

Brussels, 11 June 2024

To whom it might concern,

I am writing you on behalf of the European Council on Refugees and Exiles (ECRE), an alliance of 122 organisations across 40 European countries, which works on displacement in Europe and in Europe's external policies.

Among other activities, ECRE carries out research and training on EU asylum law, including management of the Asylum Information Database (AIDA), which contains information on asylum procedures, reception conditions, detention and the content of international protection in 23 European countries. The AIDA database is used by EU policy-makers, courts, researcher, practitioners and the media across Europe. It is partially funded by the EU under the Asylum Integration and Migration Fund (AMIF).

ECRE is currently updating the country reports in the AIDA database to include factual information for the year 2023.

In this context, we would like to offer you the right of reply on the material in the reports for the AIDA project concerning Hungary before its publication.

If you have any comments on the facts and/or legislative information presented in the report please feel free to contact ECRE within the next two weeks, after which ECRE will proceed with the publication of the report.

Any comments will be treated in confidence, and only shared with the authors of the reports (unless you indicate otherwise, see below). We have provided the attached template to structure your comments in case that is useful; you may also provide comments in any other format. However, comments should be provided in English. Any comments you may have will be duly taken into account.

Should it be of interest to you, we would be pleased to publish comments in a separate Annex to the country report on the AIDA website. Please inform us if you are interested in taking up this option.

We kindly request that you submit your comments within two weeks from the date of this letter. Please note that ECRE will only be able to consider comments provided within this deadline, to avoid delays in publication.

You will find the AIDA Project Right of Reply Template below, and the draft country report on Hungary attached to this letter.

We look forward to your reply and remain at your disposal should you have any questions or need further information.

Yours sincerely,
Catherine Woollard
Director, ECRE

The AIDA country reports are part of the Asylum Information Database (AIDA), partially funded by the European Union's Asylum, Migration and Integration Fund (AMIF). The contents of this report are the sole responsibility of ECRE and can in no way be taken to reflect the views of the European Commission.



Member State comments to the 2023 AIDA country report on Hungary – Department of Citizenship and Civil Registration

The Asylum Information Database (AIDA) is managed by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org. It covers 23 countries, including 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, and SI) and 4 non-EU countries (Serbia, Switzerland, Türkiye, and the United Kingdom). The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice. Each report documents asylum procedures, reception conditions, detention and content of international protection in the country it covers.

Based on the final draft for the AIDA country report on Hungary, we would like to offer you the opportunity to provide your comments on the facts and legislative information presented in the report.

ECRE will only be able to consider comments provided in English within two weeks from the date of receipt, to avoid delays in publication.

Upon request from the Member State, the comments will be published in a separate annex to the country report on the AIDA website.

We look forward to receiving your feedback.

Comments

The template reflects the chapters of the report.

Please ensure that your responses remain within the scope of each section. The comments should be provided in English. Where possible, information provided should be sourced.

You can add or delete rows in each section. There is no fixed length for the contribution.

1. Statistics

Extract from the country report	Page and section	Comments

2. Asylum Procedure

Extract from the country report	Page and section	Comments

3. Reception Conditions

Extract from the country report	Page and section	Comments

3. Detention of Asylum Seekers

Extract from the country report	Page and section	Comments

4. Content of International Protection

Extract from the country report	Page and section	Comments
Pursuant to the Act on Civil Registration Procedure, ¹ within one day from the birth of a child,	p.120 2. 2.1.	Parents are obliged to register the birth of their child on the first working day following the birth. If the birth took place in an institution, the birth is registered by the health care provider. In case the birth took place outside an institution, the birth is registered by the parent or by the responsible person referred to in the Government Decree on births outside an institution.
Menedék Association reported	p.121	If the father and mother are not married, and the

¹ Act I of 2010 on Civil Registration Procedure.

