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LANZAROTE COMMITTEE

Committee of the Parties to the Council of Europe
Convention on the protection of children against sexual
exploitation and sexual abuse

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**Hungarian report on the implementation of the
recommendations endorsed by the Lanzarote Committee at
its 20th meeting (29-31 January 2018)**

Sent by the Hungarian Authorities on 5 February 2019

Introduction prepared by the Secretariat

At its 20th meeting (29-31 January 2018), the Lanzarote Committee endorsed the [Recommendations addressed to the Hungarian authorities](#) contained in the “[Special report further to a visit of a delegation of the Lanzarote Committee to transit zones at the Serbian/Hungarian border \(5-7 July 2017\)](#)” and took note of the [information provided by the Hungarian authorities on developments since the visit](#), which were presented by the Hungarian authorities at the meeting.

At this meeting, the Committee also requested the Hungarian authorities to send information to the Secretariat on actions taken to implement the recommendations before 31 January 2019, with a view to their consideration by the Lanzarote Committee at its first meeting of 2019.

This document reproduces the information provided by the Hungarian authorities on 5 February 2019 following this request.

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Regarding the implementation of the recommendations endorsed by the Lanzarote Committee at its 20th meeting (29-31 January 2018), the Hungarian authorities report on the implementation of the following:

R1 – In the framework of immigration procedures, the Hungarian authorities should treat all persons under the age of 18 years as children without discrimination on the ground of their age and ensure that all children under Hungarian jurisdiction are protected against sexual exploitation and abuse.

Since the opening of the transit zones, separate sectors were created for families, unaccompanied minors, single women and single men to ensure the protection of groups in need of special treatment. Accordingly, the protection of minors under the age of 18 from sexual exploitation and sexual abuse is ensured from the first moment they are placed in the transit zones. During the asylum procedure, the Immigration and Asylum Office (hereinafter: the Office) pays special attention to the identification of applicants in need of special treatment even from the time of their entry to the transit zones. This, however, is mostly feasible regarding those persons who naturally fall into the category of a vulnerable people. The actual vulnerability can only be determined during the asylum procedure, where the fact of being a minor can be established and the applicants have the opportunity to make a statement on their health status. The current flexible system maintained by the Office makes it possible to assess the actual needs of the persons concerned, taking into account the fact that the grounds for vulnerability are incredibly diverse. During the asylum procedure, the social workers continuously monitor the needs of the applicants, and if necessary, determining a person as one requiring special treatment can not only take place right after their entry to the transit zones, but during any stage of the asylum procedure.

The Hungarian authorities are committed to a humane and professional treatment regarding their clients, the prerequisites of which are acquiring the proper knowledge and competencies. Therefore, the education of the staff concerned is continuously taking place with the involvement of non-governmental and international organisations.

In August 2018, UNHCR's Regional Representative for Central Europe contacted the Hungarian Police and offered to hold a training for the Police's staff on the identification of asylum seekers who are victims of sexual violence, gender-based violence or both. In order to organise this training, the Police has assigned a contact person.

Concerning to how staff should behave towards persons requiring special treatment, the Police held a two-day sensitisation training on 28-29th June, 2017 in cooperation with the International Organization for Migration (thereinafter: IOM) for the assigned staff working in the field of aliens policing. In total 56 persons attended this training.

The Hungarian Police provides professional assistance with one of the IOM's ongoing projects, which aims to strengthen the already existing national support services and make them accessible for refugees, migrants or asylum seekers who suffered or are potential victims of sexual and gender-based abuse. One further objective of this project is to raise awareness regarding this topic and inform subjects on prevention and services which are accessible for them. The Police have assigned experts who were interviewed by IOM in order

to explore the Hungarian situation in the context of sexual and gender-based abuse and migration.

R2 – The Hungarian authorities should care for all the children within its regular child protection system, i.e. in open child protection institutions, especially in light of the very limited number of children falling under the new regulation (19 unaccompanied boys aged 14-18 were accommodated in the specific sector in Röszke transit zone at the time of the visit).

R15 – The Hungarian authorities should pay special attention to the heightened vulnerability of unaccompanied children, especially girls, and systematically place them in mainstream child protection institutions to prevent possible sexual exploitation or sexual abuse against them by adults and adolescents in the transit zones.

