idegenrendészeti Főigazgatóság (OIF) **In detention:** Police | Rendőrség(on site)/ Penitentiary Institution (on site)	Any Hungarian authorities on the territory

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Area	Competent national authority	Assistance to competent authority (if applicable)
Registering an application	National Directorate-General for Aliens Policing (NDGAP) | Országos Idegenrendészeti Főigazgatóság (OIF)	Not applicable
Lodging an application	National Directorate-General for Aliens Policing (NDGAP) | Országos Idegenrendészeti Főigazgatóság (OIF)	Not applicable
Information provision	National Directorate-General for Aliens Policing (NDGAP) | Országos Idegenrendészeti Főigazgatóság (OIF)	Not applicable

Access to the territory

Official external border-crossing points

Hungary has external air border crossing points: Liszt Ferenc International Airport in Budapest, Debrecen International Airport, Pécs-Pogány International Airport, Sármellék International Airport.

Hungary has external land border crossing points: Ásotthalom, Bácsalmás, Bácsszentgyörgy, Barabás, Beregsurány, Hercegszántó, Kübekháza, Röszke, Lónya, Tiszabecs, Tiszasziget, Tompa, Záhony

Hungary has external river border crossing points: Mohács, Szeged

Emergency measures in cases of mass arrivals

Asylum Law, Chapter IX/A provides for rules that may be applied, when the government declares a state of emergency due to mass migration. In this case, applications may only be submitted in a transit zone, except for cases when the person is in detention, immigration detention or is already lawfully staying in Hungary.

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Transit zones were operating in Hungary between 2015 and 2020. The CJEU concluded that holding applicants in transit zones amounted to detention and the procedure applied between March 2017 and May 2020 were found to be in breach of EU law. While transit zones closed in May 2020, the Asylum Law still includes the special measures to be applied during a crisis situation due to mass migration.

Transitional measures were adopted in June 2020 and converted into Government Decree 361/2024. (XI. 28.) on the applicability of the temporary arrangements for the asylum procedure [361/2024. (XI. 28.) Korm. Rendelet a menekültügyi eljárás átmeneti szabályainak alkalmazhatóságáról]. These measures established the embassy procedure. The CJEU ruled in 2023 that these rules were in breach of recast APD, Article 6. The rules were originally established due to an emergency situation caused by the COVID-19 epidemic situation. The Government Decree in 2024 changed the reasoning due to an emergency situation caused by the war and humanitarian catastrophe in Ukraine.

People wishing to apply for international protection in Hungary must firstly submit a declaration of intent at a Hungarian embassy abroad – according to the Ministry of Foreign Affairs and Trade Decree (23/2024. (XII. 30.) KKM rendelet a menedékjogi kérelem benyújtására irányuló szándéknyilatkozattal kapcsolatban nagykövetségek kijelöléséről), this must be an embassy in a neighbouring country which is not member of the EU, in practice, Ukraine and Serbia. The NDGAP organises a remote interview with the applicants and notifies the embassy within 60 days, whether it suggests the delivery of a one-time visa allowing the applicants to enter the territory of Hungary. If the NDGAP rejects the request, it does not have an obligation to provide reasoning for the rejections. The visa is applicable for 30 days, and applicants must organise their travel to Hungary within this period. When they arrive to Hungary, they must immediately signal to the border guards that they wish to apply for asylum. The border guards notify the NDGAP about the applicants' arrival. The NDGAP may assign applicants to a closed facility (detention) for 4 weeks after arrival. The asylum procedure then starts according to the general rules.

The embassy procedure and people can submit an asylum application immediately on the territory of Hungary, when:

- The applicant has temporary protection and reside in Hungary;
- The applicant is a family member of a beneficiary of international protection or a person with temporary protection recognised in Hungary;

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- The applicant is in detention or is under a coercive measure depriving liberty.

When a foreigner crosses the border in an irregular manner to apply for asylum, the border guard directs them to the closest Hungarian embassy in the neighboring country.

Protection from refoulement

The principle of protection from *refoulement* is enshrined in Asylum Law, Article 45. In addition, Law XC of 2023 on the general rules for the entry and residence of third country nationals, Article 102(2) and (3) notes that a foreigner cannot be returned during the asylum procedure, while they have a legal right to residence.

