



## REPORT

by the Parliamentary Commissioner for Civil Rights

in case number **AJB 1692/2010**

(Related case: **AJB 420/2010**)

**Rapporteur:** Dr Katalin Haraszti  
**Affected bodies:** Ministry of the Interior Office  
of Immigration and  
Nationality (*Bevándorlási és  
Állampolgársági Hivatal*)  
Bicske Reception Centre (*Bicskei  
Befogadó Állomás*)  
The Municipality of Budapest

# August 2011

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## **Opening of the procedure**

I was contacted by the Mahatma Gandhi Public Benefit Association (*Mahatma Gandhi Közhasznú Egyesület*, hereinafter: the Association) regarding the case of 10 refugees. After their status had been recognised, these refugees were taken to the Bicske Reception Centre of the Office of Immigration and Nationality (hereinafter: Reception Centre) for pre-integration purposes. According to the petition, six months later the management of the Reception Centre ordered the refugees to leave the institution and find themselves accommodation and a job. Some of the refugees named by the Association stayed less than six months at the Reception Centre, where they could not go back because they had returned to the Reception Centre from a visit to relatives living in another EU Member State later than their scheduled date. The refugees were denied accommodation and boarding at the Reception Centre. As a result, as they had no place to stay and no income; they became homeless and lived on the street.

Around the same time the petition was filed, an article entitled “Refugee from Somalia to become a homeless person in Budapest” was published in the press: it described the daily life of homeless refugees without identification documents or an income and who are supported by another NGO, the Asylum Association for Migrants (*Menedék Migránsokat Segítő Egyesület*, hereinafter: Asylum Association). For the purpose of protecting the constitutional rights of the foreigners mentioned in the article, I initiated an *ex officio* procedure pursuant to Section 16 (2) of Act LIX of 1993 on the Parliamentary Commissioner for Civil Rights (hereinafter referred to as the Ombudsman Act) and later I merged the two procedures as their subject-matter was similar.

## **Method of the inquiry**

The foreigners listed by the Association included some also mentioned in the newspaper article. However, two foreigners’ data were not on the register of the Office of Immigration and Nationality (hereinafter: Refugee Authority) and therefore it was impossible to identify them at the start of the procedure or later. On the basis of the information provided by the Association and the newspaper article, I requested information from the Refugee Authority on the benefits and support provided to a total of ten people, nine Somali citizens and an Iraqi citizen.

I contacted the Central Office for Administrative and Electronic Public Services (*Közigazgatási és Elektronikus Közszolgáltatások Központi Hivatala*) to inquire about the method of providing homeless refugees with official documents certifying their Hungarian address (hereinafter: residence card). I contacted the Director-General of the National Health Insurance Fund (*Országos Egészségbiztosítási Pénztár*) and the Director-General of the Regional Labour Centre of Central Hungary (*Közép-magyarországi Regionális Munkaügyi Központ*) to inquire about the procedure for issuing the document indicating their social security number (hereinafter: health insurance card).

According to Section 89 (1) Act III of 1993 on Social Administration and Social Benefits (hereinafter: Social Benefits Act), social benefits are available and Local Government (local councils of villages, towns, the capital and the districts of the capital) is required to provide such benefits to the local population and to those homeless people who habitually stay in that particular village, town, etc. According to Section 88 (2) of the Social Benefits Act, unless the Municipality of Budapest and the local district council agree otherwise, it is the task of the former to organise and maintain a network of night shelters and temporary accommodation for homeless people.

I contacted the Director-General of the Refugee Authority and the Budapest Methodological Centre of Social Policy and its Institutions (*Budapesti Módszertani Szociális Központ és Intézményei*, hereinafter: BMSZKI), the largest homeless support organisation in the city, to discover their position on the reasons and circumstances that had caused the predominantly Somali and Iraqi citizens to drop out of the refugee support system and become homeless.

My colleagues also contacted the Ministry of Foreign Affairs to collect information on the procedure of readmission of foreigners recognized as refugees by the Republic of Hungary. They also consulted the staff of the Asylum Association, the Asylum Foundation (*Menhely Alapítvány*) and the For the Future of the Homeless Association (*Jövőt a Hajléktalanoknak Egyesület*) and they also talked to a number of foreigners recognised as refugees in Hungary but who do not have a place to stay or a regular income. As the majority of the refugees listed in the petition without a residence or a place to stay could not be located and consulted in person during the inquiry, my colleagues in charge of the case talked to various foreigners not included in the petition.

After the start of the inquiry but before the receipt of the replies by the organisations involved in supporting homeless refugees, Parliament adopted Act CXXXV of 2010 on the Amendment of Act LXXX of 2007 on Asylum (the 2007 Act hereinafter: Asylum Act) for Law Harmonisation Purposes, affecting both the provisions of the Asylum Act and its implementation decree. I extended the time frame of the inquiry to include the winter months to check the effects of these significant statutory changes on the living conditions of and integration opportunities for refugees who had become homeless.

### **The facts of the case as established**

The statutory definition of a homeless person in Hungarian law is included in Section 4 (2) and (3) of the Social Benefits Act. The first definition of the Act (which approaches the issue from an administrative aspect) is that “a homeless person is a person without a registered official address or a person whose official address is a homeless shelter.” Section 6 of the Social Benefits Act is based on this definition, as it states that “the social administrative procedure is carried out by the social administrative entity in whose territory the homeless person claims to be his or her place of stay in a declaration made at the time of using the benefit.”

A second definition, included in Section 4 (3) of the Social Benefits Act and approaching the issue from the aspect of benefits, states that “a homeless person is a person who spends the nights in public areas or in premises not designed to be used for dwelling purposes.” With regard to this rule, the local authority “irrespective of its jurisdiction or territorial competence, is required to give provisional support, meals and accommodation to those in need if the lack of such support would threaten the life or health of the recipient.”<sup>1</sup> As these definitions ignore the status of the affected person, we decided to consider as homeless refugees all foreigners recognised as refugees by the Republic of Hungary who habitually live rough in public areas, and also those receiving support through the homeless support system

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<sup>1</sup> See Section 7 (1) of the Social Benefits Act.

(at night shelters or temporary accommodation)<sup>2</sup>. In addition to the above, we considered as homeless those refugees who spend the night unofficially as night guests at friends but could be forced to live rough at any time due to the uncertainty of their dwelling situation.

At the time when the inquiry started, there were three reception centres operating in Hungary. Foreigners recognised by the Republic of Hungary as refugees were taken to Bicske, to the Reception Centre, for pre-integration purposes. It sometimes happened though that Bicske had no places available. In such cases, foreigners recognised as refugees spent part of the pre-integration period at the Debrecen Reception Centre, a place for foreigners whose refugee recognition procedure was still pending. However, the term pre-integration was abolished by Act CXXXV of 2010 and therefore foreigners recognised as refugees were to stay another six months at the Reception Centre for full integration purposes. The Refugee Authority was allowed to extend this period by a maximum of six months on one occasion.

At its 13 locations in various parts of Budapest, BMSZKI was able to provide daytime shelter for 560 people and night shelter for 319 (night shelter is defined as "a place of rest for the night for homeless people able to sustain themselves and able to abide by the rules of coexistence in a community, and accommodation for the night in the event of a crisis". During the winter, the capacity of night shelters is expanded by 264 places.

Temporary accommodation was provided to another 1234 people (temporary accommodation is for people who are able to live habitually at the shelter and are able to sustain themselves with the assistance of social workers). According to a letter by BMSZKI's director dated 28 April 2010, 42 non-Hungarian citizens received support from them in Budapest but only two of them were Somali citizens recognized as refugees.

At the time the inquiry was ordered, the Asylum Association, which specialises in providing social and administrative help to foreigners, had contact with 47 homeless foreigners (39 from Somalia, 2 from Sudan, 1 from Iraq, 1 from Afghanistan, 1 from Ethiopia, 1 from Ivory Coast, 1 from Algeria and 1 from Nigeria). In January 2011, the Asylum Association had contact with 25 homeless (12 Somali, 6 Iraqi, 2 Afghan, 1 Azerbaijani, 1 Chinese and 1 Sudanese citizen and 1 from Palestine). Of the 25 people, 20 of were men and there were 5 women. The report on refugee homelessness in Hungary published in the spring of 2010 by the UNHCR Regional Representation for Central Europe<sup>3</sup> mentioned 15 foreigners; 12 men and 3 women.

As there is no support system in Hungary specifically for homeless foreigners staying in Hungary, none of the state organisations, local authorities and NGOs I contacted during my inquiry had accurate data on the total number of homeless refugees living in Hungary or in Budapest. As these people are from outside Europe, do not speak Hungarian, very often do not have suitable documents for identification purposes, have very little information on Hungary and mostly suffer from post-traumatic disorders, it was impossible to clarify during the inquiry whether the refugees the organisations providing the above data knew of included some refugees who had contacted several or all of these organisations. The enumeration of homeless foreigners was made even more difficult by the fact that, in the inquiry, we could only collect information on those who had made contact with these organisations. It was impossible to give an estimate of those people who lived on the street but, due to their lack of language skills and local knowledge, did not even know of the homeless support system or the availability of NGOs that could have been able to help them.

## **Opinions on the reasons for refugees becoming homeless**

<sup>2</sup> See Section 84 (1) and (2) of the Social Benefits Act.

<sup>3</sup> Refugee Homelessness in Hungary, UNHCR Regional Representation for Central Europe, Budapest, Hungary March 2010. <http://www.unhcr.org/4bd59fe96.pdf>

According to the Director-General of the Refugee Authority, the main reason behind the fact that the refugees identified in the procedure became homeless was that they had not taken advantage of the support and benefits available for integration purposes in spite of the fact that they had been informed of these by the Refugee Authority.

Although they are warned by the social workers at the Reception Centre that they are not allowed to stay without restrictions in other countries of Europe, only in Hungary, many of them still travel abroad as they hope to make a better living in countries that are economically more developed, or they are invited by family or friends living abroad. Due to their lengthy stay abroad, the integration opportunities available to foreigners in Hungary (the opportunity to learn Hungarian and cultural and labour market orientation) are ineffective. Very often they do not even tell the Reception Centre's staff that they would like to leave or they do not return by the scheduled time and do not inform the Centre of their prolonged stay outside the Centre. As a result, they are denied readmission and accommodation/boarding.

Due to measures taken by the relevant authorities of other Member States of the European Union, refugees travelling abroad from the Reception Centre are typically returned to Hungary. It is a common phenomenon that the refugees returning from their lengthy stay abroad miss the final, non-extendable deadline for applying for one-time support that would help them settle down in Hungary, and therefore they lose a significant amount of money.