According to section 80/J (6) of the Act LXXX of 2007 on Asylum, if the applicant is an unaccompanied minor under 14 years of age, upon his or her entry to the country, the asylum authority carries out the procedure according to the general provisions. Without delay, the asylum authority makes arrangements for the temporary placement of the unaccompanied minor and also notifies the child protection authority for the assignment of a child protection guardian (gyermekvédelmi gyám) who is responsible for providing representation for the minor. The child protection guardian has to be assigned within eight days from the arrival of the asylum authority's notification. The child protection authority informs the unaccompanied minor and the asylum authority on the person who was assigned as the child protection guardian without delay.

Unaccompanied minors aged between 14 and 18 years are placed in a separate sector at the transit zones. Minors arriving with an adult family member are placed in the sector for the families. It has to be highlighted that the principle of family unity is guaranteed in accordance with the best interest of the child. Regarding Recommendation 2, according to which, every unaccompanied minor should be provided with care within the regular child protection system, it has to be stated that during a state of emergency, which is in force due to mass immigration, this is not possible. However, the appropriate safeguards are guaranteed for every unaccompanied minor aged between 14 and 18 as well by appointing an ad hoc guardian for each without delay. The authorities will keep paying special attention to the special vulnerability of unaccompanied minors in order to prevent their probable exploitation or abuse.

R3 – The Hungarian authorities should be asked to cooperate with the Serbian authorities as regards the management of the waiting lists to enter the Hungarian transit zones in order to prevent corruption through sexual exploitation and sexual abuse of the asylum-seeking children.

There is no waiting in front of the transit zones. Asylum seekers, who receive adequate accommodation and care in Serbia, show up at the transit zones in an order which was established by themselves and some NGOs. The Hungarian and Serbian asylum authorities are not involved in the creation of the so-called waiting lists, but in other areas measures have been taken to establish cooperation between the authorities of the two countries and there is continuous communication.

R4 – The Hungarian authorities should cease all push-backs of migrant and asylum-seeking children at the border and ensure that any child on Hungarian territory is immediately referred to the competent child protection authorities to undergo a needs assessment in line with the rights of the child to ensure that they are protected against any risk of sexual exploitation and abuse.

Regarding returns at the border, it should be stressed that the authorities apply the principle of the first country of asylum and return applicants to a safe country (Serbia) where there is no risk of persecution or serious harm. This practice is in line with the relevant EU and international legislation.

R5 – Where age verification is necessary, the Hungarian authorities should reinforce its age verification procedures and complement it by other verification processes than only physical appearance of the person, in order to avoid cases of unaccompanied children under 18 being assessed as being above 18 and held together with single men, thus preventing cases of their being sexually exploited or sexually abused.

R6 – The Hungarian authorities should ensure that the principle of the benefit of the doubt is adequately applied to individuals pending verification of their age when there are reasons to believe that they are children and to individuals when the age verification procedure is over and if doubts about the age of the person remain.

During the asylum procedure, the age-verification falls into the competence of a medical doctor. If result of the examination result is ambiguous, a forensic medical examiner will be appointed, who determines the age of the applicant on basis other factors as well than just physical appearance.

If the doctor conducting the examination establishes the age of a person as probably 18 years or less, the Police will conduct the procedure according to the rules on minors in all cases.

R7 – The Hungarian authorities should protect asylum-seeking children from sexual exploitation and sexual abuse by strengthening verification procedures to establish family links between these children and the adults who accompany them and, if necessary, separating children from adults who are found to be unrelated to them.

The reception and care of minor asylum seekers within the transit zone and their care within the child protection system after the decision on their asylum applications are consistently in accordance with the European and international legal obligations, and this will be the case in the future as well. Unaccompanied minors have been and are going to be provided with special treatment and those arriving with their families will be staying together with their relatives.

If during the asylum procedure, the suspicion of the minor's sexual exploitation or abuse arises, the minor and the perpetrator will be placed in separate sectors and the asylum authority must inform the Police and the child protection authorities without delay.

Already in 2014, the Police issued a guideline on the treatment of families with minors (e.g. family unity protection, priority treatment, meeting individual needs) and on the hearing of families where there is no document available which would prove the family relationship (e.g. observation of the child's reactions and the way of communication between parent and child, hearing-related technical and tactical advice).

