# ANNEX I

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate-holders

UNHCR would like to bring to the attention the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate-holders' reports relating to issues of interest and persons of concern to UNHCR with regards to HUNGARY.

## I. Universal Periodic Review (Second Cycle – 2016)

| Recommendation | Recommending State/s | Position |
|---|---|---|
| **Discrimination and xenophobia** | | |
| 128.69 Strengthen its measures to combat racism and discrimination in all its forms against migrants and asylum seekers | Thailand | Supported |
| 128.74. Establish a comprehensive integration strategy for migrants, with specific measures to prevent and eliminate racism, racial discrimination, xenophobia and intolerance against migrants irrespective of their status. | Bangladesh | Supported |
| 128.80 Continue to take specific measures to prevent and eliminate racism, racial discrimination, xenophobia and intolerance against migrants, refugees and asylum seekers. | Egypt | Supported |
| 128.83 Redouble efforts to prevent and eliminate racial discrimination, xenophobia and the intolerance against migrants, refugees and asylum seekers. | Guatemala | Supported |
| 128.99 Take action against the worrying increase and public use of hate speech, most often addressed at migrants, asylum seekers but also civil society organizations and vulnerable groups. | Austria | Supported |
| 128.96 Continue the efforts to combat hate speech, racism, xenophobia and all forms of discrimination against refugees and migrants. | Lebanon | Supported |
| 128.100 Intensify its efforts to combat xenophobia, islamophobia and refugee hatred, and take the necessary measures to condemn hate speech. | Bahrain | Supported |
| 128.101 Take resolute measures to condemn hate speech, racial discrimination, xenophobia and intolerance against all minority groups, migrants and asylum seekers. | Bulgaria | Supported |
| 128.105 Take all the necessary measures to combat violence linked to racial discrimination, as well as hate crimes and speeches, including against refugees and migrants. | France | Supported |
| 128.113 Combat hate speech and statements stigmatizing refugees and asylum seekers. | Algeria | Supported |
| **Right to asylum and protection from *refoulement*** | | |
| 128.184 Take all steps necessary to ensure that the right to seek asylum is guaranteed for asylum seekers coming to Hungary and that the principle of non-refoulement is respected. | Sweden | Supported |
| 128.189 Reform its legislation to ensure full respect of the principle of non-refoulement. | Brazil | Supported |
| 128.190 Ensure that its legal framework and actions concerning asylum seekers, refugees, and migrants comply with Hungary's international human rights obligations, including with regard to procedural safeguards. | Canada | Supported |
| 128.197 Fully respect its obligations under international law by guaranteeing the right to seek asylum through an individual, effective process without discrimination. | Finland | Supported |

