

## LEGAL AND JUDICIAL INFORMATION ON MIGRANT SMUGGLING

### HUNGARY

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### GENERAL INFORMATION ON MIGRATION



#### MAIN FIGURES AND TRENDS

The largest number of illegal migrants continue to arrive in Hungary from Serbia (via the Balkan route), making human trafficking activity the most active on this route. In 2023, the border section between Szeged and the settlements of Ásotthalom and Mórahalom was the most affected border area with illegal migration and human trafficking, but there is also a strong impact of human trafficking in the capital, as well as in the northern and western parts of the country.

The number of human trafficking crimes recorded in police proceedings is included in the Appendix containing Joint Police and Prosecutorial Crime Statistics /ENyÜBS/ data.

#### Appendix:

#### **Number of human trafficking crimes registered in police proceedings nationwide in years 2021-2022 based on ENyÜBS\* data**

	Year 2021	Year 2022
National total	635	1697

*\*12/2018 on the unified investigative authority and prosecution criminal statistics system, detailed rules for data collection and processing. (VI. 7.) BM decree*

#### **Number of offenses registered in police proceedings in the crime of human trafficking according to the nationality of the perpetrators. ENyÜBS2\* 2021. based on annual data\*\***

##### Year 2021:

- Romanian: 140
- Serbian: 123
- Ukrainian: 90
- Hungarian: 88
- Syrian: 46
- Moldovan: 30
- Turkish: 29
- Bulgarian: 20
- German: 19
- Slovak: 18
- from Bosnia and Herzegovina: 14



- Polish: 13

*\*12/2018 on the unified investigative authority and prosecution criminal statistics system, detailed rules for data collection and processing. (VI. 7.) BM decree*

*\*\*Number of offences: the perpetrators of the crime are those natural persons whose at least one committed act is a registered crime, in such a way that an offender may be charged several times in one procedure depending on the number of registered crimes he has committed. (With a value above 10.)*

## **Number of offenses registered in police proceedings in the crime of human trafficking according to the nationality of the perpetrators. ENyÜBS\* 2022. based on annual data\*\***

Year 2022:

- Romanian: 273
- Serbian: 245
- Ukrainian: 201
- Hungarian: 180
- Moldovan: 95
- Syrian: 75
- Bulgarian: 72
- Turkish: 62
- Czech: 50
- German: 41
- Georgian: 38
- Polish: 37
- Slovak: 29
- Albanian: 22
- Belgian: 22
- French: 20
- Austrian: 20
- Latvian: 17
- Lithuanian: 17
- from Bosnia and Herzegovina: 16
- Russian: 16
- in North Macedonia: 14
- Montenegrin: 14
- From Uzbekistan: 14
- Croatian: 12
- Italian: 11

*\*12/2018 on the unified investigative authority and prosecution criminal statistics system, detailed rules for data collection and processing. (VI. 7.) BM decree*

*\*\*Number of offences: the perpetrators of the crime are those natural persons whose at least one committed act is a registered crime, in such a way that an offender may be charged several times in one procedure depending on the number of registered crimes he has committed. (With a value above 10.)*



## ➔ MIGRATORY ROUTES

Hungary is a transit country for illegal migration. Human traffickers arrested in Hungary typically transport illegal migrants from the Hungarian-Serbian border section, or assist in their transportation as scouts to avoid police checks.

The most common human trafficking routes were the 55th main road and the M5-M0-M1 motorways, as well as the 8th main road. Alternative routes included the 2nd, 12th, and 21st main roads, as well as the M7 and M3 motorways.

Examining the perpetrators of the proceedings and the characteristics of the issuing countries, it can be concluded that most of the human traffickers arrested in Hungary are of Romanian, Moldovan, Ukrainian, Syrian, and Georgian origin.

In the first half of 2022, Syrians, Afghans, Turks, Pakistanis, and Indians attempted to reach Western Europe, while in 2023 so far, the majority of the migrants transported were of Syrian, Turkish, Afghan, Moroccan, and Bangladeshi nationality.

According to the latest trends, migration and human trafficking activities have also increased towards Hungary's northern border, with an increase in illegal migration and human trafficking towards Slovakia.



## INSTITUTIONAL ORGANISATION

The Hungarian Police's effective procedures as a law enforcement agency are ensured in the current legal environment, which is primarily defined by the Act C of 2012 on the Criminal Code, the Act XC of 2018 on the Criminal Procedure, the Act XXXIV of 1994 on the Police and other sectoral regulations. The Hungarian Police widely applies the available legal tools and institutions in the investigation of the crime of human trafficking and in the fight against illegal migration.