The embassy procedure allows the border guard to return persons wishing to apply for asylum to a neighboring country, if they crossed the border in an irregular manner.

Protection from *refoulement* at external air borders

There are no specific mechanisms in place. Under current legislation, it is not possible to apply for asylum at the border.

Protection from *refoulement* at external land borders

There are no specific mechanisms in place. Under current legislation, it is not possible to apply for asylum at the border.

Protection from *refoulement* at external sea borders

Not applicable in the case of Hungary.

Protection from *refoulement* in case of emergency measures related to mass arrivals

There are no specific mechanisms in place.

Border procedure

There are two types of border procedures:

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- Procedure at the border: Asylum Law, Article 71/A
- Airport procedure: Asylum Law, Article 72, Asylum Decree, Article 97

The procedure at the border can be applied, when a person makes an application either before entering the territory of Hungary, or - after apprehension in the 8 km zone of the border – in a transit zone.

The airport procedure applies when a person makes an application before entering the territory of Hungary at an international airport.

These procedures cannot be applied, when the government declares a crisis situation due to mass migration (Asylum Law, Article 80/I(i)). In that case, applications are only processed in transit zones (Asylum Law, Article 80/J). According to the currently applicable temporary rules on the asylum procedure (“embassy procedure”), the measures related to the border procedure are not applicable. (Government Decree 361/2024. (XI. 28.), Article 7(a)).

Procedure at the border: The NDGAP must prioritise cases in this procedure. The decision must be notified as soon as possible. When the NDGAP rules out the inadmissibility of an application, the applicant may enter the territory of Hungary and the procedure continues according to the regular rules. This procedure cannot be applied when an applicant has special procedural or reception needs. The procedure does not allow for the involvement of an expert, specialised authority. The personal interview is conducted in the transit zone or through videoconferencing. The NDGAP must decide with priority, within 8 days from the registration. If no final decision is made within 4 weeks, the applicant may enter the territory of Hungary and the procedure continues according to the regular rules.

Airport procedure: This procedure cannot be applied when an applicant has special procedural or reception needs. Their family members are also exempted. When the NDGAP rules out the inadmissibility of an application and the applicability of the accelerated procedure, the applicant may enter the territory of Hungary. The personal interview must be conducted as soon as possible. It can take place in the transit zone or through videoconferencing. The NDGAP notifies the decision as soon as possible. The NDGAP must decide within 8 days from the registration. If no final decision is made within 8 days, the applicant may enter the territory of Hungary and the procedure continues according to the regular rules.

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Procedural aspects

Making, registering and lodging an application typically overlaps in the regular procedure. If the applicant expresses its wish to apply for asylum to an authority other than the NDGAP, the authority has 24 hours to transmit this to the NDGAP and in that case, there may be around 1 or 2 days between the making and the registering of an application.

In the embassy procedure, applicants must first express their intent to apply for asylum. Then, if they are granted a visa to enter the country, they make an application with the border guard. The border guard must transmit this to the NDGAP within 24 hours. The NDGAP then registers the application, and at the end, with the signature of the application, it is deemed to be lodged.

Making an application

Responsible authority and place

According to the general rules, applicants can make an application with the NDGAP, in its regional offices or in the head office in Budapest. If the applicant expresses its wish to apply for asylum to an authority other than the NDGAP, the authority has 24 hours to transmit this to the NDGAP. The NDGAP has 3 days then register the application and assign a reception facility to the applicants. In the embassy procedure, when an applicant is granted a visa to enter the territory of Hungary, they must immediately express their wish to apply for asylum with the border guard. The border guard transmits this to the NDGAP within 24 hours. According to the rules applicable during an emergency due to mass migration, an asylum application can only be made in designated transit zones.

Possibility to apply from outside the territory

According to the general rules, there is no possibility to apply from outside of the territory. However, according to the currently applicable rules for the embassy procedure, foreigners wishing to apply for asylum in Hungary must first make a declaration of intent at the embassy in Belgrade or Kyev, and the NDGAP decided whether they can be granted a visa to travel to Hungary to apply for asylum.