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| 128.196 Ensure that all issues related to migration, asylum seeking and border management are addressed in accordance with respective obligations under applicable international law. | Egypt | Supported |
| 128.206 Implement with no exception the principle of non-refoulement in the context of asylum seeking procedures. | Honduras | Supported |
| 128.208 Comply with the principle of non-refoulement. | Iceland | Supported |
| 128.207 Repeal the amendments to the Criminal Code that criminalizes “illegal entry” and introduces “transit zones” at the border and a list of “safe countries”. | Iceland | Noted |
| 128.220 Revise the national list of safe countries in order to avoid the high number of unadmitted requests that have been pointed out by the Helsinki Committee of Hungary. | Spain | Noted |
| **Torture and ill-treatment** | | |
| 128.79 Lift the measures in force that imply the discrimination and rejection of migrants and refugees, in particular those concerning to the use of force against them. | Cuba | Noted |
| 128.202 Ensure the prompt and impartial investigation of any excessive use of force in policing the border operations, including by the military. | Greece | Supported |
| 128.204 Make every effort to pay due attention to the human rights of asylum seekers and to avoid using disproportionate force on migrants and refugees. | Holy See | Supported |
| **Deprivation of liberty** | | |
| 128.187 Eliminate detention in penitentiary establishments of asylum seekers and refugees. | Uruguay | Noted |
| 128.190 Repeal those amendments to Hungary's Asylum Law, Law on Criminal Procedure and Criminal Code that are inconsistent with its international human rights obligations. | Canada | Noted |
| 128.191 Seek alternatives to detaining asylum seekers and migrants, particularly children. Take immediate and effective measures to ensure that conditions of detention are fully consistent with UN Standard Minimum Rules for the Treatment of Prisoners. | Canada | Supported |
| 128.201 Take immediate action to improve national asylum system, including by elaborating a national action plan, to avoid continuation of harsh conditions of detention and treatment of asylum seekers and refugees. | Greece | Supported |
| 128.212 Take all the necessary steps to address the placing of asylum-seeking and migrant children in detention, including by repealing relevant legislation allowing for the detention of families accompanied by children. | Ireland | Supported |
| 128.215 Ensure that enforcement authorities comply with international human rights obligations in the treatment of migrants and asylum seekers, and expedite the judicial process to avoid prolonged detention of migrants and asylum seekers. | Malaysia | Supported |
| 128.217 Take steps to ensure that detention of asylum-seekers is used only in exceptional cases, the procedure for detention is transparent and comprehensible, and that detainees have access to effective legal remedy. | Norway | Supported |
| 128.219 Strengthen its efforts to improve the detention conditions of migrants and asylum seekers, including by refraining from excessive use of force, ill-treatment, and prolongation of detention periods, and also to adopt a comprehensive integration strategy for their early stage integration. | Republic of Korea | Supported |
| **Reception conditions and integration** | | |
| 128.188 Advance in measures of assistance and promotion of the rights of migrants, refugees and asylum seekers, in compliance with current international standards. | Argentina | Supported |

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| 128.192 Develop actions that improve the living conditions of asylum seekers and prevent discrimination on the grounds of nationality or country of origin. | Chile | Supported |
| 128.193 Continue to improve the living conditions of migrants, refugees and asylum seekers. | China | Supported |
| 128.203 Work together with the other European States to improve the conditions and treatment given to asylum seekers and refugees. | Guatemala | Supported |
| 128.209 Take measures to work towards improving the living conditions for refugees and asylum seekers. | India | Supported |
| 128.211 Improve the living conditions of asylum seekers and step up efforts directed towards improving the treatment of asylum seekers and refugees. | Islamic Republic of Iran | Supported |
| **Vulnerable groups** | | |
| 128.186 Ensure that migrant and asylum-seeking women receive adequate assistance. | Timor-Leste | Supported |
| 128.194 Ensure the inclusion of a human rights approach in the measures to address the migrant situation, taking into particular account the situation of vulnerable population. | Colombia | Supported |
| 128.195 Apply a dignified and human treatment that respects the universal principles of human rights for people in situation of human mobility, whether migrants or refugees, with special emphasis on strengthening and implementing policies to address trafficking of persons from a holistic approach, particularly regarding women, children and other vulnerable groups, as well as to combat all forms of discrimination, with measures including complaint an denunciation mechanisms for victims that enable them to achieve reparations. | Ecuador | Supported |
| 128.198 Improve the capacity to guarantee every person the possibility to request international protection in a legal way, and create conditions for the medical and psychological treatment of asylum seekers, especially those who were victims of torture and violence. | Germany | Supported |
| 128.213 Review legislation on the rights of migrants and asylum seekers in accordance with Hungary's obligations under international and European Law and to better apply existing internal rules, namely those related to the handling of unaccompanied children. | Italy | Supported |
| 128.214 Make efforts to ensure transparency and consideration for human rights, in particular those of women and children, in its treatment of migrants and refugees. | Japan | Supported |
| **Solidarity** | | |
| 128.200 Actively participate in the refugee resettlement/humanitarian admission process directly from Turkey to the European Union, as this is actually the only way to save lives and crack down criminal networks of smugglers. | Greece | Noted |
| **General** | | |
| 128.199 Fully implement international Conventions and standards for the protection of refugees and asylum seekers. | Greece | Supported |
| 128.205 Redouble efforts in order to guarantee the respect of the human rights of migrants, including persons under irregular situation. | Honduras | Supported |
| 128.210 Strengthen efforts in addressing issues of irregular migrants in the country in line with international human rights law obligations. | Indonesia | Supported |
| 128.216 Continue the efforts to improve the treatment of migrants and asylum seekers. | Morocco | Supported |
| 128.218 Continue to fulfil its international human rights obligations regarding asylum seekers, refugees and migrants. | Pakistan | Supported |