R8 – The Hungarian authorities should repeal their legislation to ensure full protection of all unaccompanied children aged 14-18 and grant them a guardian with the same qualifications, functions and legal powers as those appointed for children aged less than 14, in order to facilitate disclosure of possible cases of sexual exploitation or sexual abuse. The authorities should make sure that children are informed that they have a guardian and able to contact their guardian directly if they are facing problems or need assistance.

R9 – The Hungarian authorities should take measures to respect the Hungarian legal maximum of 30 children per child protection guardian in order to ensure that guardians receive manageable caseloads (since, in addition to refugee seeking children, they are also in charge of Hungarian children in care). This would enable them to spend more time with each of the unaccompanied asylum-seeking children in order to build a relationship of trust with them which, as a consequence, would facilitate disclosure of any possible cases of sexual exploitation and sexual abuse. Where a child discloses that they have been a victim of sexual exploitation or sexual abuse the Hungarian authorities should provide appropriate protection and assistance regardless of the child's age.

Legal representation is provided to all unaccompanied minors. During the period state of emergency due announced to mass immigration, unaccompanied minors over 14 years of age who have been granted refugee or protected status and unaccompanied minors under 14 years of age are cared for in either a children's home or in a foster family, and are provided with legal protection by child protection guardians. In a period other than the state of emergency caused by mass immigration, child protection guardians provide the legal representation for children in both age groups placed in a children's home or in a foster family.

Several government measures have been introduced to ensure the adequate number of child protection guardians, so the guardianship of unaccompanied minors placed in the child protection system can be carried out under the same conditions as children of Hungarian nationality. We have increased the number of child protection guardians by ten persons under Government Decree No. 1545/2015. (VIII.6.) on providing the resources needed to deal with extraordinary immigration and migratory pressure. These child protection guardians are equipped with special knowledge, experience and language skills, and they are provided with continuous education, training and support. Thus, it can be established that professionals with specialised knowledge and experience provide the legal representation of unaccompanied minors at the designated institutions and this ensures their effective functioning.

As a temporary guardian for unaccompanied minors staying in the transit zone, the Csongrád County Government Office has provided eight lawyers with guardianship experience. The ad-hoc guardians visit the transit zones and are available to minors, for example, they assist children in accessing health care (e.g. surgery, lung screening) or in learning. If the minor has

received protected status, the ad-hoc guardian will hand over the child's information to the child protection guardian who receives the case and will continue to provide the legal representation of the child after his or her transfer to the Károlyi István Children's Center in Fót. Throughout the past year, the number of asylum applications by unaccompanied minors has significantly decreased and there is currently only one unaccompanied minor in the designated child protection facilities, for whom an ad-hoc guardian was appointed by the guardianship authority. So, the low number of unaccompanied minors under ad-hoc guardianship does not necessitate an increase in the number of ad-hoc guardians.

The Act XXXI of 1997 on Protection of Children and Guardianship Administration had been amended and from 1 January 2020, it will prescribe the reduction of the workload of child protection guardians. Therefore, a child with special or dual needs will be considered as two persons (cases) and a child protection guardian will only have a maximum of 30 cases, this will allow them to work with a smaller number of cases and children, and provide a more professional treatment for children requiring increased personal presence and care, as well as administrative tasks to be dealt with. The amendment has created 25 new child protection guardian status.

R10 – The Hungarian authorities should provide access to interpreters especially during appointments between the child and staff, including medical staff, social workers and guardians to facilitate disclosure of actual or potential sexual exploitation and sexual abuse. Besides, the Hungarian authorities should provide Hungarian language courses for children held in the transit zones (or accept that NGOs provide such courses).

The asylum authority is working continuously to ensure that an interpreter is present not only during the asylum procedure but also throughout reception and care (e.g. medical examination). Social workers and health care personnel use English as an intermediary language or communication is provided through cross-interpreting. In connection with providing Hungarian language courses, it should be noted that social workers provide Hungarian language classes from the very beginning for children who are interested. Moreover, the teachers employed by the Szeged and the Kiskőrös Educational District Centres educate children who are subject to compulsory full-time schooling. This includes teaching how to write and read, as well as mathematics, geography and introduction to European customs and traditions.