According to Section 52 (1) of Government Decree 301/2007 (9 Nov) on the implementation of the Asylum Act (hereinafter: Government Decree), a refugee who has left the Reception Centre permanently may apply for a regular subsistence allowance that is paid to the refugee for a period of four years from the date on which the decision to recognise the person as a refugee becomes final and non-appealable. According to Section 52 (5) of the Government Decree, the regular subsistence allowance is only provided in the third and fourth years if the refugee cooperates with the labour centre or participates in vocational training or retraining for the purpose of finding a job for at least a year during the time he or she receives the allowance, or if the refugee does public work or works for the benefit of the public for at least three months during the same period. As the four-year period of eligibility for regular subsistence allowance starts from the time the refugee is recognised as such, those staying abroad for a prolonged period lose a large part of this benefit as it is impossible to meet the criteria defined in the Government Decree if the foreigner stays outside of Hungary.

In addition to the above, the notary (local government official) of the place of residence or place of stay may provide housing support to the refugee. Pursuant to Section 54 of the Government Decree, the local authority is reimbursed by the Refugee Authority for such support. This support may be provided a maximum of four times within a period of four years from the date of the first application. It may be applied for at any time, and it is provided for six months in each case. For unaccompanied persons, the amount of the support is HUF 25,800 or the actual rent or accommodation cost, whichever is lower. The support is provided against an invoice for the rent, sublease fee or accommodation cost. The largest obstacle to the availability of this amount is that refugees cannot find a landlord who would be willing to issue an invoice for the accommodation cost.

Another common barrier to the integration of refugees is that they do not obtain their identification documents and social security and tax certificates before they travel abroad, or that they return to Hungary without the identification documents issued earlier. It is virtually impossible to find a job and housing without identification documents. According to the Refugee Authority's experience and the information provided by the NGOs, it is a lengthy procedure for refugees to obtain new documents if they do not have any valid papers.

The Refugee Authority is aware of the problems investigated in this procedure but it is not in the position to provide support or benefits to refugees beyond the periods defined by

law. The Refugee Authority added that it does not have the budget to run complex integration programmes.

According to the letter by BMSZKI's director dated 28 April 2010, the definition of the foreigners' right to receive support and the social benefits to which they are entitled is quite a challenge as there is no "set of template documents" available to identify the types of foreigners entitled to receive support as listed in Section 3 (1) of the Social Benefits Act, and as the list of those countries that have ratified the so-called "Turin Charter"<sup>4</sup> mentioned in Section 3 (2) is not available for organisations supporting homeless people. (Although the president of the HAJSZOLT (**Association** of Members of Homeless Service Providers) has published this list, a number of unresolved issues remain, such as the situation of citizens of states that ratified the Convention but later dissolved and underwent state succession.)

The majority of refugees receiving support as homeless people do not speak Hungarian. This makes communication with social workers very difficult or even impossible and they become vulnerable, even within the communities of homeless people, due to the language barrier. It is not safe for refugees not speaking Hungarian to stay at night shelters. The language barrier is particularly difficult to overcome in supporting and taking care of the refugee if the refugee does not speak any European language. The language barrier prevents them from getting to know the fire safety and other regulations of the night shelter and what to do in an emergency. What is more, sometimes even the basic administrative tasks necessary for admission cannot be carried out due to language issues. In such circumstances, organisations supporting the homeless cannot even guarantee that the simplest safety rules will be followed at the shelter. Another problem is that the majority of refugees receiving support as homeless people do not have any income or, even if they have some, they usually send the money home, which means that they are actually migrant workers using the benefits available to homeless people.

The director of BMSZKI believes that the most serious problem in resolving the issue of homeless refugees is that there is no government policy on their actual integration or on providing support to them that is tailored to their needs. If the goal is their integration, special programmes are needed, e.g. language training, employment and the permanent assistance of specially trained social workers. However, if the task is limited to giving them board and accommodation on a provisional basis, special institutions are required, and it is neither possible nor expedient to place the burden of solving the issues, through an administrative decision, on the organisations providing support to the homeless. The Director of BMSZKI cannot accept the Refugee Authority's inflexible attitude that, as Section 3 of the Social Benefits Act states that refugees must be provided the same benefits as Hungarian citizens, "nothing else needs to be done other than implementing this rule".

### **The refugees identified during the inquiry**

1. On 15 April 2008, **M. A. A.** (sex: male, place and date of birth: Mogadishu, 3 November 1985), a citizen of Somalia, was recognised as a refugee by the Refugee Authority. The Somali citizen arrived at the Reception Centre on 23 April 2008, where he was informed by the social workers that, if he discontinued using the institution as a habitual residence without giving written notice, he would not be readmitted. He acknowledged this by signing the relevant document and made a cooperation agreement with the Reception Centre. Under this agreement, the social workers helped him get personal documents, i.e. an ID card, residence card, tax card and the document showing his social security number (hereinafter: health insurance card). The last document was issued by the end of July 2008, but by then he

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<sup>4</sup> See the European Social Charter adopted in Turin on 18 October 1961 and Act C of 1999 on promulgating the Charter.

had left the Reception Centre as he had travelled to Sweden for a month on 26 June 2008. As he did not return to the Reception Centre by the date specified by him earlier, his data were struck off the register on 30 July 2008. However, he did return on 16 January 2009, but he was informed that he was not eligible for accommodation at the centre according to the relevant legislation. The Refugee Authority rejected his application for support to settle down because he had submitted the application beyond the relevant deadline (on 2 February 2009), that is, more than six months after leaving the Reception Centre. Between 1 May 2009 and 31 March 2010<sup>5</sup>, he was paid a regular subsistence allowance. The Refugee Authority also allowed him to attend complimentary Hungarian language classes until 14 April 2010. By the time of the inquiry, M. A. A. had already left his registered place of residence. According to the Refugee Authority, he participated in the Asylum Association's housing programme and lived in the Ventura Hotel, a workers' hostel. The Association's housing programme is for a maximum of four months. The participants' eligibility is determined on a weekly basis depending on their willingness to cooperate. Until January 2010, M. A. A. attended an intensive language course organised specifically for refugees returning to Hungary, but from early February (i.e., the first two weeks of the month) he no longer showed up for class. The Refugee Authority learnt that, after dropping out of the Asylum Association's housing programme, M. A. A. moved to a temporary shelter run by the "The People of the Seed Church" (*Mag Népe Egyház*), and he was still staying there at the time the inquiry started.

2. On 16 June 2008, **A. M. N.** (sex: male, place and date of birth: Mogadishu, 1 September 1986), a citizen of Somalia, was recognised as a refugee by the Refugee Authority. He successfully applied for an ID card with the assistance of the social workers at the Debrecen Reception Centre. A. M. N. left the Debrecen Reception Centre on 31 August 2008 (he claimed that he would go to Sweden) and he should have returned to the centre by 30 November 2008. As he did not return to the Reception Centre by the specified date, his data were struck off the register on 2 December 2008. On 14 August 2009, he visited the Refugee Authority but he was told that that he was not eligible for readmission to the Reception Centre according to the relevant legislation. He applied for a regular subsistence allowance, which was granted by the Refugee Authority for the period between 1 August 2009 and 30 June 2010. He was also allowed to attend a free Hungarian language course until 10 June 2010. Later, he announced that he would go abroad for a while, therefore the Refugee Authority suspended the provision of the regular subsistence allowance for the period between 1 January and 28 February 2010. According to the Refugee Authority, he was officially living in the 9<sup>th</sup> district of Budapest at the time the inquiry started (he had no specific address, only the district was specified). In reality, he was staying with friends.

3. On 11 July 2008, **B. Y. B.** (sex: male, place and date of birth: Mogadishu, 19 January 1983), a citizen of Somalia, was recognised as a refugee by the Refugee Authority. He received an ID card and a tax card with the help of the social workers at the Debrecen Reception Centre. On 11 August 2008, B. Y. B. left the Debrecen Reception Centre for Finland and he was supposed to return by 8 November 2008. As he did not go back, his data were struck off the Reception Centre's register on 11 November 2008. On 14 August 2009, he reported to the Refugee Authority but the administrator told him that he was no longer eligible for accommodation at the Reception Centre according to the relevant legislation. He applied for a regular subsistence allowance, which was granted by the Refugee Authority for the

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<sup>5</sup> According to Section 36 (4) of Government Decree 146/1993 (26 October), a homeless person without even a temporary place to stay must register as a place of residence *the village or town* (or Budapest district) in which where he or she normally stays. In this case, the register must show the name of the village or town (or the district of Budapest) and a comment that he or she "has no permanent residence".

period between 1 August 2009 and 30 June 2010. At the same time, he was authorised to attend a free Hungarian language course until 10 June 2010. At the time the inquiry started, he was officially living in the 9<sup>th</sup> district of Budapest (he had no specific address, only the district was specified). According to the Refugee Authority, he was actually living in a temporary shelter run by the For the Future of the Homeless Foundation.

4. On 31 January 2008, **K. S. A.** (sex: male, place and date of birth: Baghdad, 7 December 1983), an Iraqi citizen, was recognised as a refugee by the Refugee Authority. He arrived at the Reception Centre on 12 March 2008. The social workers at the centre told him that, if he discontinued using the institution as a habitual residence without giving written notice, he would not be readmitted. He acknowledged this information by signing the relevant document and also signed a cooperation agreement with the Reception Centre. Under this agreement, the social workers helped him obtain personal documents (an ID card, residence card, tax card and a health insurance card). The Refugee Authority provided for K. S. A.'s language training through a course provided at the centre. His language skills had improved to such a level that, by the time he left the centre, he was able to attend to his business without any help. He had a Hungarian-language curriculum vitae, which he sent out to a number of prospective employers with the help of the social workers at the centre in order to find a job. K. S. A. attended several job interviews conducted in Hungarian. He was in regular contact with the Asylum Association and he also attended job seeker training organised by the Association. In the autumn of 2009, he was an unregistered illegal worker for around three months but, when he wanted to make his employment legal, he lost his job. He then distributed flyers on the street for a while and then found a job in a restaurant. He applied for the extension of his six-month eligibility to stay at the Reception Centre. The extension was granted by the Refugee Authority; he was allowed to stay until 31 January 2009. He eventually moved out on 10 February 2009. He was allowed to use the institution's passenger car to move. He received a regular subsistence allowance between 1 February 2009 and 31 January 2010 and housing support between 1 February 2009 and 28 February 2010. He also applied for an allowance for the purpose of settling down, which he was granted on 12 January 2009. He was allowed to attend free Hungarian language classes until 30 January 2010. At the time the inquiry started, his registered place of residence in Hungary was in the 7<sup>th</sup> district of Budapest.

