

COUNTRY SNAPSHOT

Legal and Policy Infrastructures of Returns in Hungary

D2.1

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1. Statistical Overview Regarding Returns and Readmissions at the National Level

Two authorities collect data regarding Returns and Readmissions in Hungary – the National Directorate-General for Aliens Policing (NDGAP; in Hungarian: *Országos*

Idegenrendészeti Főigazgatóság, OIF) and the Ministry of the Interior. There is open but limited access to certain data.

Year	Stock of irregular migrants (# TCNs found to be illegally present) (data in Eurostat)	# Asylum applications	# TCNs/foreign nationals* refused entry at the border	# pushbacks (if available) (unofficial data by NGOs also acceptable; please indicate the data source)	# TCNs/foreign nationals* ordered to leave – Total
2015	424055	177135	11505		2603
2016	41560	29432	9905		3274
2017	25730	3397	14010		1057
2018	18915	671	15050		824
2019	36440	500	14240		976
2020	89370	117	36500		1169
2021	134140	40	34650		1532
2022	222515	46	15780	158565	1478
Data sources:	Eurostat	NDGAP/OIF	Eurostat	AIDA	NDGAP/OIF

2. General Legal Framework¹

Hungary has one of the most restrictive immigration laws in the European Union. Act II of 2007 on the entry and stay of third-country nationals was amended several times. The new immigration law was supposed to enter into force on 1 January 2024 with a two-month grace period. The application of the new regulations entered into force on 2 March 2024, but the implementation rules (executive decrees and detailed provisions) have not yet been announced². The NDGAP was closed during January and February 2024. During this interim period, no new application could be submitted. The NDGAP resumed decision-making operations in March 2024. To ease the transition, all residence cards expiring before March will be automatically renewed until the end of April 2024. Act XC of 2023 introduced major changes in the immigration law in Hungary. The government introduced new purposes for stay in Hungary while eliminating some previous purposes for stay. The new rules are stricter than before 2024, for example, regarding new types of work permits, immediate return of migrants, so-called 'golden visa', and limited categories of migrants who can proceed with family reunification.

The main rules and principles of the Hungarian return procedure can be found in:

- Act XC of 2023 on general rules for admission and right of residence of third-country nationals (hereinafter: Act on foreigners),
- Act VI of 2018 to amend certain laws on measures to combat illegal immigration,

- Act XX of 2017 amending certain acts to tighten the procedures conducted on the border,
- Government Decree no. 114/2007 (V. 24.) on the implementation of Act II of 2007 on the entry and stay of third-country nationals (related to the Act II of 2007) (valid till 29 February 2024),
- Act II of 2007 on the entry and stay of third-country nationals (valid till 29 February 2024).

As a rule, two authorities may issue a decision on return (art. 97 of Act XC on foreigners): the court or the police. The court imposes an obligation to leave the country on a foreigner who has committed a crime – as a punishment or after serving a prison sentence. The Act provides for a limited group of foreigners who are expelled in this way. Act XC on foreigners stipulates reasons for the issuance of the return decision to a foreigner, that is who performed work without the required work permit, or the permit required by this Act, whose entry and stay violates or endangers national security, public safety or public order, or whose entry and stay harms or endangers public health. A foreigner whose residence permit application was rejected has 30 days to leave the country. Hungary does not provide free of charge legal assistance to foreigners but aids with legal advice (with an interpreter if necessary³). Foreigners can use legal assistance at their own expense and have a right to appoint a legal representative in immigration police procedures related to deportation. However, a foreigner may, upon request, use the free legal assistance specified in the law to challenge the decision to order

¹ Nemzeti Jogszabálytár, 2023. évi XC. törvény, <https://njt.hu/jogszabaly/2023-90-00-00>.

² European Commission, European Website on Integration, *Hungary: New immigration law affects residence permits*, accessed March 18, 2024, https://migrant-integration.ec.europa.eu/news/hungary-new-immigration-law-affects-residence-permits_en.