Apart from the above mentioned, it has to be highlighted that education - except for school holidays – is continuously provided in the transit zones. The Ministry of Human Capacities determines the school year period in a decree which cannot be disregarded. Teachers are appointed by the Educational District Centres, while the school curriculum was made by the experts of the Ministry of Human Capacities. Children between the age of 6 and 16 years are obliged to participate in education. The necessary equipment for children is provided (booklets, writing instruments, including graphite pencils, coloured pencils, erasers, crayons, pens, highlighters - sticks, duct tape, paints, play-dough, boards, magnetic drawing boards, building blocks, language smartcards, and flipchart boards) for such educational classes.

R11 – The Hungarian authorities should take measures to inform children in the transit zones, in a manner adapted to their age and maturity, in a language they understand and which is sensitive to gender and culture, to raise their awareness on the risks they face of being sexually exploited or abused and to inform them of the help and protection available if they are or become victims of such offences.

Social workers inform children – taking into account their age and maturity - on the risks of sexual abuse and exploitation and the available assistance and help. In addition to the PROTECT questionnaire, social workers from the asylum authority also require the applicants to fill out a questionnaire specifically designed to detect victims of trafficking in human beings. The questionnaire includes questions concerning sexual abuse and exploitation as well. If it is justified on the basis of the results of the questionnaire or if the victim of trafficking in human beings turns for help to the social worker, the social worker notifies the psychologist and or psychiatrist.

R16 – The Hungarian authorities should provide specialised training to all personnel, including paid staff and voluntary workers, who come into contact with asylum-seeking children, in the transit zones or the mainstream child protection institutions. Specialised training should include modules on the specific needs of these children, in particular on prevention, protection and detection of sexual exploitation and sexual abuse.

A significant percentage of the asylum officials and social workers have taken part in training funded by the Internal Security Fund. Moreover, a handbook on effectively combatting trafficking in human beings had been developed. It can be stated that as a result of the training and the handbook, the staff is more conscious concerning this issue.

In the summer of 2018, the staff of the asylum authority participated in a training on children and persons belonging to vulnerable groups. EASO accredited the training. More similar training is expected to be provided in the future.

The child protection guardians, who are supervised by the Ministry of Human Capacities and legally represent unaccompanied minors placed in the child protection system, have specialized knowledge, experience and language skills, and are continuously trained and supported, so it can be said that professionals with specialized knowledge and experience provide the legal representation of unaccompanied minors, which ensures efficient functioning of the system and relevant institutions.

The EFOP-3.8.2-16 and VEKOP-7.5.1-16 priority project titled “Development of Social Human Resources” and having a total budget of HUF 13.68 billion provide free-of-charge, accredited, thematic professional training in the area of violence against children, child trafficking and child prostitution. This includes a training program for the prevention of and combatting child prostitution and child trafficking in the child welfare and child protection care system.

In addition, among the training programs provided within the child welfare and child protection system, trainings for the prevention and recognition of child abuse, the prevention of drug abuse (prevention, treatment, therapy), and for the development of the

competencies necessary for performing the relevant tasks for employees in the special children's homes and reformatories must be highlighted, since these are indirectly related to the topic of trafficking in children.

The implementation of the priority projects started on 1 October 2016 and the development of the new training structure and the topics of further training have been completed. The development of the training materials is in progress and the funds for the realisation of these trainings are available. These trainings are also available as part of the system of further training provided for child protection guardians.

R12 – The Hungarian authorities should cease the practice of detaining children in the transit zones as a measure to prevent them from falling victims of sexual exploitation or sexual abuse and to facilitate disclosure of cases of sexual exploitation or sexual abuse. Preventing the direct and uncontrolled access to the Hungarian territory does not necessarily include detaining children in fenced open-air areas with shelter containers.