another issue with regard to birth registration in 2023: birth registration is difficult when the father and mother are not married and the father is not in Hungary or is already deceased at the time of birth.	2. 2.1.	father does not reside in Hungary or is deceased at the time of the birth, and the mother wishes the child to bear the father's surname, the father may make a declaration of recognition abroad for the purpose of registering the birth.
This causes problems if the mother wants the child to bear the father's surname.	p. 121 2. 2.1.	If the father's status is subsequently acquired, the parents may also declare the name of the child, who may bear the father's name
As it is set out in the Act on Civil Registration Procedure, non-Hungarian citizens have to prove that no obstacle to the marriage exists pursuant to their personal law. ²	p.121 2. 2.2.	It just needs to be declared upon registering the intention of marriage.
Therefore, in such cases, the Act on Civil Registration Procedure enables the applicants to ask for an exemption from the Registry Office ³ and provides <i>ex lege</i> exemption in cases where the country of origin is knowingly unable to issue the required certificate. ⁴	p.121 2. 2.2.	If the document cannot be obtained from the list of countries published on the civil registry's website, a statement in a public or private agreement with probative value or a record of the civil status proceedings may be accepted.
Under the law, the state must provide an interpreter upon submitting the request to get married and during the ceremony in case the parties do not speak Hungarian.	p.121. 2. 2.2.	The registrar will provide an interpreter when the marriage is announced. The spouses may also have an interpreter provided at their request. At the time of the marriage ceremony, the interpreter is provided by the spouses.
(e) The applicant provides proof that they have passed the exam in basic constitutional studies in Hungarian, or provides proof for their exemption from such exam.	p.124 4.	A non-Hungarian citizen applying for Hungarian citizenship must pass an exam in basic constitutional studies in Hungarian, or provide proof for their exemption from such exam and prove their knowledge of Hungarian.
In 2021, the HHC was aware of the practice in place at government offices, according to which the officer requires the applicant to write down the whole curriculum vitae again or a summary of it, or to fill in the application form in front of them, thereby controlling the Hungarian language skills of the applicant. Even minors were requested to re-write their CV on the spot. In addition, case officers use a technical language with the applicant during the procedure which makes	p.124 4.	When submitting applications for naturalisation at government windows, if the doubt arises regarding the applicant's Hungarian language skills, the receiving authority may indeed ask applicants of legal age to rewrite their CVs on the spot, as it may happen that the CV "brought" by the clients were not written by them but was prepared with the help of someone else. For applicants who are minors, a CV is not required. Handwritten CVs are only requested for applicants of legal age. Also, upon submitting the application, the receiving authority does not communicate with the client using technical terms, but at the level of communication necessary for everyday life and administration.

² Section 23(1) Act I of 2010 on Civil Registration Procedure.

³ Section 23(1) Act on Civil Registration Procedure.

⁴ Section 23(2) Act on Civil Registration Procedure.

communication even more difficult.		
Nonetheless as per the experience of HHC, in 2020 the government offices did not accept the certificate of one specific school that is considered to provide a lower quality educational programme by the authorities.	p.124-125 4.	In regards to the subject matter and knowledge that is to be acquired for the exam, in the case of exemption, we can only accept certificates of primary or secondary education (8th grade of primary school or matriculation examination) or diplomas obtained in a higher education. These certificates and diplomas must be obtained in a Hungarian educational institution where the primary language of instruction is Hungarian. Certificates from other types of educational institutions or the completion of Hungarian language courses do not exempt the applicants from taking the exam in basic constitutional studies.
Menedék Association reported that since the 2021 amendment of Act I of 2010 on Civil Registration Procedure, no exemption regarding the submission of original birth and marriage certificates may be requested in naturalisation procedures.	p.125 4.	In our experience most people with a refugee or subsidiary protection status have birth certificates, but these are usually not presented upon application as the information contained in the certificate does not match the information declared during the asylum procedure.
The government case-officers refer to paragraphs 118-125 of the UNHCR Handbook on Procedures and Determining Refugee Status under the 1951 Convention and 1967 Protocol relating to the Status of Refugees ⁵ when articulating such requests, according to which the acquisition of such documents from the national authorities cannot be regarded as re-availment of protection and cannot therefore be regarded as a reason to withdraw international protection.	p.125 4.	Moreover, according to the UNHCR Handbook, points 118-125, the submission of a request for a birth certificate to the competent authority of the country of origin cannot in itself be considered as a renewal of protection (in view of the availability of the certificates requested in the procedure, applicants with refugee/subsidiary protection status, e.g. Afghan applicants may also contact the Afghan Embassy in Vienna.
Menedék Association reported a concrete case where a client from Palestine was specifically asked by the case-officer of the naturalisation procedure to travel to Tel-Aviv, Israel, to have the diplomatic legalisation of his documents via the Hungarian embassy there. ⁶	p.125 4.	If the Embassy is not able to provide the applicant with the requested extract, it is necessary to request a certificate with a Hungarian translation from the Embassy in Vienna. These can also be obtained through legal representation or other associations/organisations assisting refugees.
There is an <i>ex lege</i> eventual	p.125	The Constitution Protection Office and the

⁵ UNHCR Handbook on Procedures and Determining Refugee Status under the 1951 Convention and 1967 Protocol relating to the Status of Refugees, reissued in 2019, available at: <https://bit.ly/46UbLNQ>.