³ Art. 219 of Act XC on foreigners.

deportation by the immigration police in an administrative court⁴. It is important to note there is no appeal against the decision ordering expulsion⁵. Foreigners can submit a complaint to the administrative court within 8 days. The court decides on the claim within 15 days from the date of receipt of the complaint at the court. The court puts down the verdict in writing within 3 working days and communicates it electronically to the immigration enforcement authority. The Hungarian law does not provide a path for further legal

remedies against the administrative court's judgment. The Act on foreigners does not specify obstacles to return. However, Act no. LXXX of 2007, Act on Asylum⁶ specifies obstacles to return, i.e., it may not be ordered or carried out to the territory of a country which is not considered a safe country of origin or a safe third country for the person concerned, and there is no safe third country which would receive him/her. In case there is no safe country of return, the foreigner can be granted a humanitarian stay.

Overview of the Legal Framework on Return Policy (Legislation Mapping)

The Title of the Policy/Legislation in English	The Title in the Original Language	Policy Type/Area	Date/Announced Year	Active Period (note down if it is expired or repealed)	Description of Policy or Short Overview	Key terms for search function (readmission, removal criteria, alternatives to detention etc.)	Level of Legislation	Type of Legislation or Administrative Action	Target Group or Immigrant Category	If the policy is origin country or nationality specific, note down the country name (e.g. Iraq) or nationality name (e.g. Palestinian)	Department or Agencies or National Law Enforcement involved in the Policy/Legislation (Optional)	Web Links to Source in English	Web links to Source in Original Language
Fundamental Law of Hungary; 25 April 2011	Magyarország Alaptörvénye, 2011. április 25.	fundamental law	2011	from 2011 to now		fundamental rights	National	Fundamental Act	Humans	no	no	https://www.parlament.hu/documents/125505/138409/Fundamental-law/73811993-c377-428d-9808-ee03d6fb8178	
Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (Third-Country Nationals Act or TCN Act)	2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról	regular and irregular immigration	2007	from 2007 to 29/02/2024 (many amendments)	legalization of stay of non-EU, types of residence permit, deny of it	deportation	National	Act	Economic migrants	no	no	https://thb.kormany.hu/download/9/ec/a0000/10_Act%20II%2007%20and%20Government%20Decre%20114_2007.pdf	
Act XC of 2023 on General Rules for Admission and Right of Residence of Third-Country Nationals		regular and irregular immigration	2024	March 1st, 2024+ now	legalization of stay		national						
Government Decree 114/2007 on the Implementation of Third-Country Nationals Act (TCN)		regular and irregular immigration	2007	from 2007 to 29/02/2024	legalization of stay		National	Decree	Economic migrants	no	no	https://thb.kormany.hu/download/9/ec/a0000/10_Act%20II%2007%20and%20Government%20Decre%20114_2007.pdf	https://ec.europa.eu/migrant-integration/library-document/government-decree-1142007-v-24-implementation-act-ii-2007-

⁴ Art. 220 of Act XC on foreigners.

⁵ Art. 101 of Act XC on foreigners.

⁶ Art. 45 of Act no. LXXX of 2007, Act on Asylum.