5. On 12 June 2008, **F. A. F.** (sex: male, place and date of birth: Mogadishu, 1 October 1988), a citizen of Somalia, was recognised as a refugee by the Refugee Authority. He arrived in the Reception Centre on 3 September 2008. The social workers at the centre told him that, if he left the institution for more than four days without giving written notice or he returned at a later date than announced, he would not be readmitted. He was issued with an ID card and a tax card in Debrecen. Later, he successfully applied for a health insurance card with the assistance of social workers. On 19 September 2008, he announced that he was going to stay in Sweden temporarily, between 21 September 2008 and 21 October 2008. As he did not return to the Reception Centre by the date specified by him earlier, on 21 November 2008 his data were struck off the register of residents at the institution. He returned to Hungary in August 2009. Between 1 September 2009 and 31 May 2010, he was paid a regular subsistence allowance and the Refugee Authority also allowed him to attend complimentary Hungarian language classes until 11 June 2010. F. A. F. started the course but from 10 December 2009 he did not attend. He had first lived at the temporary shelter run by the For the Future of the Homeless Foundation, but by the time the inquiry started he had moved out and by then the Asylum Association staff had not known anything about his location for two months. At the

time the inquiry started, his registered place of residence in Hungary was in the 8<sup>th</sup> district of Budapest (he had no specific address within the district).

6. On 3 March 2008, **J. M. A.** (sex: male, place and date of birth: Mogadishu, 11 December 1972), a citizen of Somalia, was recognised as a refugee by the Refugee Authority. He arrived at the Reception Centre on 9 April 2008. When he arrived, the social workers at the centre told him that, if he left the institution for more than four days without giving written notice or he returned at a later date than announced, he would not be readmitted. J. M. A. acknowledged this by signing the relevant document. The social workers at the Reception Centre helped him obtain personal documents on the basis of a cooperation agreement with the centre. He notified the centre that he would travel to Denmark between 3 May and 3 June 2008. He returned from this trip on the date of arrival he had specified earlier. On 2 July 2008, he travelled abroad again, this time for three months, and he had informed the Reception Centre's staff of this in advance. When he was leaving, the staff at the Reception Centre warned him that there was no reason to extend his eligibility to stay at the institution if he travelled abroad. In spite of the warning, J. M. A. applied for an extension. It was rejected by the Refugee Authority on the grounds that the purpose of the stay at the Reception Centre is to help him, as a foreigner, integrate into Hungarian society but integration is impossible if the refugee travels abroad for longer periods on multiple occasions. J. M. A. arrived back on 6 October 2008. When he was informed of the rejection by the social workers, he submitted a new application on 8 October 2008. The Refugee Authority revoked the decision and extended the Somali citizen's eligibility for accommodation and board until 2 March 2009 on condition that he attended a Hungarian language course and cultural orientation training, which would be checked by the Reception Centre staff on a monthly basis. However, J. M. A. left the Reception Centre for an unknown destination in late December 2008 without warning. His data were struck off the register of the institution's residents on 7 January 2009. He has not visited the Reception Centre ever since. J. M. A. submitted his application for support for settling down beyond the six-month period after his departure from the Reception Centre. As a result, the Refugee Authority rejected the application. Between 1 September 2009 and 28 February 2010, he was paid a regular subsistence allowance, and attended free Hungarian language classes until 2 March 2010. He participated in the Asylum Association's housing programme and lived at a workers' hostel (Ventura Hotel). In November 2009, he announced that he would go abroad for some time and so the Refugee Authority suspended the provision of his regular subsistence allowance for the period between 1 December 2009 and 31 January 2010. At the time of the inquiry started, J. M. A.'s registered place of residence in Hungary was in the 7<sup>th</sup> district of Budapest (he had no specific address within the district).

7. On 27 February 2008, **J. A. D.** (sex: male, place and date of birth: Mogadishu, 27 December 1988), a citizen of Somalia, was recognized as a refugee by the Refugee Authority. He arrived at the Reception Centre on 9 April 2008. When he arrived, the social workers at the centre told him that, if he left the institution for more than four days without written notice or he returned at a later date than announced, he would not be readmitted. J. A. D. acknowledged this by signing the relevant document. The social workers at the Reception Centre helped him obtain personal documents on the basis of a cooperation agreement with the centre. He attended the Hungarian language classes with exemplary regularity. His eligibility to stay at the Reception Centre was extended until 27 February 2009 upon request. However, on 17 September 2008 he travelled to Germany for a month (he had informed the Reception Centre's staff of this in advance). On 23 October 2008, he sent an e-mail to the staff stating that he could only return a month after the date given originally. As he did not return to the Reception Centre by the modified date, his data was struck off the register on 26

November 2008. He submitted an application for regular subsistence allowance on 3 November 2009, which was regularly paid to him between 1 November 2009 and 28 February 2010. The Refugee Authority also allowed him to attend a free Hungarian language course until 26 February 2010, but he did not attend any classes at the designated language school. In late October 2009, he joined the Asylum Association's housing programme. At the time the inquiry started, J. M. A.'s registered place of residence in Hungary was in the 12<sup>th</sup> district of Budapest (he had no specific address within the district). However, according to the Refugee Authority, he actually lived at the Ventura Hotel.

**8.** On 7 December 2007, **I. M. I.** (sex: male, place and date of birth: Mogadishu, 26 July 1979), a citizen of Somalia, was recognized as a refugee by the Refugee Authority. He arrived at the Reception Centre on 18 December 2007. When he arrived, the social workers at the centre told him that, if he left the institution for more than four days without written notice or he returned at a later date than announced, he would not be readmitted. He acknowledged this by signing the relevant document. The social workers at the Reception Centre helped him obtain personal documents on the basis of a cooperation agreement with the centre. The Refugee Authority paid for having I. M. I.'s medical university diploma and specialist diploma translated into Hungarian. When he submitted his Hungarian CV, he was registered as a job seeker by the Bicske job centre. The social workers at the Reception Centre proved to be a great help, in both his job search and gathering information on how his diplomas could be recognised in Hungary. He also attended Hungarian language classes and was able to attend to his business in Hungarian by the summer of 2008. His eligibility to stay at the Reception Centre was extended until 6 December 2008 upon request. He was to travel abroad between 14 July and 14 September 2008. He later requested a new deadline for return (26 September). When he arrived, he told the Reception Centre's staff that he managed to find a job in his profession in Norway. A while later, he left the Reception Centre without notifying the Centre and his data were struck off the register on 11 November 2008. I. M. I. applied for support to settle down on 14 May 2009 and his application was accepted by the Refugee Authority on 5 August 2009. The Refugee Authority also paid him a regular subsistence allowance between 1 July 2009 and 30 November 2009. The Refugee Authority allowed him to attend a free Hungarian language course until 6 December 2009, but he did not attend any classes at the designated language school. He submitted an application to extend his regular subsistence allowance on 15 February 2010; the decision was still pending at the time the inquiry started. When he submitted the application, he specified an address in Wesselényi utca, in the 7<sup>th</sup> district of Budapest. He was presumably renting a place there at the time.

**9.** On 15 December 2008, **A. W. A.** (sex: male, place and date of birth: Jabowte, 1 January 1969), a citizen of Somalia, was recognised as a refugee by the Refugee Authority. He arrived in the Reception Centre on 13 January 2009. When he arrived, the social workers at the centre told him that, if he left the institution for more than four days without written notice or he returned at a later date than announced, he would not be readmitted. **A. W. A.** acknowledged this by signing the relevant document. The social workers at the Reception Centre helped him obtain personal documents on the basis of a cooperation agreement with the centre. He did not attend the Hungarian language classes and could not find a job due to a disability (he walks with a stick). He stayed in the Netherlands between 13 May and 13 June 2009 (he had notified the Reception Centre before the trip). He returned from the trip by the scheduled date of arrival. His eligibility to stay at the Reception Centre had expired on 16 June 2009 and he only applied for an extension after his return. However, he had already travelled abroad again by the time the decision was made: he left the country for three months on 20 June 2009, and, as a result, the Refugee Authority rejected the application. He returned

to the Reception Centre on 19 October 2009 to learn from the social workers that during his absence his application had been turned down. The Refugee Authority granted him support to settle down on 7 December 2009 and he also received a regular subsistence allowance between 1 November 2009 and 31 December 2010. He was also allowed to attend a Hungarian language course free of charge from November 2009 until 14 December 2010. A. W. A. however did not attend the course at the language school. At the time the inquiry started, his registered place of residence in Hungary was in the 9<sup>th</sup> district of Budapest (he had no specific address within the district).

**10.** On 28 March 2009, **A. O. M.** (sex: male, place and date of birth: Mogadishu, 18 May 1974), a citizen of Somalia, was recognised as a refugee by the Refugee Authority. He arrived in the Reception Centre on 23 April 2009. When he arrived, the social workers at the centre told him that, if he left the institution for more than four days without written notice or he returned at a later date than announced, he would not be readmitted. A. O. M. acknowledged this by signing the relevant document. The social workers at the Reception Centre helped him obtain personal documents on the basis of a cooperation agreement with the centre. He applied for a support to settle down, which was granted on 13 September 2009. He was also allowed to attend a free Hungarian language course until 27 March 2011, but he did not register at the language school for the course. He moved out of the Reception Centre on 28 September 2009 and, instead of looking for a flat, joined the housing programme run by the Asylum Association. He informed the Refugee Authority on 30 November 2009 that he would like to spend the holiday season with his family and so he would go abroad for two months. At the start of the inquiry, the Refugee Authority did not have any information on whether A. O. M. had returned from abroad. He did not submit an application for regular subsistence support. His registered place of residence was in the 11<sup>th</sup> district of Budapest (he had no specific address within the district).

### **The relevant constitutional rights**

– *The right to life*: “In the Republic of Hungary everyone has the inherent right to life and to human dignity. No one shall be arbitrarily denied these rights.” (Article 54 (1) of the Constitution)

– *The right to personal security*: “In the Republic of Hungary everyone has the right to freedom and personal security; no one shall be deprived of their freedom except on the grounds and in accordance with the procedures specified by law.” (Article 55 (1) of the Constitution)

– *The right to asylum*: “In accordance with the conditions established by law, the Republic of Hungary shall, if neither their country of origin nor another country provides protection, extend the right of asylum to foreign citizens who, in their native country or the country of their habitual place of residence, are subject to persecution on the basis of race or nationality, their membership of a specific social group, religious or political conviction, or whose fear of being subjected to persecution is well-founded.” (Article 65 (1) of the Constitution)

– *The freedom of movement*:: “A person legitimately staying in the territory of the Republic of Hungary has the right of free movement and the right to freely select his or her place of stay, including the right to select his or her residence and the right to leave the country, except for the cases defined by Act of Parliament.” (Article 58 (1) of the Constitution)

– *The right to return to Hungary*: “Hungarian citizens may always return to Hungary from abroad.” (Article 69 (2) of the Constitution)

– *The right to social security*: “Citizens of the Republic of Hungary have the right to social security; they are entitled to the support required to get by when they are old, sick, disabled, widowed or orphaned, and in the event of unemployment through no fault of their own.”