## II. Treaty bodies

### Human Rights Committee

**Concluding Observations on the sixth periodic report of Hungary (9 May 2018), CCPR/C/HUN/CO/6**

**Hate speech, hate crimes, racism and discriminatory behaviour by the police**

17. While acknowledging that hate crime is included in the Criminal Code, the Committee is concerned about the prevalence of hate crimes and about hate speech targeting minorities, notably Roma, Muslims, migrants and refugees, in political discourse, in the media, on the Internet and even in Government-sponsored campaigns. The Committee notes the information provided by the State party about the measures taken to promote Jewish life in Hungary, but expresses its concern about the prevalence of anti-Semitic stereotypes and the negative historical associations arising out of the manner in which high-ranking officials have nurtured conspiracy theories relating to George Soros. The Committee also notes with concern allegations that the number of registered hate crimes is extremely low because the police often fail to investigate and prosecute credible claims of hate crimes and criminal hate speech. Moreover, the Committee is concerned about reports of the persistent racial profiling of Roma by the police (arts. 2, 18, 20 and 26).

18. The State party should regularly, publicly and effectively reaffirm that any advocacy of ethnic or racial hatred that constitutes incitement to discrimination, hostility or violence is prohibited by law and should act promptly to bring perpetrators of hate crimes to justice. It should take effective measures to improve the reporting, investigation, prosecution and punishment of hate crimes and criminal hate speech, in accordance with its obligations under the Covenant, and should strengthen its efforts to eradicate stereotyping and discrimination against migrants, refugees, Jews and Roma, among others, by conducting public awareness campaigns to promote tolerance and respect for diversity and to highlight the unacceptability of racial profiling. It should also ensure that State officials responsible for discriminatory behaviour towards Roma and other minority groups are held accountable in all instances.

**Non-refoulement and excessive use of force**

47. While noting the information provided by the State party on the applicable standards and the safeguards against non-refoulement, the Committee is concerned that the State party's legal framework does not afford full protection against non-refoulement. It notes with concern: (a) the "pushback" law, first introduced in June 2016, which allows the summary expulsion by the police of anyone who crosses the border irregularly and is detained on Hungarian territory within 8 km of the border, a limit that was subsequently extended to the entire territory of the State party; and (b) Decree No. 191/2015 designating Serbia a "safe third country", thereby authorizing pushbacks at the border between Hungary and Serbia. The Committee notes with concern reports that pushbacks have been applied indiscriminately and that individuals subjected to this measure have very limited opportunity to submit an asylum application and virtually no right of appeal. It also notes with concern reports of collective and violent expulsions, allegedly accompanied by heavy beatings, attacks by police dogs and shooting with rubber bullets, which have resulted in severe injuries and, at least in one case, in the death of an asylum seeker (arts. 2, 6, 7, 9 and 13).

48. The State party should ensure that the non-refoulement principle is secured in law and strictly adhered to in practice, and that all asylum seekers, regardless of their mode of arrival into Hungary, have access to fair and efficient refugee status determination procedures and effective protection against non-refoulement. In particular, it should:

(a) Repeal the pushback law adopted in June 2016 and the amendments thereto, and legally ensure that the removal of an individual must always be consistent with the State party's non-refoulement obligations;

(b) Consider revising Decree No. 191/2015 and developing procedural safeguards against refoulement, including the possibility of the review of asylum decisions by an independent judicial body that can provide effective remedies;

(c) Refrain from the collective expulsion of aliens and conduct an objective, individualized assessment of the level of protection available in "safe third countries";

(d) Ensure that force or physical restraint is not applied against migrants, except under strict conditions of necessity and proportionality, that all allegations of the use of force against them are promptly investigated, that perpetrators are prosecuted and punished with appropriate sanctions and that victims are offered reparation.