Formal requirements for making an application

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There are no formal requirements to make an application. It is also possible on behalf of other family members present.

Registering an application

Responsible authority and place

Applicants can make an application with the NDGAP, in its regional offices or in the head office in Budapest. According to the rules applicable during an emergency due to mass migration, asylum applications are registered in designated transit zones.

Practical steps to register the application

The registration process records in written the following elements:

- Name(s) and surname(s);
- Maiden name(s) and surname(s);
- Former name(s) and surname(s);
- Pseudonym(s);
- Place and date of birth;
- Gender;
- Mother’s maiden and former maiden name(s) and surname(s);
- Current nationality or nationalities or stateless status;
- The data of ID documents and travel documents in possession of the applicant (the documents’ identification mark and number, validity period, date of issuance, name of the issuing authority, place of issuance)
- The application for asylum.

When some of the documents or information is missing this is recorded during the registration process.

When family members apply together, these pieces of information must be provided for each applicant.

The application process includes: identification, documents check (during an interview), establishing the identity of an applicant, establishing the route taken by the person when arriving in Hungary, body and luggage check, and provision of information about next steps in the procedure, taking a photograph of the applicant, fingerprinting (performed only if older than 14) and medical examination - if necessary.

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Data collection

Data collection is governed by the Asylum Law, Chapter X. The data provided is managed in the authority's database, and it is managed by the NDGAP.

The following data is included in the database (Asylum Law, Article 83):

- Personal identification data;
- Facial image;
- Fingerprints for those above 14 years;
- The fact that the person is an unaccompanied minor;
- The fact that the person was transferred back through a Dublin procedure and the date of the transfer;
- The fact and the date of application, and the withdrawal of an application;
- The fact that the person is recognised as beneficiary of international protection or registered with temporary protection, the name of the authority or court issuing the decision, and the number of persons covered by the decision;
- The fact that the application was rejected, the procedure was terminated, or the status was withdrawn, the name of the authority or court issuing the decision, and the number of persons covered by the decision;
- The fact that the applicant was transferred to another EU+ country under the Dublin III Regulation, the reasons for the transfer, the date of the transfer decision and the transfer itself, and the number of persons covered by the decision;
- The applicant's marital status, profession, education;
- The applicant's address, residence, place of stay, the form and period of material reception conditions granted;
- The applicant's country of origin;
- Selected data relating to race, nationality, belonging to a particular social group, religion, political opinion referenced as reason for the application;
- The data of ID documents and travel documents in possession of the applicant (the documents' identification mark and number, validity period, date of issuance, name of the issuing authority, place of issuance);
- Family members' personal identification data and address of place of stay in Hungary, when arriving together with the applicant;
- Selected data relating to income and financial situation, which was included in a declaration or document provided by the applicant, the tax authority or social security;
- The fact that the procedure was started ex officio;

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- The procedural acts and their dates during the asylum procedure;
- The grounds, time limit, period, place of detention and the name of the authority ordering it;
- The grounds for assigning an obligatory place of stay, the number of the order, the name of the authority issuing the order, and the address of the stay;
- The amount of the financial guarantee, the date of its deposition, return or overtake by the state;
- The technical number corresponding to the facial image;
- The date and place of death, the fact of declaration of death, the presumed date and time of death, the name of the court in charge;
- The identifier, date and place of issuance of the residence permit delivered to an applicant;
- The type, identifier, date and place of issuance of ID documents and travel documents delivered to beneficiaries of international protection and people with temporary protection.

The Chapter also defines the authorities who may have access to certain data (Asylum Law, Article 87). Sensitive data can only be shared with the consent of the applicant.

Documentation

At the end of the application process (after lodging), the applicant is provided with a permit based on humanitarian considerations, to prove that the applicant is staying legally in Hungary.

Lodging an application

Responsible authority and place

Applicants can make an application with the NDGAP, in its regional offices or in the head office in Budapest. According to the rules applicable during an emergency due to mass migration, asylum applications are registered in designated transit zones.