⁶ Information received from Menedék Association by the HHC on 28 February 2023.

<p>practice of the Government Office of Budapest, according to which the authority summons the applicant for a so-called 'data checking'. In fact, it is a proper interview held with the applicant about the very detail of their professional and private life, including questions regarding their family life, past, hobbies and everyday life in Hungary, worldview, income, housing, political opinion, religion and future plans etc. There are only hand-written notes taken by the questioning officer, but there is no copy of it served to the applicant. Since the procedure is not transparent, the interview's role as to the result of the decision is not clear.⁷</p>	<p>4.</p>	<p>Government Office of Budapest may also invite the applicant for "data checking", the main purpose of which is to check the applicant's Hungarian language skills. This usually takes place for the reason that some applicants have a certificate of basic constitutional studies, but following the request for deficiencies, during the preparatory work for the decision, it is revealed that the client does not even have elementary knowledge of the Hungarian language, so it becomes necessary to interview the applicant. If further questions arise during the procedure when the legal requirements are checked, the applicant may also be summoned to clarify certain facts and a report will be drawn up on the basis of the statements made during the interview. A copy of this report will be given to the client. These interviews are conducted by two naturalisation officers (one interviewer and one reporter). The interviews held by the Constitution Protection Office are not attended by naturalisation officers, therefore no information is available on the content of the notes taken during the interviews or on the provision of copies to the client.</p>
<p>During the procedure the applicant might have a legal representative. According to the HHC though, the lawyer is not informed about any procedural steps. The Government Office of Budapest communicates exclusively with the applicant.</p>	<p>p.125-126 4.</p>	<p>Pursuant to Article 15 (1) of Act LV of 1993 on Hungarian Citizenship, an application for citizenship may not be submitted by a proxy. If a power of attorney from a legal representative is attached to the naturalisation application, the naturalisation administrator will send the letter of deficiency to the legal representative if any kind of completion is required during the examination of the application. The only exception is the notice on the negative decision. Given that the initiation of the procedure itself is directly linked to the applicant, the same procedure is required for the closure of the procedure. Pursuant to Article 17/A (2) of the Act, the body responsible for citizenship matters shall attempt to deliver this notification twice via post to all known foreign and domestic addresses. However, if the notification is still unsuccessful, the legal representative will also be notified of the decision. In the case of a positive decision, the competent authority of the place where the oath was taken will inform the applicant.</p>
<p>A paper on the wall warns clients that the government office is not able to accept applications of persons accompanied by an assistant or an interpreter.</p>	<p>126., 4.</p>	<p>In the "classical" naturalisation procedure, an interpreter or accompanying person may be present when the application is submitted and may assist the applicant in filling in the application form, but this fact is usually recorded by the receiving authority on the form itself.</p>
<p>As the law states, decisions in connection with petitions for the acquisition of Hungarian</p>	<p>p.126 4.</p>	<p>In regards to decision-making, the law provides a Minister responsible for citizenship. The Minister responsible for Citizenship is the Minister in charge</p>

⁷ Practice-informed observation of the HHC, 2021.