## LEGISLATIVE FRAMEWORK

Act C of 2012 on the Criminal Code of Hungary (hereinafter: CC) defines the crime of people smuggling as follows:

### Criminal Code of Hungary

#### **Section 353. People smuggling**

- (1) A person who assists another person to cross the state border in violation of the law is guilty of a felony and shall be punished by imprisonment for one to five years.*
- (2) The punishment shall be imprisonment for two to eight years if people smuggling is committed*
- a) for financial gain,*
  - b) by assisting more than one person in crossing the state border, or*
  - c) by destroying or damaging a facility or instrument safeguarding the order of the state border.*
- (3) The punishment shall be imprisonment for five to ten years if people smuggling is committed*
- a) by tormenting the smuggled person,*
  - b) with a weapon,*
  - c) with an instrument capable of causing death,*
  - d) regularly for generating income, or*
  - e) in a criminal conspiracy.*
- (4) The punishment shall be imprisonment for five to fifteen years if*
- a) the people smuggling as defined in paragraph (3) a) is committed in a manner specified in points b) to e),*
  - b) the people smuggling as defined in paragraph (3) b) is committed in a manner specified in points a) or c) to e).*
- (5) A person organising or leading the commission of a criminal offence specified in paragraph (3) or (4) shall be punished by imprisonment for ten to twenty years. (6) A person who commits preparation for people smuggling shall be punished by imprisonment for up to three years.*

Taking into account the inviolability of the State border, the success of crime prevention and the social interest in maintaining public safety, the provision defines the facts of people smuggling, which ensures strict action even in basic cases [Section 353(1)].

The assistance can be physical (typically accompaniment), but it also be realised through advice, guidance and misleading the border enforcement agencies. The crime has four aggravating circumstances [Section 353 (2)-(5)] with particularly severe sanctions; the most

severe punishment, for ten to twenty years imprisonment, is for the organiser or leading person of the crime.

The Hungarian CC provides a differentiated, effective and strict action against people smuggling, including the long-term isolation of the leaders of organised crime, which can also result in the termination of the vertically and horizontally organised hierarchical people smuggling networks controlled by them.

Three additional crimes aimed at facilitating illegal immigration are indirectly but closely related to the people smuggling. These are the crimes of facilitating and assisting illegal immigration (Section 353/A), facilitating illegal residence (Section 354) and family relationship fraud (Section 355). In addition, the CC provides for the possibility of punishing certain actions related to the State border fence committed by illegal immigrants, which are as follows: Illegal crossing of the border fence (Section 352/A), vandalism of the border fence (Section 352/B) and obstructing construction works related to the border fence (Section 352/C).

According to Section 364, the perpetrator of the criminal offence of people smuggling, illegal crossing of the border fence, vandalism of the border fence, obstructing construction works related to the border fence, facilitating illegal residence, facilitating and assisting illegal immigration may also be subject to a ban on entering certain areas (Section 57). Furthermore, subject to Section 60 (2a), with the exceptions specified in Section 59 (2) and (4), the application of expulsion shall not be dispensed with if imprisonment is imposed for illegal crossing of the border fence, vandalism of the border fence, obstructing construction works related to the border fence or people smuggling.

The official English text of the CC can be found at the following link: <https://njt.hu/jogszabaly/en/2012-100-00-00>, where further detailed rules can be read.



## JUDICIAL FRAMEWORK

In Hungary, there are no special court or prosecutor office specifically designated for adjudication of the referred criminal offences, however, there are slightly different procedural rules for criminal offences related to the border fence. In general, it can be said that with regard to the referred crimes, all procedural tools and actions can be used, which can be used for any other crime.

As regards procedure concerning criminal offences related to the border fence, the Act XC of 2017 on the Code of Criminal Procedure of Hungary (hereinafter: CPC) contains specific provisions which can be found in Chapter CVII (Section 827-837). The nature of the specific procedure does not mean that these rules do not comply with the principles of the international law, the general principles of the EU or requirements of the Fundamental Law of Hungary. The goal was that due to the subject of the procedure and the personal circumstances of the perpetrator, the criminal procedural rules of these offences were included in the specific procedures of the CPC. In this procedure, it is important to emphasise that the participation of a defence counsel in a criminal proceeding shall be mandatory (Section 829). Furthermore, the basic requirements must be highlighted, according to which, for example, the human dignity of every person shall be respected in criminal proceedings [Section 2 (1)], or everybody shall be entitled to use his mother tongue in a criminal proceeding [Section 8 (3)]. The CPC also

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stipulates that in the course of ordering and enforcing a coercive measure affecting personal freedom, special attention shall be paid to avoiding the violation of the interests of any person who has not attained the age of eighteen years accompanying the defendant, and the unnecessary separation of a juvenile from his relatives [Section 830 (1)].