												entry-and-stay-third-o_en https://www.refworld.org/docid/5da701504.html
Act LXXX of 2007 on Asylum (Asylum Act)	2007. évi LXXX. törvény a menekült jogokról	asylum	2007	from 2007 to now (many amendments)		National	Act	Asylum seekers, refugees	no	no	2007. évi LXXX. törvény - Nemzeti Jogszabálytár (njt.hu)	https://www.ecoi.net/en/file/local/1333572/1930_1400659917_5371cb504.pdf
Act LXXXIX of 2007 on the State Border	2007. évi LXXXIX. törvény az államhatárról	Illegal immigration /Asylum	2007	from 2007		National	Act	Irregular immigrants/Asylum seekers	no	no	https://njt.hu/jogszabaly/2007-89-00-00	
Bill No. T/333 amending certain laws relating to measures to combat illegal immigration		Illegal immigration				National	Decree	Irregular immigrants	no	no		https://helsinkih.hu/wp-content/uploads/T333-ENG.pdf
269/2015. (IX. 15) Government Decree announcing a crisis situation caused by mass immigration and establishing the rules related to the declaration, maintenance and termination of the crisis situation		Migration management	2015			National	Act	Asylum seekers, irregular migrants	no	no		https://www.ecoi.net/en/file/local/1304414/1930_1442909015_55f90f614.pdf
Government Decree 276/2011 (XII. 20.)		Migration management	2011			National	Decree		no	no		
Government Decree 409/2012 (XII. 28.) Korm		Migration management	2013			National	Decree		no	no		
Government Decree 411/2017 (XII. 15.) Korm		migration management	2018			National	Decree		no	no		
36/2024. (II. 29.) Government decree amending emergency government decrees in connection with the law on the general rules for the entry and residence of third-country nationals	36/2024. (II. 29.) Korm. rendelet. A harmadik országba li állampolgárok beutazása és tartózkodására vonatkozó általános szabályokról szóló törvényvel összefüggésben veszélyhelyzeti kormányrendeletek módosításáról	migrants	2024			National	Decree		no	no		

Source: Own elaboration.

3. Institutional Framework

The authority responsible for policymaking in the field of immigration is the Ministry of the Interior. Within its structure, the body responsible for matters of immigration and asylum is the National Directorate-General for Aliens Policing (NDGAP)⁷. The Head of the NDGAP is the only authority dealing with administrative duties related to visas, residence permits, asylum, and citizenship. The NDGAP is also responsible for running

managing migration, works in close partnership with the Police, military and civil security services. The Police have responsibility for border control, removal, return procedures and monitoring detention. The courts impose an obligation to leave the country on a foreigner who has committed a crime – as a punishment or after serving a sentence in prison. The courts also examine the complaints against the return decisions

List of Authorities Involved in the Migration Return Governance

Authority	Tier of government (national, regional, local)	Type of organisation	Area of competence in the fields of return (Briefly explain the role)	Link
Ministry of the Interior	National	Government	Coordinates, monitors and participates in the planning of the management of readmission, return, deportation or relocation procedures.	https://2010-2014.kormany.hu/en/ministry-of-interior
National Directorate-General for Aliens Policing	National	Government	Processes temporary and permanent residence permits, runs detention centers.	http://www.bmbah.hu/index.php?lang=en
Regional Directorate	Regional	Government	Process temporary residence permits in the region.	-
Directorate of Refugee Affairs	National	Government	Process asylum cases.	http://www.bmbah.hu/index.php?option=com_k2&view=item&layout=item&id=521&Itemid=728&lang=en
Police	National/Regional	Government	Issues return and administrative expulsion decisions, implements removal operations.	https://www.astynomia.gr/?lang=en
Courts	Regional	Regional government	Decides about removal.	https://www.ypes.gr/apokentromeni-dioikisi-aytodioikisi/
IOM Hungary	International	International Organization	Organizes and implements AVRR.	https://hungary.iom.int/

Source: Own elaboration.

detention centres. The NDGAP, in

⁷ Sections 1, 2 and 4 of the Government Decree no. 126/2019 (V.30.) on the appointment of the aliens policing body and its powers.

4. International Cooperation

List of Readmission Agreements and Return-Related Legal or Policy Documents/Tools