**"Stop-Soros" package**

55. The Committee notes with concern the recently introduced package of three draft laws before the parliament, also known as the "Stop-Soros" package (T/19776, T/19775 and T/19774), which, if adopted, will impose serious restrictions on the operations of civil society organizations and of critics of the State party's immigration policy. The Committee is concerned that, by alluding to the "survival of the nation" and to the protection of citizens and culture and by linking the work of NGOs to an alleged international conspiracy, the package will stigmatize NGOs and curb their ability to carry out their important activities in support of human rights, particularly the rights of refugees, asylum seekers and migrants. The Committee is also concerned that the imposition of restrictions on foreign funding directed to NGOs may be used to apply illegitimate pressure on them and to interfere unjustifiably with their activities. It is particularly concerned about the proposals contained in the package for the imposition of: (a) significant additional reporting requirements and financial burdens on NGOs described as "organizations supporting migration"; (b) a 25 per cent tax on foreign funding for NGOs working for the protection of the rights of refugees, asylum seekers and migrants; and (c) restraining orders banning individuals from an 8-km zone inside the country's borders, or third-country nationals from the entire territory of the country, for what are claimed to be reasons of national security and danger to the public (arts. 19, 22 and 25).

56. The State party should reject the draft laws known as the "Stop-Soros" package introduced before the parliament on 13 February 2018 and ensure that all legislation relating to NGOs is fully consistent with its international obligations under the Covenant, reflects the important role of NGOs in a democratic society and is designed to facilitate, not undermine, their operations.

**Committee of the Rights of the Child**

**Concluding observations on the sixth periodic report of Hungary**, 10 February 2020, **CRC/C/HUN/CO/6**

**Best interests of the child**

17. With reference to its general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration and recalling its previous recommendations (CRC/C/HUN/CO/3-5, para. 22), the Committee recommends that the State party:

(a) Ensure that the best interests of the child are a primary consideration when drafting, adopting and reviewing legislation that has an impact on children's rights, including asylum and migration-related legislation, and in its policies and procedures;

(b) Ensure that this right is appropriately integrated and consistently applied in administrative proceedings concerning children, and that the child protection services are adequately resourced to implement it in practice.

**Asylum-seeking, refugee and migrant children**

38. The Committee is seriously concerned about:

(a) The changes to the asylum law which allow for the immediate expulsion of children and their families staying irregularly in the State party and who have not had the opportunity to apply for asylum;

39. With reference to its general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin and to joint general comments No. 3 and No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families / No. 22 and No. 23 (2017) of the Committee on the Rights of the Child on the human rights of children in the context of international migration and recalling its previous recommendations (CRC/C/HUN/CO/3-5, para. 55), the Committee urges the State party to immediately:

(a) Amend the asylum law to prohibit the immediate expulsion of children and their families who are staying irregularly in the State party and have not had the opportunity to apply for asylum, and ensure that the asylum law is in conformity with the Convention;

(a) Only use the age assessment process in cases of serious doubt and through multidisciplinary methods, taking into account all aspects, including the psychological and environmental aspects of the person under assessment;

**Committee on the Elimination of Racial Discrimination**

**Concluding observations on the combined eighteenth to twenty-fifth periodic reports of Hungary, 6 June 2019, CERD/C/HUN/CO/18-25**

**Racist hate speech**

16. The Committee is deeply alarmed by the prevalence of racist hate speech in the State party against Roma, migrants, refugees, asylum seekers and other minorities, which fuels hatred and intolerance and at times incites violence towards such groups, in particular from leading politicians and in the media, including on the Internet. It is especially deeply alarmed at reports that public figures in the State party, including at the highest levels, have made statements that may promote racial hatred, in particular as part of the Government's anti-immigrant and anti-refugee campaign started in 2015. Furthermore, the Committee is concerned by the lack of detailed information on investigations and prosecutions of, and convictions for, racist hate speech, especially by public figures, including politicians (art. 4).