Formal requirements to lodge an application for international protection

The lodging overlaps with the registration procedure. Following the registration process, the application is considered to be lodged once it is registered in the

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NDGAP's database. It is also the start of the asylum procedure. The application may only be lodged in person.

Documentation

At the end of the application process (after lodging), the applicant is provided with a permit based on humanitarian considerations, to prove that the applicant is staying legally in Hungary. The applicant is not provided with a copy of the details of the application.

Information provision

The NDGAP must provide information on the applicant's rights, obligations and consequences for breaching the obligations at the beginning of the procedure. The fact that the information provision took place and that the applicant acknowledged it is recorded in the NDGAP's database.

Passport and other documents

Obligation to surrender original documents

Requirement to submit original documents

Asylum Law, Article 5(2)(a) and (3) obliges applicants to cooperate with the authorities and hand over any identity or travel documents to the NDGAP, or, lacking such documents, do everything that can be expected to clarify their identity.

Consequence of a refusal to surrender documents

According to Asylum Law, Article 59, the fact that the applicant withholds important documents suggests a lack of protection needs.

Return of original documents to the applicant

Asylum Law, Article 83(2) states that these documents are handled by the NDGAP for 25 years from the rejection of an application, termination of a procedure or cessation of a beneficiary of international protection status. Thus, they cannot be returned to the applicant.

Other documents

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The Asylum Law obliges applicants to hand over any important document. According to Asylum Law, Article 59, the fact that the applicant withholds important documents suggests a lack of protection needs. Asylum Law, Article 83(2) states that these documents are handled by the NDGAP for 25 years from the rejection of an application, termination of a procedure or cessation of a beneficiary of international protection status. Thus, they cannot be returned to the applicant.

Requirement to read digital data

Asylum Law, Article 32/Z allows the NDGAP to confiscate any object (for example, mobile phones, laptops) when the facts cannot be clarified otherwise, there would be a significant delay in clarifying the facts without confiscation or not seizing the object would jeopardise the success of the examination procedure. The object must be returned, when it is not necessary anymore for the clarification of facts.

Guarantees for applicants

Confidentiality principle

During the asylum procedure, only authorised persons have the opportunity to access the documentation of the asylum seeker.

Information provision

Links to information provided in the national context:

Authority/agency: National Directorate-General for Aliens Policing (NDGAP) | Országos Idegenrendészeti Főigazgatóság (OIF)

Title: As a refugee in Hungary

Type: Website

Hyperlink: https://oif.gov.hu/as-a-refugee-in-hungary

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Interpretation

Applicants can request an interpreter when registering the application. The NDGAP may also request the assistance of an interpreter ex officio, based on a contract with the interpreter. It is not obligatory to appoint an interpreter, when the case officer speaks the applicant's mother tongue or another language they understand, and the applicant confirms in written that they do not require assistance from an interpreter.

When necessary, applicants may give their approval to rely on bilingual interpretation, if one of the client's companions speaks a language in which an officer from a relevant service is proficient. The interpretation is provided with the use of IT tools in almost every case. An interpreter can log in, from any office of the asylum authority. Video conference systems used: Live Meeting System; NIS Videoconferencing System.

Legal assistance and representation

Free legal assistance for the administrative procedure is regulated by the new Asylum Procedures Regulation (2024/1348) which entered into force on 11 June 2024 and will enter into application as of 12 June 2026.

Legal assistance is not ensured for the embassy procedure. Once on the territory of Hungary, the Legal Aid Service is responsible for this support, while civil society organisations (for example, the Hungarian Helsinki Committee) also provide legal assistance and support.

Asylum applicants are eligible for free legal aid if they are entitled to receive benefits and support under the Asylum Act. Section 3(1)(f) provides that legal aid shall be available to those who are eligible for it, as long as the person is involved in a public administrative procedure and needs legal advice in order to understand and exercise their rights and obligations or requires assistance with the drafting of legal documents or any submissions.

Since the benefit from free legal aid does not operate ex officio, applicants need to undergo a separate application procedure for legal aid request under the

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general provisions of the Legal Aid Act. This means that legal assistance is typically not available at the very first steps of the procedure, for the registration and lodging of an application.

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