Taking into account the requirements of a fast and efficient procedure, according to Section 79 (1) d) of the CPC, the criminal proceeding shall be conducted as a matter of priority during a period of crisis caused by mass immigration in a criminal proceeding instituted for a criminal offence committed in the crisis area and specified in Section 827.

In order to end the criminal procedure as soon as possible, the CPC provides the possibility to immediate summary procedure. According to the general rules, a prosecution office may bring a defendant before a court in an immediate summary procedure within two months after a criminal offence is committed, provided that the criminal offence is punishable by imprisonment for up to ten years under an Act, the evaluation of the case is simple, the evidence is available, and the defendant was caught in the act when he committed the criminal offence or the defendant confessed to the commission of the criminal offence. However, in procedure concerning criminal offences related to the border fence, a prosecution office may bring a defendant to court in an immediate summary procedure within fifteen days after a criminal offence is committed [Section 835 81)].

The official English text of the CPC can be found at the following link: <https://njt.hu/jogszabaly/en/2017-90-00-00>, where further detailed rules can be read.



## INTERNATIONAL COOPERATION

In order to increase the effectiveness of the fight against human trafficking criminal organisations behind illegal migration, international cooperation at the operational level is the responsibility of the National Bureau of Investigation (KR NNI). The KR NNI maintains ongoing, daily contact with foreign partner agencies. The international cooperation framework provides the opportunity to continue parallel investigations and to participate in joint investigation teams (JITs) with the member States of the European Union and third countries.

Members of human trafficking criminal organisations are present in all of the transit countries along the illegal migratory route. They plan and coordinate every detail of their illegal activities with engineering precision. The fight against criminal organisations is made difficult by the fact that the leaders of these organisations plan and organise human trafficking in Türkiye, Greece, Serbia, Romania, Bulgaria, Poland, Lithuania, and in the target countries (Austria, Italy, France, Germany). Therefore, operational cooperation with the competent authorities of the countries concerned is of paramount importance in order to completely eliminate the activities of criminal organisations.

Human smuggling in every aspect carries a cross-border nature, given that it is committed in several member States, or a significant part of its preparation, direction, and related participant behavior is carried out in another member state.

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Investigation in parallel or within a joint investigation team (JIT) has proven to be an effective tool in the fight against human trafficking criminal organisations, especially in terms of the measures necessary for detection and arrest.

In recent times, the number of requests for participation in the above-mentioned forms of cooperation involving Hungary has significantly increased. Romania, Bulgaria, Lithuania as a new element, and Poland also want to increase the existing information exchange between the countries.



## RELEVANT CASES

The Illegal Migration Division of the International Crime Department of the KR NNI has relevant experience in investigating high-profile, international human trafficking-related crimes.

- ❖ **5.1.** According to the data of the Békés County Police Headquarters investigation, Hungarian citizen J. M. and Iraqi citizen M H., who were previously serving a prison sentence for human trafficking, met in prison in the summer of 2018. After their release, they resumed contact in the spring of 2021, and then agreed in Serbia that the Hungarian citizen would take on a role in organising the further transportation of third-country migrants who had been illegally smuggled across the Hungarian-Serbian border for a regular financial gain (500 euros/person). Their agreement also extended to recruiting lead drivers and their escorts to provide route security for the transport vehicles.

The Hungarian person rented vehicles to carry out the human trafficking, and coordinated the pickup and transportation of the migrants through the WhatsApp application, and forwarded the recordings of their delivery at the destination to the client.

During the investigation, it was established that between August and September 2021, the human trafficking criminal organisation operated by the Iraqi citizen and his two Hungarian associates provided assistance, or intended to provide assistance, in at least 13 cases to transport at least 156 third-country nationals who had illegally entered Hungary across the Hungarian-Serbian border, in violation of the legal provisions, to the immediate vicinity of the Hungarian-Austrian border for their illegal entry into Austria.

The members were in constant contact with each other during the execution of their actions via internet chat and video application (WhatsApp), as well as voice calls and SMS. They used rented and owned vehicles and a GPS application to reach the pickup and destination points of the migrants determined by the client. When these places were reached they documented the successful completion of the operation with a video recording.

According to the data obtained during the investigation, the Hungarian members of the criminal organisation who have been charged so far have made a total income of at

least HUF 13,071,430 /approx: 34.000 EUR/ as a result of their successfully executed actions listed above.

J. M., who was in contact with the Iraqi organiser, received EUR 500 per migrant from various hawala money changers in Budapest, while the other Hungarian citizen who organised drivers who drove rented or owned transport and escort vehicles received HUF 100,000 per migrant, which he further distributed to his accomplices involved in the transport. The amounts paid to the recruited drivers ranged from HUF 50,000 to HUF 1,000,000 depending on the number of migrants transported.