17. Recalling its general recommendation No. 35 (2013) on combating racist hate speech, the Committee recommends that the State party:

(a) Take all immediate measures to stop racist hate speech and incitement to violence, publicly condemn and distance itself, including in the media and on the Internet, from racist hate speech by public figures, including politicians, and take measures to protect vulnerable affected groups;

(b) Ensure that all measures are taken to prevent racist hate speech and incitement to racial hatred by all persons, including public officials and politicians, and strengthen and implement relevant legislation;

(c) Effectively identify, register, investigate and prosecute cases of racist hate speech or incitement to racial hatred, sanction those responsible, including politicians and media officials, and provide detailed information on investigations and prosecutions of and convictions for racist hate speech in its next periodic report.

**Situation of asylum seekers, migrants and refugees**

22. The Committee is deeply concerned by the alarming situation of asylum seekers, refugees and migrants in the State party, especially following the declaration of a state of emergency, still in force, in 2015, including:

(d) Reports of the persistence of hate speech, hate crimes, prejudice and social stereotypes against asylum seekers, refugees and migrants.

23. Recalling its general recommendation No. 22 (1996) on refugees and displaced persons in the context of article 5 of the Convention, and its general recommendation No. 30 (2004) on discrimination against non-citizens, the Committee recommends that the State party take immediate measures to ensure that policies regarding refugees, asylum seekers and migrants are in line with its international obligations, including under the Convention, and:

(a) Ensure that detention of asylum seekers is used as a measure of last resort and for the shortest period of time, and prioritize alternative measures to detention;
(b) Ensure that all applications for asylum status receive appropriate consideration;
(c) Ensure effective access to asylum procedures;
(f) Conduct public campaigns to promote understanding and tolerance.

Refoulement and the use of force against asylum seekers

24. The Committee is deeply concerned at the reports that the principle of non-refoulement is not fully respected in law and in practice. It expresses deep alarm at the reported excessive use of force and violence by law enforcement officers against third country nationals found anywhere in Hungary, while "pushing back" those found near the border to Serbia, resulting in injuries and bodily harm.

25. The Committee recommends that the State party take all measures to ensure the full respect of the principle of non-refoulement. It also recommends that the State party prevent the excessive use of force and ensure training for, and effective and independent monitoring of, law enforcement personnel involved with refugees, migrants and asylum seekers, to eliminate ill-treatment.

**Trainings and education on human rights and racial discrimination**

26. The Committee is concerned at the lack of detailed information on trainings conducted among judges, prosecutors, lawyers and State and public officials on the prevention of racial discrimination and on the rights enshrined in the Convention. The Committee is also concerned by the lack of information on human rights trainings and education in the curriculum taught in school and at the university level, and the impact of such trainings. The Committee is concerned about the absence of

information on specific measures aimed at fostering and promoting understanding and tolerance among different ethnic groups, refugees, migrants and asylum seekers in the State party (art. 7).
27. The Committee recommends that the State party conduct training programmes for law enforcement officers, judges, prosecutors, lawyers and State and public officials, including specialized trainings on the prevention of racial discrimination and the rights enshrined in the Convention. It requests that the State party provide detailed information in its next periodic report on such training programmes and the impact of such training on the situation of ethnic minorities. The Committee recommends that the State party provide information on human rights training and education in the curricula of all schools and at university level. It also recommends that the State party provide information on the measures taken to promote and foster tolerance and understanding among different ethnic groups in its territory.