– The Republic of Hungary shall implement the right to social support through the social security system and the system of social institutions. (Article 70 (1) and (2) of the Constitution)

## **The findings of the inquiry**

### *The competence of the Parliamentary Commissioner for Civil Rights*

On 14 March 1989, Hungary acceded to the Convention relating to the Status of Refugees of 28 July 1951 and also to the Protocol of 31 January 1967 (hereinafter jointly referred to as the “Geneva Convention”). The two documents, after being promulgated by Law-Decree 19 of 1989, became parts of domestic law on 12 June 1989 and 14 March 1989, respectively.

The right of asylum is also guaranteed by Article 18 of the Charter of Fundamental Rights of the European Union in addition to the Geneva Convention.

Article 65 (1) of the Constitution of the Republic of Hungary states that “in accordance with the conditions established by law, the Republic of Hungary shall, if neither their country of origin nor another country provides protection, extend the right of asylum to foreign citizens who, in their native country or the country of their habitual place of residence, are subject to persecution on the basis of race or nationality, their membership of a specific social group, religious or political conviction, or whose fear of being subjected to persecution is well-founded.”

Also, according to Section 2 (c) of the Asylum Act, the right of asylum provides legal grounds for staying in the territory of the Republic of Hungary and simultaneous protection against refoulement, expulsion and extradition. Unless a rule of law or government decree expressly provides otherwise, a refugee has the same rights and obligations as a Hungarian citizen. If the refugee is deprived and needs help to provide for their basic living conditions, the refugee has the right to continue to receive the material support related to accommodation, and, for the purpose of facilitating their social integration, the refugee is entitled to receive additional support and benefits.

The competence and obligations of the Parliamentary Commissioner for Civil Rights are specified in the Ombudsman Act. According to Section 16 (1) of the Ombudsman Act, anybody may turn to the Ombudsman if the person submitting the petition believes he or she has suffered an infringement of their fundamental rights as a result of the activities of an authority or an entity providing public service (hereinafter jointly referred to as authority). The Ombudsman may only be petitioned if the available legal remedies within the system of public administration (not including the judicial review of the administrative decision) have been exhausted and no further legal remedies are available. Pursuant to Section 16 (2) of the Ombudsman Act, if the relevant requirements are met, the Parliamentary Commissioner may act *ex officio* in order to stop any infringement related to fundamental rights.

According to Section 29 (4) of the Ombudsman Act, for the purposes of the Act, an infringement of fundamental rights include *a violation or a direct threat of violating a fundamental right*, irrespective of whether it is a result of an action or omission.

An *ex officio* inquiry is justified to protect the rights of refugees, a particularly vulnerable social group who, due to their social situation, foreign nationality and the fact they do not speak Hungarian and for many other reasons, have difficulty in promoting their own

interests, meaning that they do not have the capacity to exercise their constitutional right to file a complaint or legal remedy or this capacity is limited or they have difficulty in obtaining the support needed to exercise their rights.

*Cancelling the availability of the accommodation and board at the reception centre*

According to Section 12 (1) of the Government Decree, it is the state's task to provide refugees and beneficiaries of subsidiary protection (hereinafter: refugees) with support capable of ensuring their subsistence and facilitating their social integration. This state task is carried out by the Refugee Authority, by the reception centres directly and by the notary (local council) of the village or town or Budapest district where the refugee has a place of residence or where his or her accommodation is located.

If the refugee does not have any other form of accommodation available, a short while after recognition, for the purposes of “pre-integration”<sup>6</sup> (as defined in Section 32 (9) of the Asylum Act as effective at the time of the start of the inquiry), the refugee is transferred to a reception centre, a special state institution specified for this purpose. According to Section 41 (1) of the Government Decree, the refugee will have the right to accommodation and board at the reception centre free of charge for six months from the date of the final decision on the recognition. The Refugee Authority may, at its own discretion, extend the six-month period on one occasion by an additional period of six months. The Refugee Authority may only grant the refugee a right to stay at the reception centre beyond a year if the refugee is over 60 or if he/she could not integrate into society and live on his/her own due to permanent and irreversible deterioration of his/her health, mental or physical disability, or a condition or disease suffered as a result of any serious trauma or pregnancy, provided that the health problem or disability did not require specialist institutional care.

The Government Decree guarantees the right of free stay and board at the reception centre for six months as an absolute right, that is, without any further conditions (if the refugee cannot find accommodation otherwise) and the cases in which the refugee may be deprived of this right are specified by law. According to Section 32 (3) of the Asylum Act effective at the time of the start of the inquiry, the Refugee Authority had the power to withdraw the accommodation and board at the reception centre in three cases: The first case is if the refugee has repeatedly or grossly violated the rules of conduct at the designated accommodation facility. The second is when the refugee has shown such seriously violent behaviour that a criminal or minor offence procedure is initiated against him/her. The third case is if the refugee issued a false declaration with respect to his/her property and/or income in the interest of obtaining entitlement to accommodation at the reception centre or refuses to issue a declaration. Since the amendment of the Asylum Act, effective from 24 December 2010, the right to receive accommodation and boarding at the reception centre may also be restricted or cancelled if the refugee “repeatedly or seriously violates the obligation to cooperate.”<sup>7</sup>

The Refugee Authority issues a formal decision on withdrawing the right to receive accommodation and board at the reception centre. There is no legal remedy available against this decision within the system of public administration. A judicial review of the decision may be sought, but not on “any grounds,” as specified in Section 98 (1) of Act CXL of 2004 on the General Rules of Administrative Procedures and Services (hereinafter: Administrative Procedures Act), but only if the law has been violated. The request for review must be

<sup>6</sup> Section 32 (9) of Act LXXX of 2007 on pre-integration support and benefits, effective at the time the inquiry started, was repealed by Section 91 of Act CXXXV of 2010 (the amendment took effect on 24 December 2010).

<sup>7</sup> See Section 92 of Act CXXXV of 2010.

submitted to the Refugee Authority within three days of the date on which the decision is delivered to the refugee. The request must be addressed to the court.

However, none of the refugees interviewed during the inquiry have lost their right to stay and board at the reception centre on any of the grounds specified in Section 32 (3) of the Asylum Act. My staff only talked to one refugee in whose case the six-month period specified in Section 41 (1) of the Government Decree had expired. A large majority of refugees my colleagues could talk to had to live on the street because they had not returned to the reception centre from a foreign trip by the originally planned date of return.

The most common grounds for losing these rights has been Section 41 (5) of the Government Decree, and not the Asylum Act. The Government Decree rule states that, if the refugee discontinues habitual residence at the reception centre *without any written notification*, he or she will no longer be eligible for accommodation and boarding at the reception centre. Although the six-month eligibility for accommodation and board for a refugee otherwise unable to find accommodation in Hungary is an absolute right, there has been no law and there is still no rule describing in what circumstances and on the basis of what facts the Refugee Authority may establish that the refugee does not intend to return to the institution if there is no written statement made by the refugee on giving up this right. In addition, there is no statutory rule describing what should be done if the refugee, for no fault of his/her own, is in a situation the Refugee Authority misinterprets and considers as a waiver of the refugee's rights.

As there is no specific statutory regulation, a practice has evolved that if the refugee does not return to the reception centre within three days from the scheduled date at the latest, he/she is automatically considered to have given up the reception centre as a habitual residence and in this case the foreigner's data are struck off the register of the inhabitants.

*It is not an infringement of constitutional rights that the refugee is automatically considered by the reception centre's staff to have given up the reception centre as a habitual residence if the he/she does not return to the reception centre within three days from the date he/she originally specified.*

This presumption is negated if the refugee returns within a few weeks or months and declares that they still have no accommodation in Hungary and therefore they still need accommodation and board at the reception centre.

Although their requests were recorded in writing by the social workers, the refugees were still required to leave the reception centre. The applications for accommodation filed by the refugees were forwarded by the director of the reception centre to the Refugee Authority. The applications we studied during the enquiry were rejected by the Refugee Authority with reference to Section 41 (5) of the Government Decree, stating that the applicants had been notified of the fact that if they did not return to the reception centre from the foreign trip, they would lose their eligibility for accommodation and board at the centre.

The Refugee Authority sent the rejection decisions by post to the address the refugees had given. In those cases when the foreigner had nowhere to go and therefore could not give a postal address in Hungary, the Refugee Authority notified them of the decision rejecting their application to be granted accommodation and board at the reception centre through an "announcement" as regulated in Section 80 of the Administrative Procedures Act, which means that the Refugee Authority uploaded the Hungarian-language decision to its website and placed it on its official notice board. As a result, those homeless refugees who had been notified of the decision of rejection by announcement as they had no postal address in Hungary had virtually no chance of seeking legal remedy against the decision.

Article 58 (1) of the Constitution states that everyone legally staying or residing in the territory of the Republic of Hungary has the right to move freely and to choose their place of residence, including the right to leave their place of residence or the country, with the

exception of the cases established by law. As the refugees living in the reception centre enjoyed equivalent rights to those of Hungarian citizens and stayed legally in the country, they were granted the rights listed above, including the right to leave the country. The most important guarantee of exercising this right is the availability of a travel document (as specified in Article 28 of the Geneva Convention), which is issued by the Republic of Hungary.

Almost all of the refugees interviewed by my staff stated that the reason they had left the reception centre was that they had wanted to see relatives living in other EU Member States and who they very often had not seen for years. They also wanted to gather information on the possibility of moving to that country or finding a job there. Such plans do not violate the law at all as, according to Section 32 (10) of the Asylum Act, “if a refugee wishes to return to his/her country of origin, or to settle in a third country that is willing to admit him/her, he/she may receive financial support to fully or partially cover the travelling costs”.<sup>8</sup>

Moreover, it does not conflict with the interests of the Republic of Hungary if the refugee attempts to make a living on their own or with the assistance of a relative and find accommodation and financial support in Hungary or abroad. It increases the likelihood of successful integration if the refugee has family or friends who speak the language of the receiving country, know the local environment well and have a network of connections in the given society.

Although, according to the Director-General of the Refugee Authority, due to measures taken by the authorities of other Member States of the European Union, “refugees travelling abroad from the reception centre are typically returned to Hungary”, I have not received any data during my inquiry on how many foreigners struck off the register of those living in the institution under Section 41 (5) of the Government Decree requested their readmission later.

Depriving a refugee of accommodation and board at the reception centre if the refugee cannot find accommodation otherwise is a serious sanction, as in this case the foreigner's free accommodation and board (funded by the state) is no longer available. The Constitutional Court declared, in decision no. 56/1991 (8 Nov), that it is one of the fundamental requirements of the rule of law that “the organs exercising public authority must operate within the organisational limits specified by the law, in the order of operation determined by the law, and within the limitations regulated by the law, in a manner which is reliable and known by the citizens.”