The placement in the transit zones does not violate the prohibition of torture or inhuman or degrading treatment or punishment, moreover, it does not constitute as detention, having regard to the fact that the transit zones can be left any time towards Serbia. However, transfer to other facilities can be granted in extraordinary cases. In this regard, it has to be highlighted that in the preliminary ruling procedure (C-564/18.), which concerns the case of an applicant placed in the transit zone, the European Court of Justice dismissed the request for an urgent preliminary ruling procedure. Taking into account the provisions concerning detained persons as set out by Article 267 of the Treaty on the Functioning of the European Union, the CJEU does not consider the transit zone as a place of detention. Thus, we firmly reject the term „detention” used by the Committee.

Contrary to the recommendation of the Lanzarote Committee, it is not evident, how could the termination of the compulsory placement in the transit zones reduce a child's exposure to sexual abuse or exploitation. In the transit zones, due to the presence of security staff and medical and educational personnel, such a risk is very low in comparison to the possible outcomes of unauthorised departure from the open reception facilities, since in the latter case, minors leaving the open reception facility can easily become victims of human traffickers or sexual offenders.

R13 – The Hungarian authorities should take steps to improve the living conditions of children in the transit zones, in particular by providing shaded areas in the courtyards and air conditioning in the containers, providing access to education to children, reinforcing leisure activities and ensuring mobile phone connection in all sectors of the transit zones in order to minimise their vulnerability.

Adequate living conditions are provided for children in the transit zones. Nevertheless, there is a constant strive for development. The creation of shaded areas referred to in the recommendation was achieved with large shades installed above the yards. Regarding air conditioning, it has to be noted that air conditioners were installed in the community areas while ventilating fans were placed in the living containers.

Regarding the possibilities of entertainment, it has to be stressed that wireless Internet service is accessible throughout the transit zones and persons placed in the transit zones can keep their phones by themselves. The applicants' access to WI-FI is unrestricted; they can use it with any of their devices, thus, their communication is ensured. The unlimited access to the Internet does not only enable communication but it makes further self-education and self-learning possible as well. Moreover, thanks to the Hungarian Baptist Aid, a library with foreign books and videos was created in each sector of the transit zones.

The various programmes (such as Hungarian language classes, board games, sports activities) facilitate the effective spending of free time. During the organisation of the programmes, the social workers take into consideration the needs and feedback of the children.

R14 – The Hungarian authorities should provide children with food that is appropriate to their age, free of charge and of adequate quality and quantity. This should diminish the risk of children becoming exposed to sexual exploitation and sexual abuse.

According to section 4/D. (2) g) of Decree No. 52/2007. (XII. 11.) on the organisational structure of asylum regulations, three daily meals have to be provided for people – having regard to their state of health - in the transit zones and five daily meals for children under 14 years of age, pregnant and breastfeeding women. According to section 4/D. (3) of the Decree, at least 10900 Kjoules of energy must be provided per day, taking into account the state of health, age and dietary requirements of their religion. For pregnant and breastfeeding women, and minors, dairy products and fruits - or when it is justified for health reasons, another similar food substitute – must be provided every day. The presence of a dietician is ensured and they are available for every person, including minors who are placed in the transit zones. Moreover, complimentary food is provided from the Asylum, Migration and Integration Fund (AMIF). It can be stated that food that is appropriate to age, is free of charge and is of adequate quality and quantity is entirely provided, significantly reducing the risk of children falling to victim of sexual abuse or exploitation.

R17 – The Hungarian authorities should ensure that the social workers in the transit zones make all possible efforts to build up a relationship of trust and confidence with the children in order to facilitate disclosure and prevent their sexual exploitation and sexual abuse.

R18 – The Hungarian authorities should ensure that the medical staff in the transit zones practice medical assistance in state of the art, with a positive attitude of care and concern towards children and in a language children can understand, in order to build up a relationship of trust and confidence to facilitate disclosure of possible cases of sexual exploitation or sexual abuse.

R22 – The Hungarian authorities should implement a corporate culture whereby all personnel in contact with asylum-seeking children in the transit zones have a positive attitude of care and concern towards children, are better trained and equipped with trained interpreters, to identify child victims of sexual exploitation or sexual abuse.

Asylum seekers are assisted by social workers in transit zones to solve the any problems they might encounter. Some of the social workers are working in office hours, while the presence of others is provided 24 hours a day in the transit zones. The special role of social workers was highlighted in the preliminary report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its monitoring visit in the Hungarian transit zones held on 27-28 October 2017: „The delegation gained a positive impression of the staff in direct contact with foreign nationals in the transit zones, in particular, the social workers who are making genuine efforts to provide foreign nationals with the necessary support, care and activities.”