## III. Special Procedures Mandate Holders

**Report of the Special Rapporteur on the situation of human rights defenders on his mission to Hungary**, 19 January 2017, A/HRC/34/52/Add.2

**Specific human rights defenders at risk**

91. Human rights defenders and grass-roots activists working on the rights of asylum seekers face acute risks of threats to their person and their families due to the increased politicization and stigmatization of their work. The Special Rapporteur has received several reports of direct threats, anonymous phone calls and text messages, hacking of personal social media and trolling on social media. There are credible reports that festering antiimmigrant sentiment has led to increased scrutiny and harassment of organizations assisting refugees in Hungary. According to reports, NGOs that issued a statement calling for the invalidation of the referendum on refugee quotas due to low turnout, were threatened by the authorities with “full screening” of their activities.
**Conclusions**

104. The Special Rapporteur considers that, overall, human rights defenders in Hungary are able to operate safely in Hungary. However, the environment in which they function is increasingly not a conducive one. His visit has revealed that significant challenges stem from the existing legal framework governing the exercise of fundamental freedoms, such as the rights to freedoms of opinion and expression, of peaceful assembly and of association. Legislation pertaining to national security and migration may also have a restrictive impact on the civil society environment.

**Report of the Special Rapporteur on the human rights of migrants on his visit to Hungary**, 11 May 2020, A/HRC/44/42/Add.1

Conclusions and recommendations

63. Security concerns can be legitimate grounds for States to adopt pertinent measures, provided that the fundamental rights of all, including migrants, are respected. The Special Rapporteur noted with concern that in Hungary, the security-oriented approach to the governance of migration was presented and implemented without enough consideration for the human rights of migrants and asylum seekers. Many of the measures adopted seemed disproportionate to the real situation, overly emphasizing the security aspect and overlooking the rights aspect.

64. The Special Rapporteur reiterates his call to the Government of Hungary to conduct a meaningful reassessment of the current situation and its migration policies. Hungary should terminate the so-called crisis situation, which does not correspond to reality and has a severe negative impact on the human rights of migrants, asylum seekers, the freedom of civil society organizations and the power of the judiciary. It should also lift all other restrictive measures with similar features and consequences.

66. Hungary should continue to incorporate international and European Union standards in the area of human rights into domestic legislation and repeal recent amendments introduced to relevant domestic legislation, inter alia the Asylum Act and the Criminal Code, which have had a negative impact on the protection of the rights of migrants and asylum seekers, including children. The Special Rapporteur calls on Hungary to repeal all amendments to domestic law that are inconsistent with its international human rights obligations, particularly with respect to the right to seek asylum, the right to liberty and the right to challenge the legality of detention, ensuring the principle of non-

refoulement and the principle of the best interests of the child, providing adequate and appropriate reception and other conditions.

67. Individuals and civil society organizations working on the promotion and protection of the human rights of migrants, asylum seekers and refugees should be able to operate without interference. In that regard, Hungary should consider repealing article 353/A of the Penal Code, as modified by Act VI of 2018, which criminalizes assistance to migrants and asylum seekers.

68. In the area of asylum law, the power of judicial review should be strengthened. Hungary should revise the relevant provisions in domestic legislation that weaken the power of the judiciary. More specifically, Hungary should consider repealing Law No. CXL of 2015 Amending Certain Laws in the Context of Managing Mass Immigration, which revoked the power of the courts to overturn administrative decisions on asylum claims.

70. Regarding the pervasive anti-migration discourse in the official sphere, the Special Rapporteur calls on the Government and politicians at all levels to refrain from advocacy of ethnic or racial hatred and xenophobia that constitutes incitement to discrimination, hostility or violence. Any such advocacy should be prohibited by law. Perpetrators of hate crimes should be brought to justice and Hungary should strengthen its efforts to eradicate discrimination against and stereotyping of migrants, including asylum seekers, by promoting tolerance and respect for diversity through public campaigns.

71. The media, especially local media outlets, play an important role in forming the public discourse on migration. The Special Rapporteur encourages media workers to ensure that reports in the media on migrants and migration are based on data and evidence. Journalists should use humane and protection-sensitive language when portraying migrants, asylum seekers and refugees and refrain from spreading anti-migrant statements and rhetoric or contributing to xenophobia and hatred of people on the move. The Special Rapporteur encourages journalists to conduct interviews with migrants themselves and give them the opportunity to tell their stories. It is important to recognize in media coverage the country’s obligations under international law to respect the human rights of migrants and refugees, independent of their status.