According to Section 41 (1) of the Government Decree, the refugee has the right to accommodation and board at the reception centre free of charge for six months from the date of the final decision on their recognition. However, as there was no rule relevant to this issue, the period spent abroad by the refugee should not have been taken into consideration when the six-month period of eligibility was calculated. Because of this, a refugee leaving the reception centre, not because of his/her improper conduct (i.e. not because of a reason specified in Section 32 (3) of the Asylum Act), but who was not in a position to find accommodation in Hungary would have had the right to return to the institution for the remaining portion of the six-month period even if he/she did not return from the foreign trip by the scheduled date or within 3 days from this date.

*It resulted in an infringement of the right to legal security (Article 2 (1) of the Constitution) and the right to asylum (Article 65 (1) of the Constitution) that the Refugee Authority denied accommodation and board for the remaining period of their absolute right to stay at the reception centre to certain refugees not in a position to find accommodation in*

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<sup>8</sup> Section 32 (10) of Act LXXX of 2007, effective at the time the inquiry started, was repealed by Section 91 of Act CXXXV of 2010 (the amendment took effect on 24 December 2010).

*Hungary and who were exercising their right of free movement (including the right to leave the country) as guaranteed by Article 58 (1) of the Constitution.*

It does not constitute a violation of the law if the right of free movement and the right to leave the country (an element of the right of free movement) are exercised. *It resulted in an infringement of the right to legal security (Article 2 (1) of the Constitution) that the application for readmission to the reception centre filed by J. M. A., a Somali citizen, was rejected by the Refugee Authority on the grounds that his integration into society was hindered because he lawfully travelled abroad several times. As the Refugee Authority withdrew this decision at its own initiative and the foreigner was readmitted to the centre, I will not initiate any measures in this case.*

However, Section 99 (4) of Government Decree 290/2010 (21 Dec) defined another grounds for excluding someone from accommodation and board at the reception centre. According to Section 41 (5) of the Government Decree, as amended and still in effect today, if the refugee's reported absence exceeds thirty days in total, he/she will no longer be eligible for accommodation and board at the refugee centre."<sup>9</sup>

### *Support of homeless refugees*

According to Section 2 of the Asylum Act, those people recognised as refugees by the Hungarian authorities whose plans to settle down in another EU Member State fail must be allowed to return to Hungary even if their personal documents issued by the Hungarian authorities are no longer valid when they return. The readmission of persons recognised as refugees by the Republic of Hungary is not carried out under the so-called "Dublin procedure"<sup>10</sup> but, similarly to Hungarian citizens, with a document issued by the relevant Hungarian diplomatic mission, which document allows them to return on one occasion.

*I identified no circumstance involving the infringement of constitutional rights in relation to the enforcement of the right of return to Hungary (Article 69 (2) of the Constitution).*

Refugees to Hungary are allowed to exercise their right to free movement when they have returned to the country. The refugees interviewed by my staff stated that the reason they decided to go back to the reception centre was that they had nowhere else to go in Hungary. Not only were the refugees not allowed back to the reception centre but they did not receive any help in finding alternative accommodation or to obtain new documents to replace the lost or expired ones either, and they did not even receive any guidance on how to obtain them. Those refugees who were required to leave the reception centre but had no personal connections who would put them up had to live on the street; that is, they became homeless.

Those refugees who did not speak Hungarian and had no information on the local environment did not know what support they could obtain as homeless people and where they could get this support. The majority of the refugees my colleagues met spent the first few days and nights of their homeless lives at railway stations in Budapest or in subways outside the city centre. Those less fortunate had to spend the nights in public areas and outdoors, which was particularly tough for Africans during the winter as they had become used to a much warmer climate and had no suitable clothing or equipment. Some of them were told of the location of night shelters in Budapest by social workers who they met on the street while others learnt the same information from foreigners in a similar situation who they met at the reception centre.

Identification documents are a must for homeless people, including for refugees living on the streets. According to Section 4 (1) (a) and Section 26 (1) of Act LXVI of 1992 on the

<sup>9</sup> Section 99 (4) of Government Decree 290/2010 (21 Dec) is applicable from 24 December 2010.

<sup>10</sup> See Section 70 of Act LXXX of 2007 on asylum.

personal data and address register of citizens (hereinafter: Personal Data Registration Act), a refugee living in Hungary must register his/her address with the notary of the town or village within 3 business days from the day he/she moves to the given town or village.

The notary of Bicske registers the address of the Reception Centre as the place of residence of the refugees living there. To certify this, the refugees are given an official certificate in the form of a card (hereinafter: residence card). When the Reception Centre strikes the refugee's data off the register of the inhabitants, it notifies the notary of Bicske that the foreigner has left the Centre for an unknown destination. In such cases, the address and the residence card verifying this are declared invalid by the notary. As a result, the foreigner no longer has a place of residence in Hungary. Refugees with no registered place of residence or place of stay in Hungary are not eligible for social security services and social benefits or for the state support and services provided for integration purposes (such as housing support).

A refugee readmitted by Hungary must comply with his/her obligation to register an address.

In the procedure for registering their place of residence, the refugee must give evidence of his/her personal data and refugee status. According to Section 36 (4) of Government Decree 146/1993 (26 October) on the Implementation of the Personal Data Registration Act, a homeless person without even a temporary place to stay must register as a place of residence the village or town (or Budapest district) in which he or she normally stays. In this case, both the register and the residence card will show the name of the village or town (or the district of Budapest) and a comment that he or she "has no permanent residence". By issuing such a residence card (i.e. containing only a town, village or district name), the local government recognises that the holder of the card is a homeless person living in the territory of that town, village or district. The majority of the refugees identified in the procedure were in the possession of a document showing the name of a district of Budapest without specifying any street name or house number.

It may be concluded on the basis of the relevant laws that if a homeless person does not even have a temporary place to stay they may choose freely in which Hungarian town or village or Budapest district he/she will "normally stay". During the inquiry, the refugees, the NGO staff members and the newspaper article on the basis of which I initiated this *ex officio* procedure all mentioned that the local authorities of certain Budapest districts refuse to issue residence cards for the district without a specific address with a street name and a house number.

According to certain persons involved in providing support to homeless people, this tendency of not issuing residence cards is the result of the rule in Section 6 of the Social Benefits Act, which states that "the social administrative procedure is carried out by the social administrative entity whose territory the homeless person claims to be his or her place of stay in a declaration made at the time of using the benefit." The benefits as listed in the Social Benefits Act that are available to homeless people holding a residence card only showing the village, town or district must be provided by the particular town, village or district that has issued the residence card. Local authorities refusing to accept such applications presumably take this approach because they want to limit the number of local citizens eligible for social aid and they wish to prevent an increase in the administrative burden. The rejection of such applications (which are not exclusively submitted by homeless people) is not made in writing, which means that it is difficult to find out hard facts about these cases in this inquiry and we could not even establish beyond doubt which local governments are affected.

Health insurance cards are issued to homeless people living in Budapest and with district-level places of residence by the local office of the Regional Labour Centre of Central Hungary located at the following address: Budapest, 9<sup>th</sup> district, Haller u. 6. (hereinafter: Local Office). The Local Office always requests the applicants to show identification

documents, that is, the applicant must give evidence of his/her personal data, refugee status and place of residence. Foreigners recognized by the Republic of Hungary as refugees are entitled to social security benefits under the same conditions as citizens. However, it is impossible for a refugee without a residence card or other identification documents to obtain a health insurance card, which is necessary to verify his/her eligibility for social security benefits.

Both the address registration procedure and the social security card application procedure are conducted in Hungarian, that is, the refugee must complete the relevant application form in Hungarian. If a refugee who does not speak Hungarian turns to the Local Office, a staff member of the Local Office who speaks English assists the refugee in completing the forms. In fortunate cases, the refugee applicant is accompanied by an NGO representative, typically a staff member of the Asylum Association, who can also help in administrative issues. A routine developed in the course of the working relationship between the Local Office and the Asylum Association: the forms issued in advance arrive back, completed, to the Local Office. The authorities typically send the documents by post to the address specified in the application but the refugees are allowed to collect the document from the authority in person.

Persons applying for support as homeless people must prove or at least substantiate their eligibility. It was a common phenomenon among refugees returning from abroad that all their documents, previously obtained with the help of the social workers at the reception centre, were either lost or expired. According to the accounts of the refugees interviewed during the inquiry, access to night shelters is only allowed if, as part of the usual administration, the refugees show their personal identification documents and also their medical certificates verifying they do not have tuberculosis or parasites (lice, mites etc.). The situation of those refugees who do not speak Hungarian was significantly worsened by the language barrier. Initially, they had a hard time understanding why they were sent away from shelters. However, the staff members of homeless support organisations interviewed during the inquiry complained that, as they did not speak the necessary foreign languages, they could not even explain to the foreigners who did not know the city well where exactly the different pulmonary screening stations (located in parts of Budapest distant from each other) are and how they can get to the public health institution issuing certificates of parasite-free status. Another issue was that foreigners without a health insurance card had to pay for pulmonary screening.<sup>11</sup>

Many of the refugees mentioned that as they did not have the documents required for the usual administration at the shelter, they were denied access, and they had to spend the night outdoors. The refugees were not given a formal written decision on rejecting their application for accommodation at the night shelter and so it was impossible to collect evidence on the affected institutions and the exact dates of rejection.

According to Section 3 of the Social Benefits Act, the Act applies to immigrants, permanent residents, stateless people and people recognised as refugees in addition to Hungarian citizens. It also applies to people granted the right of free movement and stay if they exercise their right of stay beyond three months in the territory of the Republic of Hungary and they have a registered place of residence in accordance with the Act on the personal data and address register of citizens and, for the purpose of the benefits defined in Section 7 (1), to people who qualify as nationals of states having acceded to the European Social Charter and legally stay in the territory of the Republic of Hungary. However, a refugee without valid papers, through no fault of his/her own, is unable to present identification or prove that he/she is authorised to stay in Hungary and that he/she is a

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<sup>11</sup> On 15 August 2011, the fee for pulmonary screening was HUF 2870.

foreigner defined in Section 3 of the Social Benefits Act eligible for the support provided to the homeless.

According to the Constitutional Court's opinion in connection with Article 54 (1) of the Constitution, "however, the duty of the State based on the right to life goes beyond its obligation not to violate the individual's absolute right to life and to employ its legislative and administrative measures to protect this right, but it must protect human life in general and the conditions of life."<sup>12</sup>

Hungary's climate is mild, which means that the winters are relatively chilly. In the coldest days of December and January, the average daily temperature is below +1 °C and -10 °C or lower during the night is relatively common in this period. As a result of a procedure started at the initiative of the Parliamentary Commissioners of Civil Rights and of the Rights of National and Ethnic Minorities, the Constitutional Court declared in decision 42/2000 (8 Nov) that "the State is obliged to secure the fundamental conditions of human life: in the case of homeless people it means securing a shelter to offer protection from a danger directly threatening human life." The effect of this decision by the Constitutional Court is that all persons within Hungarian jurisdiction, including refugees who do not speak Hungarian or do not have documents, and even foreigners illegally staying in Hungary, are entitled to be accommodated for the purpose of preventing dangers directly threatening human life and this right is granted to them due to the simple fact that they are all *human beings*.