	Type of Agreements Negotiations	Bilateral and	Title	Signatory State/Target Country	Third Country	Date	
						Signature	Entry into force
1	Standard Readmission agreements signed						
1.1.			Agreement between the Swiss Federal Council and the Government of the Republic of Hungary about the takeover and handing over people at the state border	Hungary/Switzerland		4.02.1994	08.06.1995
1.4			Act V of 1996	Hungary/Austria		08.10.1992	20.04.1995
1.5			Act VII. of 1996	Hungary/Czech		1995	05.08.1996
1.6			Act XX of 2005	Hungary/Greece		-	01.05.2005
1.8			Act XXVIII of 2002	Hungary/Latvia			04.05.2002
1.9			Act VII of 2004	Hungary/Slovakia		-	13.11.2004
1.10			Act LXXXI of 1999	Hungary/Slovenia			30.06.1999
1.11			Agreement between the Government of the Republic of Poland and the Government of the Republic of Hungary on the transfer and reception at the state border of persons staying without permission	Poland/Hungary		25.11.1994	05.08.1995
1.13			Act LXXVII of 1999	Hungary/Bulgaria			1999
1.14			Act XXXV of 2003	Hungary/Croatia		-	15.11.2001
1.15			Act LX of 2002	Hungary/Romania			30.11.2002
1.18				Hungary//Bosnia and Herzegovina		18.09.2007	1.01.2008
				Hungary/Montenegro		18.09.2007	1.01.2008
1.19				Hungary/Russia		25.05.2006	1.06.2007
1.20				Hungary/Georgia		22.10.2010	2.03.2011
1.21				Hungary/Pakistan		26.10.2009	1.10.2010
1.22				Hungary/Albania		14.04.2005	1.05.2006
			Act LXXXVII of 2012	Hungary/Kosovo		15.05.2012	09.08.2012
1.23				Hungary/Armenia		19.04.2013	1.01.2014/
1.24				Hungary/Azerbaijan		28.02.2014	1.09.2014
1.25			Agreement between the European Union and the Republic of Belarus on the readmission of persons residing without authorisation	Hungary/Belarus		8.01.2020	1.07.2020
1.26				Hungary/North Macedonia		18.09.2007	1.01.2008
1.27				Hungary/Moldova		10.10.2007	1.01.2008
1.28				Hungary/Serbia		18.09.2007	1.01.2008
1.29				Hungary/Turkey		16.12.2013	1.10.2014
1.30				Hungary/Cape Verde		18.04.2013	1.12.2014
1.31				Hungary/Hongkong		27.11.2001	1.03.2004
1.32				Hungary/Makao		13.10.2003	1.06.2004
1.33				Hungary/Ukraine		18.06.2007	1.08.2008
1.34			Act XXXIII of 2006	Hungary/France		-	30.09.1998

Source: Own elaboration.

5. Memorandum of Understanding between Austria, Serbia and Hungary⁸

Austria, Serbia and Hungary signed on 16 November 2022, the memorandum of understanding on enhancing trilateral cooperation in effectively combating illegal immigration. The memorandum is a short 4-page document. Countries agreed on cooperation in the following areas:

- protection of the Serbia-North Macedonia border (focusing on migrant smuggling, human trafficking, and other forms of organised crime and terrorism),
- Austria and Hungary would contribute to the protection of the above-mentioned border by deploying personnel, sharing knowledge, innovative technic border controls and education and training,
- Austria and Hungary would support Serbia in the process of returning migrants to their country of origin with respect to national and international

legislation (i.a., cooperation in the organisation of return flights),

- Austria and Hungary appreciate that Serbia will finish the visa exemption regime with Burundi, Tunisia and India (already finished by the end of 2022),
- Austria and Hungary would consider further support in the field of border protection and prevent migrant smuggling through the border of Serbia with high migration pressure (i.a., additional human resource support),
- Austria and Hungary would invite the EU to provide additional support to Serbia (i.a., financial) to protect the border.

On 7 July 2023, Austria, Hungary, and Serbia signed a Memorandum of Understanding on strengthening trilateral cooperation in areas of effective fighting illegal migration, which is a continuation of the above Memorandum⁹.

⁸ Magyarország Kormánya, *Memorandum of understanding between Hungary, the Republic of Austria and the Republic of Serbia*, accessed March 18, 2024, <https://cdn.kormany.hu/uploads/sheets/4/40/401/401caa8f29ba9d15b989ae2be2b7ed9.pdf>.

⁹ Влада Србије, *Strengthening cooperation with Austria, Hungary in fight against illegal migration*, accessed March 18, 2024, <https://www.srbija.gov.rs/vest/en/209541/strengthening-cooperation-with-austria-hungary-in-fight-against-illegal-migration.php>.

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