<p>citizenship by way of naturalisation or repatriation shall be adopted by the President of the Republic based on the recommendation of the Minister of Interior.⁸</p>		<p>of the Prime Minister's Office. Pursuant to Article 6 (1) of the Act, the President of the Republic shall decide on applications for the acquisition of Hungarian citizenship by naturalisation or re-naturalisation on the basis of a proposal by the Minister. The Minister shall submit the proposal provided for in Article 6 (1) to the President of the Republic within three months, which period may be extended by an additional three months in specific cases. The time limits shall not include the period from the date of the request for a deficiency to the date of its execution (which may vary from one individual to another), the period of suspension of the procedure, the wait period for the opinion stated in Section 19 (3) d), or the period when a request for information or documents concerning citizenship is made to another authority or public body.</p>
<p>Since the decision on granting citizenship is not administrative, it cannot be appealed, nor can judicial review be mounted against the decision. Therefore, the procedure for naturalisation lacks the provision of information and the most basic procedural safeguards of transparency, accountability and fairness.⁹</p>	<p>p.126 4.</p>	<p>The client or his/her legal representative can request information about the ongoing naturalisation case at any time. In addition, access to the case is possible under Article 18 of the Act. Furthermore, if the documents submitted in support of the application do not fully meet the requirements of the Act, the authority responsible for citizenship matters will always inform the applicant or his/her legal representative in writing.</p>
<p>Menedék Association points out that reasons of rejection of citizenship applications were still not transparent in 2023.</p>	<p>p.126 4.</p>	<p>Citizenship requests may be forwarded to the President of the Republic for a decision only after the response of the partner bodies carrying out the background checks has been received. For naturalisation cases submitted before 1 July 2023, the outcome of these background checks could take several months or even years. In accordance with public law tradition, the President of the Republic has discretionary powers to decide on applications for Hungarian citizenship. The President of the Republic is not obliged to state the reasons for his decision on this issue, he is not bound by any time limit for making his decision, and his decision becomes final immediately. There is no legal remedy against his decision, and no right of appeal or judicial review, given the particularities of the decision and procedure described above. The European Convention on Nationality also allows discretion in the granting of citizenship. Decisions on citizenship matters are determined by the internal law of the state concerned. An application for citizenship may be submitted an unlimited number of times, regardless of the fact that it has been rejected, without any time limit.</p>
<p>Refugee children and children</p>	<p>p.126</p>	<p>According to Act LV of 1993 on Hungarian</p>

⁸ Section 6(1) Citizenship Act.

⁹ HHC, *The Black Box of Nationality: The naturalisation of refugees and stateless persons in Hungary*, 2016, available at: <https://bit.ly/3LXWrpX>.

<p>having been granted subsidiary protection who were born in Hungary and did not obtain their parents' citizenship by birth might obtain Hungarian citizenship by declaration taken five years after their birth under the Citizenship Act provided that their parents had a Hungarian domicile at the time of their birth.¹⁰</p>	<p>4.</p>	<p>Citizenship, a child born in Hungary may acquire Hungarian citizenship by declaration if, among other things, the child did not acquire the Hungarian citizenship of his or her parents at birth, on the basis of the foreign law governing the citizenship of the parents, and the parents resided in Hungary on the day of the child's birth.</p>
<p>The pattern seems to show that the government office would consider eligible only the children of recognised stateless parents, even though the Citizenship Act does not mention such criteria. This raises serious problems, since contacting the authorities of the country of origin in order to prove that the child did not obtain citizenship might even result in the loss of refugee status.¹¹ According to data provided by the Government Office of Budapest, no child was granted citizenship by declaration.¹²</p>	<p>p.127 4.</p>	<p>This is an incorrect statement because under Section 5/A (1) b) of Act LV of 1993 on Hungarian Citizenship, the Government Office examines the foreign citizenship of the parents and how the child may or may not acquire it. Statelessness is only examined if the parents are themselves stateless.</p> <p>Refugee parents are not encouraged to contact the authorities in their country of origin. If possible, the Government Office will itself contact the Embassies of the countries concerned or the relevant department of the Ministry of Justice for information on the rules governing the acquisition of nationality in the country of origin.</p> <p>The issue of statelessness was indeed a problem in this procedure, as it was not regulated by law. This was resolved by the amendment made to Act LV of 1993 on Hungarian Citizenship, which entered into force on 1 July 2023, according to which, if the child himself becomes stateless - regardless of the status of the parents or their citizenship - he can acquire Hungarian citizenship by declaration.</p>
<p>In 2023, 80 beneficiaries of international protection applied for Hungarian citizenship (41 refugees and 39 beneficiaries of subsidiary protection). In the same year, 22 refugees (3Afghan, 1 Algerian, 5 Iranian, 1 Croatian, 1 Kosovo, 1 Russian, 2 Palestine/stateless persons. 2 Cameroonian, 2 Somali, 2 persons of unknown nationality) and 5 beneficiaries of subsidiary protection (4 Afghan, 1 Iraqi) obtained citizenship. Out of the 27 people, 6 former refugees (2 Cameroonian nationals and 2 of</p>	<p>p.127 4.</p>	<p>4 of unknown nationality, (2 of unknown nationality) were minors</p>

¹⁰ Section 5/A (1) (b) Citizenship Act.

¹¹ Section 11(2) Asylum Act.

¹² Information provided by the Government Office of Budapest, 1 February 2024.

unknown nationality) were minors.		
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5. Additionalremarks