*It results in an infringement of rights related the right to life specified in Article 54 (1) of the Constitution if a homeless person who cannot speak Hungarian is denied access to accommodation necessary to prevent a situation constituting a direct threat to life because he/she does not hold a valid document verifying the legitimacy of his/her stay in Hungary or his/her health condition. Foreigners cannot be deprived of the right to stay at the night shelter by stating that their lack of Hungarian language skills makes it impossible to inform them of the general shelter regulations of conduct and of the fire safety regulations applicable in an emergency.*

A number of the refugees admitted to institutions providing support to homeless people complained that the staff of such shelters were unable to keep an order, which meant that the refugees were abused by their homeless peers, their belongings were stolen and they heard a lot of offensive and racist remarks. One of the black refugees was even assaulted by other homeless people at the shelter.

*It constituted an infringement of the constitutional right of human dignity (Article 54 (1) of the Constitution) and of personal security (Article 55 (1) of the Constitution) that the organisations providing accommodation to homeless people are unable to guarantee their personal safety.*

## Conclusions

During my inquiry, we could not identify all the homeless refugees living in Hungary and we could not even find all of those who live in Budapest. According to the estimates of the interviewed refugees and the staff of the NGOs, there are approximately 30 to 40 homeless refugees living in Budapest.<sup>13</sup> My inquiry has confirmed the position of the Refugee Authority's Director-General that homelessness most affects those refugees who have very low qualifications, who are practically illiterate, do not speak Hungarian and leave the reception centre for a foreign country shortly after their recognition as refugees and do not return to the institution by the scheduled date.

<sup>12</sup> See Decision 48/1998 (23 Nov) of the Constitutional Court.

<sup>13</sup> The Republic of Hungary recognized as refugees 166 people in 2009, 74 in 2010 and 22 between January 1 and 30 June 2011 under the Geneva Convention.

The Director-General of the Refugee Authority is of the opinion that it is the fault of the refugees themselves that they become homeless because they travel abroad as they hope to make a better living, are attracted by an economically more developed country or they are invited by family or friends living abroad. Due to their lengthy stay abroad, the integration opportunities available to such foreigners in Hungary (the opportunity to learn Hungarian and cultural and labour market orientation) are to no avail, and they cannot properly make use of the integration support and benefits in spite of the Refugee Authority's warning.

Unless a rule of law or government decree expressly provides otherwise, a refugee has the same rights and obligations as a Hungarian citizen. Furthermore, if the refugee is deprived and needs help to provide for their basic living conditions, the refugee has the right to continue to receive the material support related to reception, and, for the purpose of facilitating social integration, the refugee is entitled to receive additional support and benefits.

*The obligation of the state to provide accommodation to foreigners recognised by the Republic of Hungary cannot be derived from the right of asylum (Article 65 (1) of the Constitution) or the right to social security (Article 70/E (1) of the Constitution).*

According to decision no. 42/2000 (8 Nov) of the Constitutional Court, "in establishing the system of social benefits securing the minimum livelihood, the protection of human life and dignity is a fundamental constitutional requirement. Accordingly, the State is obliged to secure the fundamental conditions of human life; in the case of homeless people it means securing a shelter to offer protection from a danger directly threatening human life."

The striking off of a refugee's data from the register of the reception centre if the refugee is not in the position to find accommodation is a serious sanction, as in this case not only will the foreigner be without accommodation and board but he/she will also lose their registered place of residence. A refugee without a place of residence in Hungary is deprived of social benefits, complimentary health services and also the benefits and services provided for integration purposes, which may be applied for at the notary (local government) of the village or town or Budapest district of the place of residence.

Those refugees affected by homelessness also generally speak very little Hungarian or do not speak Hungarian at all. *Refugees readmitted to Hungary from abroad but excluded from accommodation at the reception centre are in such an extremely vulnerable position that they cannot even access the basic condition of human life, that is, accommodation at a homeless shelter, because of their poor language skills and the bureaucratic obstacles to obtaining the documents required to access the social services and benefits offered in Hungary.*

The lack of language skills makes communication with bureaucrats and social workers very challenging or sometimes even impossible. Even those refugees who have access to shelters but do not speak Hungarian are in a vulnerable situation among other homeless people, and are therefore in danger both in the street and in night shelters.

According to Section 51 (1) of the Government Decree, a refugee is eligible to attend a free 520-hour Hungarian language course of beginner or intermediate level organised at the institution specified by the Refugee Authority. The eligibility expires after 24 months have passed since the recognition.

The interviewed refugees all said that they attended Hungarian classes for shorter or longer periods at the reception centre, but almost all of them were dissatisfied with the effectiveness of these courses. The most frequently mentioned complaint about the Hungarian language course organised by the Refugee Authority that the course was very hard or even impossible to follow for practically illiterate refugees or refugees with a low level of literacy or for refugees who did not speak English at least at a basic level.

It was a frequent complaint among Somali and Afghan citizens that they could not attend school as a child due to the civil war in their homeland that has been going on for

decades, and therefore their reading and writing skills were weak. Such refugees were not prepared to cope with the course material: they could not read the text on the blackboard and could not complete the written assignments. As the complimentary Hungarian language education was not split into groups on the basis of the educational history or the reading and writing skills of the eligible foreigners, college graduates sometimes speaking one or two foreign languages were put in the same group with their practically illiterate peers at the reception centre. As students of the Hungarian language course were expected to have an intermediate level of education but at least basic reading and writing skills, it is no coincidence that those refugees who were practically illiterate continuously felt that their attendance was futile and reacted to failure by dropping out. Not only are illiterate refugees unable to learn Hungarian at a basic level but they are also unable to access the vocational training defined by law and provided for integration purposes.

The refugees also complained that both the course at the reception centre and the course held at a language school in Budapest (after their stay at the reception centre) are held in the morning or in the afternoon, so if they work, have an official matter to attend to or are looking for a job, they cannot attend the classes.

Neither the staff of the reception centre nor the NGO representatives knew of any study carried out by the Refugee Authority for checking the effectiveness of the state-funded language training over the past few years and they could not mention any recent measures to improve effectiveness, especially to start differentiated Hungarian courses tailored to the reading and writing skills of foreigners.

According to the Constitutional Court, the right to life is an absolute right that cannot be restricted, and it is the primary obligation of the state to respect and protect it. The state's duty to "respect and protect" the fundamental right of the right to life (as guaranteed by Article 8 (1) of the Constitution) does not mean that the state is simply required not to violate this right but it incorporates the obligation to ensure the conditions necessary for the enforcement of this right, meaning that the state must provide guarantees for the subjective enforcement of fundamental rights.<sup>14</sup>

The integration of refugees recognized by the Republic of Hungary is a duty of the state. *The objective protection duty of the State regarding the life of foreigners recognized as refugees includes (even for refugees excluded from accommodation and board at the reception centre) the provision of support and help to enable the refugees to have access to accommodation in order to prevent any danger to human life.*

Help is needed partly because the refugees taken to the reception centre receive their personal documents with the forms obtained by the institution in advance are completed by the social workers, and the foreigners sign these forms where necessary and it is the institution that sends the applications to the authorities. It is the staff of the reception centre who actually hand over to the refugee the personal identification documents and the documents verifying the refugee's right to stay, be employed and use various social services in Hungary. This method of obtaining documents may be efficient from the social workers' point of view but it has one obvious disadvantage: the refugees do not have any information on and practical experience of Hungarian bureaucracy and bureaucratic culture. It is needless to observe that the majority of Somali and Afghan refugees returning to Hungary but excluded from the reception centre had no idea on how to obtain new documents.

*The Refugee Authority caused an infringement of the right to life and human dignity (Article 54 (1) of the Constitution), of the right of asylum (Article 65 (1) of the Constitution) and of the right to social security (Article 70/E (1) and (2) of the Constitution) by excluding the refugees readmitted to Hungary from accommodation and board at the reception centre*

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<sup>14</sup> See Decision 64/1991 (10 Dec) of the Constitutional Court.

*in a way that did not provide any help for the purpose of providing for the conditions of homeless support, not even in the coldest months of the year.*

The findings of the inquiry confirmed the BMSZKI's opinion that even the integration of refugees into the homeless support system is a very complex task when the refugees have been forced to leave the reception centre, do not speak Hungarian, do not have identification documents, cannot read or write and suffer from various mental and physical traumas experienced during their escape and thus show psychological syndromes. It is no wonder that the majority of local authorities cannot carry out this task as they have no staff with the necessary language and professional skills.

As a result of amendments to the Asylum Act and the Government Decree on the implementation of the Asylum Act, the integration benefits have been reduced and access to them has become restricted. Due to these changes in the regulations, there is now an even higher chance that refugees with poorer integration skills who have been forced to leave the reception centre and ended up on the streets will not have any access to the homeless support system.

At its session of 8 November 2010, Parliament adopted Act CXVI of 2010<sup>15</sup> on the amendment of Act LXXVIII of 1997 on the Shaping and Protection of the Built Environment (hereinafter: Construction Act). According to the amended Section 54 (5) of the Construction Act, "everybody is allowed to use public areas for their intended purpose. Additional rules regulating the purposes and use of public areas may be defined by law." According to Section 54 (6) of the Construction Act, "the local authority is authorised to make it into a minor offence and put sanctions against the use of public areas within the incorporated area of the village or town if the use is different from the intended purpose of use as defined in (4) or by law."

According to Government Resolution 1217/2010 (19 Oct) on the tasks to be completed in relation to the amendments of laws concerning the proper use of public areas, it was the task of the Minister for National Resources, the Minister for Public Administration and Justice and the Minister of the Interior to develop a medium-term action plan for reducing the number of homeless people living on the streets and for the reform of the homeless support system by 30 November 2010.

The Government proposal entitled "Medium-Term Action Plan for Homelessness on the Streets" referred to the possibility that local authorities may sanction as a minor offence the improper use of public areas from 1 January 2011, and this "will have a profound effect on those homeless people who habitually live on the streets". The proposal took into account those tasks which, if completed, would help create a social system that is more reliable and guarantees secure housing, and people living on the streets would have roof over their head and would have accommodation and access to services they need. The proposal states that "in this way, punishment can be avoided and their situation will not deteriorate further."