Nor repeating the response to Recommendation 16, it has to be stressed that the staff working in the transit zones took part in sensitising training, which equipped them with the necessary competence to uncover cases of sexual exploitation and abuse. Also, psychologists, psychiatrists and other members of the detection and signalling system can be consulted, if necessary.

R19 – The Hungarian authorities should revise the management procedure of visits of children to the medical staff with a view that, for the sake of confidence building towards the doctor, and to limit risks of sexual abuse and facilitate disclosure, children should be accompanied by one of their parents if they wish so. If a parent does not accompany the child, a nurse should always stay in the room during the examination. The latter should always apply in the case of unaccompanied children.

The Hungarian authorities have no knowledge of cases, when a doctor examined a child without the presence of a parent or when an unaccompanied minor was examined without the presence of a nurse. Besides, the authorities ensure the presence of a person of the same sex during the examination; the applicant can also ask for the presence of such a person.

R20 – The Hungarian authorities should provide psychological support to children in the transit zones in a language they can understand in order to accompany those of them who have been victims of sexual exploitation or sexual abuse along the path to disclosure and recovery. Where State provision of psychological support is not possible, the authorities should allow voluntary psychologists access to the transit zones.

Within the framework of a project of AMIF, adapting to the reduced number of persons placed in the transit zones, a psychologist is present 4 hours a week and a psychiatrist is present 3 hours a week in both transit zones. It is important to emphasise that psychologists and psychiatrists serving in the transit zones work closely together with the medical staff and the social workers.

R21 – The Hungarian authorities should monitor the requests from children to leave the transit zone to return to Serbia in order to screen these children for possible cases of sexual violence, to remedy the cases and to act in order to limit recurrence of such cases.

In all cases, the asylum authority takes into account and processes the questions and issues of persons leaving the transit zones towards Serbia. If applicants have problems regarding their placement and reception, it is possible for them to submit a complaint, which is investigated in all cases by the Office under its internal regulations.

R23 – The Hungarian authorities should ensure that children in the transit zones and persons wishing to help them have access to information services such as telephone or Internet helplines in order to provide advice on sexual exploitation and sexual abuse, in a language they can understand. Then Hungary should inform children in the transit zones of the existence of such helplines.

Applicants and the staff of the Office as well can turn to the helpline of the National Crisis Management and Information Telephone Service (Országos Kríziskezelő és Információs Telefonszolgálat – OKIT). This helpline is free, anonymous and functional 24 hours a day, through which the service provides help for the victims of domestic violence, child abuse, prostitution and human trafficking. In addition, the contacts of several other governments and non-governmental assistance organisations are available in multiple languages in all sectors of the transit zones. Such organisations include, among others, the Victim Support Center of the Ministry of Justice, the Crisis Center of the Hungarian Baptist Aid, the International Organization for Migration (IOM), the Blue Line Foundation (Kék Vonal), and the Terre des Hommes.

R24 – The Hungarian authorities should revise their policy of restricting access to the transit zones to a very limited number of NGOs, since NGOs with specific expertise may bring added value to the care provided by the authorities to children seeking asylum and efficiently complement it at no cost for the state authorities (such as psychological care).

Regarding this Recommendation, a reference has to be made to Paragraph 2 of Article 8 of Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection, according to which *„Member States shall ensure that organisations and persons providing advice and counselling to applicants have effective access to applicants present at border crossing points, including transit zones, at external borders. Member States may provide for rules covering the presence of such organisations and persons in those crossing points and in particular that access is subject to an agreement with the competent authorities of the Member States. Limits on such access may be imposed only where, under national law, they are objectively necessary for the security, public order or administrative management of the crossing points concerned, provided that access is not thereby severely restricted or rendered impossible.”*

The Office, following the provisions of the Directive, cooperates with the members of the Charity Council and provides them access to the transit zones. At present, the Hungarian Red Cross and Hungarian Reformed Church Aid provide complimentary assistance in the transit zones. Apart from these charity organisations, the UNHCR and the IOM is also provided access to the transit zones. Thus they can assist the persons placed in these facilities.