The KR NNI sent the investigation files to the Bács-Kiskun County Public Prosecutor's Office on 14 August, 2023, with a proposal for indictment against 16 Hungarian perpetrators, while a domestic, European and international arrest warrant has been issued against the Iraqi organiser.

- ❖ **5.2.** Since 2020, third-country nationals, mainly Syrians and Afghans, have appeared most frequently on the Hungarian-Serbian border section. Most of them entered the country by climbing ladders, climbing over the fence, or digging tunnels, and from here they intended to continue their journey mainly to Austria and Germany. Trail cameras also recorded migrant groups and walkers on the southern border section - in the outskirts of Ásotthalom, Mórahalom, Ruzsa and Öttömös.

By analyzing the cases of the captured illegal migrants and the persons involved in their smuggling, several farmhouses on the outskirts of Ruzsa and Ásotthalom came to the attention of investigators from the KR NNI. These farmhouses served as resting places for the illegal migrants. The investigators also identified a pattern in the methods used to smuggle the migrants, which led them to believe that a criminal organisation was involved.

The investigators were able to identify a man from Ásotthalom who provided food and water to the illegal migrants. He also provided space on his farm for the modification of vehicles used to smuggle the migrants, and he sometimes provided accommodation for the drivers.

The criminal organisation initially used trucks designed for normal road traffic to transport the migrants. However, after a series of police seizures, the organisation began to build hiding places in the vehicles to conceal their activities.

The vehicles needed for this were obtained by a Slovak man from good-faith sellers, from whom they were actually purchased with a property transfer agreement issued in the name of non-functioning companies. There was a vehicle disguised as a construction debris truck, under the loading surface of which a void was created, and construction debris was placed on it. The illegal migrants then hid under it, in the hiding place. The fleet of vehicles also included a tractor, to which a trailer was attached, under the loading area of which another hiding place was also made. The vehicle usually transported manure when transporting migrants. Among the cars was also an ambulance, which was also used to smuggle people. The plans included the purchase



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and conversion of a vehicle used by courier services, a tanker truck, and even a hearse. Thanks to the police arrests, the use of these was no longer realised.

The drivers were generally men in disadvantaged social situations or homeless people. In terms of citizenship, they were Hungarians, Estonians, Poles, and Romanians. They were usually housed in a Budapest hotel or rented apartment before their transportation task, and they received the coordinates in chat messages. The car had to be picked up in an open state, with a key, with petrol money and a work phone, in a parking lot of a large shopping mall in Soroksár or Szigetszentmiklós, prepared for the transportation of migrants. The drivers mostly did not meet the organizers, and if they did, they did not know the organizer's real identity, they introduced themselves to them under an assumed name. They only kept in touch online and by phone, usually in Romanian, with the help of Google Translate. The money received for the trips was not given to them by the organisers, but by the intermediaries.

The middle-level leader of the criminal organisation was a 46-year-old Romanian man living in Szigetszentmiklós, who was responsible for recruiting drivers and providing vehicles for them for transportation. He served as the intermediary between the main organiser and the Slovak man. KR NNI investigators arrested the Romanian man on 11 May, 2021 in Gyöngyös.

During the raid, he threw the mobile phone he was using out of the sixth floor, but the investigators managed to find it and extract data from it that clearly proved the man's role in the criminal organisation.

The main organiser of the human trafficking network was a 55-year-old Libyan man who was already known by a pseudonym in several countries, but the KR NNI managed to identify him and arrest him in Budapest on 22 September 2021. He maintained contact with the illegal migrants in Serbia and kept in constant contact with them. He charged them 3.500-4.500 euros per person to get them to their destination. When the delivery was completed, he asked the drivers for a video of the migrants praising him and thanking him for it. He coordinated and supervised the entire human trafficking process. Through his confidant, he recruited the drivers, and he also determined in detail the conversion of the transport vehicles. To illustrate this, he even made a model out of cardboard, which he filmed and then sent to his people. He also occasionally provided lawyers for the drivers arrested by the police. When he was arrested, he had 3 Romanian and Bulgarian documents issued in different names, each with his photograph, as well as 19 mobile phones and dozens of SIM cards were seized from him.

The KR NNI was able to identify and arrest 14 members of the criminal organisation. During the investigation, it was determined that the group operated in a coordinated, hierarchical, and conspiratorial manner.

The members committed human trafficking for profit from the fall of 2020 until the action carried out on May 11, 2021. The offense charged against them is punishable by up to

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several years in prison. During the proceedings, the police seized HUF 30 million in cash, as well as a high-value SUV and jewelry.

The investigation was completed by the KR NNI's International Crime Prevention Department's Illegal Migration Department in April 2023, and the case files were sent to the Veszprém County Prosecutor's Office with a proposal for indictment. By dismantling the human trafficking network, the KR NNI removed a very significant protagonist from the market of organised crime based on illegal migration.