*Unfortunately, the Government proposal does not even mention homeless refugees and other categories of homeless foreigners living in the territory of the Republic of Hungary. This omission is particularly striking because the "shelter to prevent a danger directly threatening human life" as mentioned in decision 42/2000 (8 Nov) of the Constitutional Court must be provided to every single human being under the jurisdiction of the Republic of Hungary, including foreigners staying in Hungary illegally, and not only to those listed in Section 3 of the Social Benefits Act.*

The Assembly of Budapest recently amended the ordinance governing the use and order of the public areas of the city. According to Section 15/B (1) items (c) and (d) of the ordinance (effective from 17 May 2011), it is a minor offence and punishable by a maximum fine of HUF 50,000 if a person uses public area as their habitual residence and also if a person

<sup>15</sup> See issue 176 of 2010 of the Official Gazette (*Magyar Közlöny*), 18 November 2010.

keeps his/her personal property used for habitual residence purposes in a public area. It is clear that the ordinance puts sanctions on those who live on the street habitually (stay in public areas) and those in similar situations (keeping personal belongings there), which means that *it makes a status (homelessness) an offence, that is, it punishes people due to their status or personal situation.*<sup>16</sup>

In the case discussed in this report, *refugees staying in Budapest and who are excluded from accommodation and board at the reception centre but unable to have access to the domestic homeless support system through no fault of their own are criminally liable only because of their status, which constitutes an infringement related to the right to human dignity guaranteed by Article 54 (1) of the Constitution.*

As I have already made a recommendation concerning the review and repeal of both Section 15/B (1) (c) and (d) of the ordinance governing the use and order of the public areas of the city and Section 54 (4) to (6) of Act LXXVIII of 1997 on the Shaping and Protection of the Built Environment in my report no. **AJB-6724/2010**, and as the period open for replying my recommendation has not yet expired, I will not take any further measures regarding these regulations but I maintain the position I explained in my earlier report.

### **My measures**

In order to prevent further infringements related to constitutional rights as identified in this inquiry, I make the following recommendations under Section 25 of the Ombudsman Act:

- I request the Minister for National Resources to initiate the amendment of Act III of 1993 on Social Administration and Social Benefits to make sure every single human being staying in the territory of the Republic of Hungary (including foreigners without identification documents and foreigners staying in Hungary without authorisation) has access to accommodation to prevent dangers that are a direct threat to human life when they become homeless;

- I request the Minister for the Interior to initiate the amendment of Act LXXX of 2007 on Asylum to make sure the reception centre is required to allow in refugees who have been excluded from accommodation and board at the institution if they are in danger threatening their life and to provide them accommodation until the conditions of having access to the homeless support system are met;

- I request the Minister for the Interior to initiate the amendment of Government Decree 301/2007 (9 Nov) on the implementation of Act LXXX of 2007 on Asylum to regulate the circumstances and facts with regard to which the Ministry's Office of Immigration and Nationality may come to the conclusion that the refugee has permanently given up the reception centre as a habitual residence if the refugee has made no written statement to this effect;

- I request the Minister for the Interior to initiate the amendment of Government Decree 301/2007 (9 Nov) on the implementation of Act LXXX of 2007 on Asylum to require the Office of Immigration and Nationality to help and support refugees who have become homeless because of being excluded from accommodation and board at the reception centre in obtaining new documents required for finding new accommodation, accessing homeless support and support for integration purposes.

Under Section 20 of the Ombudsman Act, I hereby request the Mayor of Budapest

- to check whether foreign citizens who do not speak Hungarian have access to accommodation required for avoiding any direct threat against their lives and to take

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<sup>16</sup> See Report by the Parliamentary Commissioner for Civil Rights no. AJB 6724/2010. It is available on the following website: [www.obh.hu](http://www.obh.hu)

measures in order to guarantee the personal security of foreigners staying at homeless shelters funded by the City of Budapest.

I request the Director-General of the Office of Immigration and Nationality

– to take measures to ensure that homeless refugees sent away from the reception centre are assisted and supported in finding new accommodation and obtaining new personal documents;

– to study the effectiveness of the state-funded Hungarian language training provided to foreigners and to make sure the training fits into the foreigners' daily schedule and that it is differentiated on the basis of the refugees' level of reading and writing skills.

Dated: Budapest: ..... September 2011

Signed by: Prof. Dr Máté Szabó

## **Appendix: Laws referred to in the report**

### Act LXXX of 2007 on Asylum

**Section 2** For the purposes of this Act

*c) asylum:* legal grounds for staying in the territory of the Republic of Hungary and simultaneous protection against refoulement, expulsion and extradition;

**Section 3** (1) The provisions of the present Act shall be applied in compliance with the Convention relating to the Status of Refugees of 28 July 1951, as supplemented by the Protocol of 31 January 1967 (hereinafter referred to as the “Geneva Convention”) as well as with the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, Rome.

(2) A person recognised by the Republic of Hungary as a refugee, a beneficiary of subsidiary or temporary protection shall enjoy asylum.

**Section 10** (1) Unless a rule of law or government decree expressly provides otherwise, and except as set out in subsections (2) and (3), a refugee shall have the rights and obligations of a Hungarian citizen.

(2) A refugee

*a)* shall have no suffrage except for elections of local municipality representatives and mayors, local referenda and public initiatives;

*b)* may not have a job or responsibility and may not hold an office which only Hungarian nationals may have or hold.

(3) A refugee shall be entitled to

*a)* an identity card described in a separate law and a bilingual travel document specified by the Geneva Convention;

*b)* provisions, benefits and accommodation under the conditions determined in the present Act and in a separate law.

(4) A refugee shall be obliged to

*a)* cooperate with the Refugee Authority;

*b)* subject himself/herself to health tests, medical treatment prescribed as mandatory by law or required by the relevant health authority and to subject him/herself to the replacement of any missing vaccinations prescribed as mandatory by law and required by the relevant health authority in the case of the danger of disease;

*c)* comply with the laws and regulations of the Republic of Hungary.

**Section 32** (1) The refugee and the beneficiary of subsidiary and temporary protection shall be entitled to the conditions of reception as well as to the provisions and benefits determined in a separate law for the purpose of creating his/her basic living conditions for the period of time determined in a separate law, under the same conditions as those applicable to a person seeking recognition.

(3) The provisions and benefits determined in a separate law as well as the material conditions of reception may be revoked or denied if the refugee, beneficiary of subsidiary or temporary protection

*a)* repeatedly or grossly violates the rules of conduct of the reception centre;

*b)* shows seriously violent behaviour because of which criminal or minor offence procedure is initiated against him/her;

*c)* issues an untrue declaration with respect to his/her property and/or income in the interest of acquiring entitlement to the material conditions of reception or provisions and benefits determined in a separate law or refuses to issue a declaration.

(4) Provisions of Section 30 (2) to (4) and (7) shall be applied to decisions made under subsection (3).

(5) If the refugee authority has revoked or denied the material conditions of reception or the provisions and benefits on the basis of subsection (3), the decision shall be subject to judicial review.

**Section 93** (1) The Government is hereby authorised to establish the following in a decree:

*d)* the rules governing the reimbursement of the costs of the use of provisions and benefits;

### Government Decree 301/2007 (9 Nov) on the implementation of Act LXXX of 2007 on Asylum

**Section 2** A person enjoying the right of asylum shall be readmitted to Hungary.

**Section 12** (1) The State shall provide for the basic conditions of subsistence and facilitate the social integration of refugees, and beneficiaries of subsidiary and temporary protection.

(2) The task defined in (1) shall be carried out by the Refugee Authority directly, by the reception centres directly and by the notary of the village or town or Budapest district where the refugee or beneficiary of subsidiary protection has a place of residence or where his or her accommodation is located.

**Section 41** (1) The refugee and the beneficiary of subsidiary protection, if their accommodation cannot be provided for otherwise, will be entitled to accommodation and board at the accommodation centre free of charge for six months from the date of the final decision on their recognition.

(2) In justified cases, the refugee authority may extend the time period specified in Section (1) on one occasion by an additional period of up to six months.

(3) The Refugee Authority may only grant the refugee accommodation and board at the reception centre for a period exceeding the period specified in (2) if the refugee or the beneficiary of subsidiary protection is over 60 or if he/she could not integrate into society and live on his/her own due to permanent and irreversible deterioration of his/her health, mental or physical disability, or a condition or disease suffered as a result of any serious trauma, pregnancy, provided that the health problem or disability does not require specialist institutional care for the refugee or beneficiary of subsidiary protection.

(5) If the refugee, beneficiary of subsidiary protection or beneficiary of temporary protection discontinues habitual residence at the refugee centre without any written notification, they shall no longer be eligible for board and assistance at the refugee centre.

One-time support provide for the purpose of settling down

**Section 47** (1) Upon the related application of the refugee or beneficiary of subsidiary protection, the Refugee Authority may grant a one-time support in order to facilitate their accommodation. The amount of the support is six times the minimum old-age pension.

(2) The application may be submitted

a) before the permanent departure from the reception centre or within six months after departure from the reception centre provided that the applicant has been staying at the reception centre;

b) within six months following the effective date of the decision of recognition, provided that the applicant has been staying in private accommodation.

The application must be submitted to the Refugee Authority.

(3) The support shall be disbursed by the Refugee Authority in cases defined in (2) a) or the notary in cases defined in (2) b). The notary may have the amount of the support reimbursed by the Refugee Authority pursuant to the provisions of Section 13.

Complimentary Hungarian language course

**Section 51** (1) Participation by a refugee, a beneficiary of subsidiary protection or a beneficiary of temporary protection in a basic or intermediate level Hungarian language course of 520 hours organised at an institution specified by the Refugee Authority shall be provided free of charge if he/she continuously takes the course in accordance with the requirements defined by the institution, and meets the examination requirements prescribed by the language service provider.

(2) The following shall be granted free of charge:

(a) any state-recognised basic or intermediate level language examination of types A, B or C in the Hungarian language organised at the institution specified by the refugee authority for refugees, beneficiaries of subsidiary protection and beneficiaries of temporary protection;

(b) any coaching course in the Hungarian language organised at the institution specified by the Refugee Authority for refugees, beneficiaries of subsidiary protection and beneficiaries of temporary protection of school age, engaged in studies within the framework of primary school, special school, secondary school or basic art school education, or at an institution for handicapped children or at a conductive educational institution.

(3) The Refugee Authority shall reimburse the institution for the costs of the course and the examinations defined in (1) and (2).

Regular subsistence allowance

**Section 52** (1) A refugee or beneficiary of subsidiary protection may receive a regular subsistence allowance paid to him/her for a period of four years from the date the decision on recognition becomes final and non-appealable. The support is provided upon application and when the refugee or beneficiary of subsidiary protection has left the reception centre permanently.

(2) Refugees and beneficiaries of subsidiary protection aged over 18 years shall be entitled to regular subsistence allowance for two years from the date the decision on recognition becomes final and non-appealable if they attend Hungarian language training pursuant to Section 51 (1).

(3) A refugee or beneficiary of subsidiary protection over 6 years of age may only receive regular subsistence allowance if they attend school as mandatory.

(4) Attendance of Hungarian language training is not a prerequisite of eligibility for regular subsistence allowance if the refugee or the beneficiary of subsidiary protection is under the age of 6 or past the age of 60 or it is certified by a specialist physician that he/she cannot be expected to attain command of the Hungarian language due to permanent and irreversible deterioration of his/her health, mental or physical disability, or a condition or disease suffered as a result of any serious trauma or pregnancy.

(5) The regular subsistence allowance may be disbursed to adult refugees and beneficiaries of subsidiary protection in the third and fourth years from the date the decision becomes final and non-appealable if the refugee or beneficiary of subsidiary protection certifies that

a) he/she has cooperated continuously with the job centre for at least a year during the period the support is disbursed, and

- aa) registered with the job centre and kept regular contact with it,
- ab) made efforts on their own to find a suitable job as well,
- ac) started work under employment at a workplace he/she had found or that had been offered to him/her,
- ad) he/she accepted the training opportunity offered by the job centre,
- b) attended vocational training or retraining, or
- c) did public work or worked for the benefit of the public for at least three months.

(6) The regular subsistence allowance may be disbursed to adult refugees and beneficiaries of subsidiary protection receiving subsistence allowance for up to four years upon application and following the date the decision of recognition becomes final and non-appealable provided that they are past the age of 60 or it is certified by a specialist physician that they are unable to cooperate with the job centre due to permanent and irreversible deterioration of their health, mental or physical disability, or a condition or disease suffered as a result of any serious trauma, or pregnancy.

(7) The regular subsistence allowance is granted by the Refugee Authority upon the application of the refugee or the beneficiary of subsidiary protection, and it is paid by the 15<sup>th</sup> day of each month by the notary. The notary is reimbursed for this by the Refugee Authority.

(8) The monthly amount of the regular subsistence allowance is equal to the minimum amount of the old-age pension.

**Section 53** (1) The beneficiary of temporary protection is entitled to receive regular subsistence allowance if he/she is eligible for the support and benefits defined in Section 41 but does not use them.

(2) The monthly amount of the regular subsistence allowance is equal to the minimum amount of the old-age pension. Otherwise, the rules of Section 52 will apply to the calculation, disbursement and reclaim of the support.

#### Housing support

**Section 54** (1) The notary of the town or village of the refugee's or beneficiary's place of residence or place of stay may provide housing support to the refugee or the beneficiary of subsidiary protection with the prior approval of the Refugee Authority. The support may be provided if the size and quality of the current apartment or accommodation does not exceed the minimum size and quality of apartments recognized locally.

(2) When applying for the support, the refugee or the beneficiary of subsidiary protection must verify that he/she has sufficient funds to cover the part of the rent and accommodation costs exceeding the amount of support. If refugees or beneficiaries of subsidiary protection share the same apartment, only one of them is eligible for the support.

(3) The support may only be provided if a valid lease or sublease contract or declaration of reception is shown and it will only be paid against an invoice for the rent or accommodation cost and after a preliminary impact study. The decision on the application for support is sent by the notary to the Refugee Authority.

(4) The support may be granted for six months, and it may be extended a maximum of three times within four years, in each case for a maximum of six months.

(6) The amount of the support is

a) the minimum amount of the old-age pension in the case of one applicant or an applicant not bringing up a minor;

(8) The notary shall pay the support monthly and will request a refund of the amount from the Refugee Authority.

#### Home establishment benefit for refugees and beneficiaries of subsidiary protection

**Section 55** (1) On application and after leaving the reception centre permanently and within 10 years from recognition, an adult refugee and beneficiary of subsidiary protection may be granted on one occasion benefit for home establishment purposes provided that the relevant property's value does not exceed the value of reasonable housing requirements available to Hungarian nationals as defined by the law on state support for housing purposes.

(3) The benefit for home establishment may be used

a) for purchasing the applicant's first apartment, house with garden or plot of land for building a house;

b) for building the applicant's first apartment or house with garden;

c) for the first renovation or enlargement of the applicant's own apartment or house with garden.

(4) The benefit for home establishment is provided in the form of an interest-free loan.

(5) The amount provided as a benefit is a maximum of HUF 1,500,000 if the family living together has five or more members, HUF 1,300,000 in the case of four members, HUF 1,000,000 in the case of three members, HUF 800,000 in the case of two members and HUF 600,000 in the case of one member but may not exceed in any case 70% of the purchase price or the costs of construction, renovation or enlargement. The number of family members living together is equal to the refugee or beneficiary of subsidiary protection plus any close relatives living with him or her (close relative is defined in Section 4 (1) d) of the Social Benefits Act).

(6) The interest-free loan may be provided for a term of 1 to 15 years.

**Section 61** (1) In accordance with the rules applicable to benefits and support that may be provided under the Act and this decree, the Refugee Authority may offer an integration programme to refugees and beneficiaries of subsidiary protection to help them integrate into society.

(2) The purpose of the integration programme is to provide them with the language skills and social, cultural, lifestyle and labour law information required for integration into Hungarian society and additional skills required for finding work on the job market.

(3) The Refugee Authority may designate a reception centre as an integration centre. The task of the integration centre is to prepare and implement the integration programme and to cooperate with state and local government entities and non-governmental organisations involved in the programme.

#### Act III of 1993 on Social Administration and Social Benefits

**Section 3** (1) This Act applies to the following categories of persons living in Hungary with the exceptions specified in (2) and (3).

- a) Hungarian nationals;
- b) immigrants and permanent residents;
- c) stateless people;
- d) persons recognised as refugees by a Hungarian authority.

(2) For the purposes the benefits listed in Section 7 (1), the scope of this Act also applies to citizens of states party to the European Social Charter who lawfully stay in the Republic of Hungary in addition to those categories listed in (1).

(3) This Act also applies to

a) a person authorised to enter and move freely as per the Act on the entry and stay of persons with the rights of free movement and stay (hereinafter: "Free Movement Act") if the person applying for the support exercises his or her right of free movement and his or her right of stay over three months in the Republic of Hungary in accordance with the Free Movement Act and has a registered residence in the Republic of Hungary in accordance with Act LXVI of 1992 on the personal data and address register of citizens, and

b) for the purposes of benefits to the elderly as defined in Section 32/B (1), the eligible persons as defined in the EU Regulations on the coordination of social security systems and their implementation (hereinafter: EU regulations),

if the person applying for support exercises his or her right of free movement and stay in the Republic of Hungary in accordance with the Free Movement Act and has a registered place of residence in the Republic of Hungary in accordance with the Act on the personal data and address register of citizens.

**Section 4** (2) For the purposes of Section 6 and Chapters II and III of this Act, a homeless person is a person without a registered official address or a person whose official address is a homeless shelter.

(3) For the purposes of Sections 7, 78, 84 and 89 of this Act, a homeless person is a person who habitually spends the night in public areas or in premises not designed to be used for dwelling purposes.

**Section 6** The social administrative procedure in the case of homeless persons is carried out by the social administrative entity in whose territory the homeless person claims to be his/her place of stay in a declaration made at the time of using the benefit.

**Section 88** (1) The Budapest/county local government (hereinafter: county local government) is required to fulfil the following duties:

(2) unless the Municipality of Budapest and the district council agree otherwise, it is the task of the former to organise and maintain the network of night shelters and temporary accommodation for homeless people.

#### Act CXL of 2004 on the General Rules of Administrative Procedures and Services

**Section 80** (1) Unless otherwise provided by law, notification may be made by announcement if

a) the relevant party's place of residence or registered address is unknown or if the mail sent is returned to the sender marked "mail unclaimed" or "addressee moved to unknown location" and no useful information is received from the personal data and address registration office or another state organisation;

b) the legal successor is unknown;

c) the relevant party does not appoint a service agent, or

d) the alternative means of notification available are impossible to be used or it is clear that they would fail if used.

(2) The announcement will include

a) the date the notice is made public;

b) the name of the authority in charge of the case;

c) the number and subject-matter of the case;

d) the name and the last known residence/registered address of the relevant party;  
 e) a warning that the authority made a decision in the case but the delivery of the decision has failed and therefore the relevant party (or an authorised representative) may collect the decision at the authority.

(3) Notification through announcements is allowed with regard to organisations qualifying as relevant parties under Section 15 (5) and located in the relevant territory, including cases when the scope of relevant parties or the boundaries of the territory cannot be established. Unless a rule of law or government decree expressly provides otherwise, the announcement shall include the following data:

a) the date the notice is made public;  
 b) the name of the authority in charge of the case;  
 c) the number and subject-matter of the case;  
 d) the name (description) of the relevant party;  
 e) the relevant territory depending on the nature of the case;  
 f) a warning that the authority made a decision and the applicant may have access to the decision at the authority; and  
 g) the availability of legal remedies and the deadline for filing them.

(4) The notice must be placed on the notice board of the authority and of the local authority of the address of the relevant party, the real estate affected by the case or the place where the activity relevant in the case is carried out and of the local authority of the impacted territory; the notice must also be published in the central system and the website of the authority used for electronic publications, and also in the official gazette of the local authority (if there is no official gazette, in the local paper) and in the official gazette of the authority. If the authority is involved in the case as a result of the appointment, the announcement shall be placed on the notice board of and published by both the appointed authority and the competent authority.

(5) The decision must be placed on the notice board and published on the website used for electronic notifications on the very same day. If the notification is made by announcement, the date the announcement was placed on the notice board and the date it was removed must be recorded in the documents and the date it was published must also be documented in a traceable manner.

(6) If the conditions for notification by announcement are no longer met, the authority will withdraw the announcement without delay and contact the relevant party in accordance with the general rules.

#### Act LXXVIII of 1997 on the Shaping and Protection of the Built Environment

**Section 54** (1) The components of the built environment (public areas, building lots and areas, structures, sections of structures, groups of buildings, paved and green surfaces) may only be used properly and for their designated purpose and in the way prescribed in the relevant regulatory specifications and permits, while routinely maintaining a suitable technical condition..

(2) The owner shall have the condition and stability of the structure periodically examined in the circumstances and manner specified by law, and have the necessary work completed to ensure a good technical condition.

(3) A building authority permit is required for using a structure or section of a structure in deviation from the occupancy or continuation permit. A permit is also required if not available for use for purposes other than originally intended unless otherwise prescribed by law. Changing the function shall be substantiated by proof of suitability for the new function and, in the cases defined by law, by examining the correlation of the structure, the section of a structure and the environment.

(4) The designation of the public area may be the following:  
 a) establishing physical connection between plots of land or access to them;  
 b) road and pedestrian traffic (road, pavement etc.),  
 c) leisure time, recreation, entertainment and sports activities;  
 d) procession, assembly, community activities;  
 e) erecting statues and memorials and displaying works of art;  
 f) building public utilities;  
 g) establishing green areas.

(5) Everybody is allowed to use public areas for their intended purpose. Additional rules regulating the purposes and use of public areas may be defined by law.

(6) The local government is authorised to make it into an offence and put sanctions on the use of public areas within the incorporated area of the village or town if the use is different from the intended purpose of use as defined in (4) or by law.

