

## RESPONSES OF HUNGARY TO THE QUESTIONS OF THE COMMITTEE AGAINST TORTURE

Mr. Chairman,

We would like to start replying the questions received from the rapporteur and co-rapporteur, as well as from the distinguished members of the Committee. Since there were several questions regarding the Border Guard, with your permission we would address these questions as a block. After the questions concerning the Border Guard, we would give the answers following the order of the articles in the Convention.

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[Mr. Istvan Ordog]

### **BORDER GUARDS**

#### **1. Question of availability of information material at the border:**

Every alien has an opportunity to apply for asylum, at the national airport or at the border checkpoints. Several civil organizations (IOM, Hungarian Helsinki Committee) provided written information sheets

At the designated places the above mentioned material is available, and there is also a list of counsels who can be contacted on the request of the asylum seeker.

At the first interview, the minutes/official records taken contain general information about the rights and obligations of the applicant, including the right for appointing a lawyer (free of charge in case of NGOs like HHC).

The alien police also has a formula included into the first interview minutes about the procedural rights and obligations of the applicant, for example that he or she can refuse to make a statement; can ask for the help of a lawyer etc.

#### **2. Question of medical examination during alien police procedure:**

We do not have information about any case, when a doctor had tried to convince an alien, in order not to lodge a complaint against the authorities concerned.

Before any action is executed by border guards and/or other alien police authorities, there is an obligation to inform the person involved about the possibility of remedy or making an official complaint.

Every person who is taken into custody by the alien policing authorities shall have a written decision which includes a formula about the above mentioned possibilities of remedy or complaint. All detainee receive a kit containing hygienic items, as well as a written information sheet on his rights and obligations.

During the medical examination of an arrested / detained alien, the escorting border guard has to be present in the same room due to security concerns (in the interest of the security of the doctor and the medical staff). As I have been informed by the Border Guards, the medical rooms have the same technical equipment that a „civil” medical room does, and this is a further reason why the security measures apply.

However, some amendments, changes in practice have been introduced after the CPT delegation visited Hungary last time. Since then, the border guards are ordered to keep distance between the doctor and the applicant to provide for the exchange of sensitive information, thereby assuring the personal rights of the person concerned.

The medical screening of an alien before he/she is taken into detention is obligatory. If there are visible signs of injuries, the doctors have to make an official medical report about the bodily harms. In practice this also means that if the border guards had taken an alien with visible injuries into custody, and they brought to the OIN Alien Policing Authority, the alien police officer will not take the alien into its jurisdiction without a medical report. There has been a case when the Hungarian Border Guards rejected to take back an alien deported by the Austrian authorities without medical report, as there were visible signs of harm on the person concerned.

Furthermore, if an alien states that he is a victim of torture, but suffered non-visible injuries, the medical examination is also obligatory. It is equally obligatory to initiate an official investigation.

The right to independent medical examination is provided as follows: if an alien gives an explanation why he or she does not want the service of the doctor provided at the first place by the alien policing authority, a „civil” doctor would be provided. In practice there have been some cases when due to religious or cultural reasons, the aliens asked for a doctor from the same sex. If an alien refuses to cooperate with the doctor provided by the alien police, in practice, the border guards escort the alien to a local GP.

**3. Cases when the border guards did not apply deportation / readmission because of risk of being tortured.**

The Border Guards’ position is that if there is a suspicion that an alien would be subject of torture or cruel, inhuman treatment, the asylum authorities are informed. In practice these persons generally lodge an application for asylum.

There was a special period of time during the civil war in Bosnia and after that in Kosovo, when a mass influx arrived to Hungary through the southern border. At that time many of the arrivals crossed the border illegally, undocumented and in many cases they did not ask for asylum at the border. In these cases the Border Guards (naturally) did not apply the refoulement. These persons were not expelled of course and most of them after the end of war returned back voluntarily.

An example from the recent practice: if an ethnic Albanian, coming from Kosovo is crossing the Hungarian border illegally (via Serbia), deportation can be made only by a direct flight to Pristina, so he or she will not be sent back directly to the Serbian authorities.

**4. COI information availability for the Border Guards.**

Since the last visit of the CPT delegation, a separate COI information database has been set up, which at this time contains country of origin information about 13

countries. The database is still under construction and it is continuously expanded and updated with new material. Most of the countries contained in the database are from Europe (Ukraine, Albania, Bosnia, Moldavia, Macedonia, Turkey etc.) but there is also information about Iraq and Syria.

As there is an internet access at the border guard facilities, we have to mention that the ecoi.net website is known and used by the officials.

There is an internal regulation circulated about the obligatory use of this COI system. Besides this, the OIN COI database receive ad hoc requests for information from the Border Guards. UNHCR can also be contacted.

## **5. The readmission agreement between Hungary and Ukraine**

Hungary has a bilateral readmission agreement with all the neighboring countries. Except for the one concluded with Ukraine every readmission agreement is a so called „second generation” agreement which qualifies for the EU standards. The readmission agreement with Ukraine is a problematic issue. Hungary has made efforts to amend the readmission agreement with Ukraine, we prepared a new draft version of the agreement but our Ukraine partners rejected to ratify it because at this time there are negotiations ongoing between Ukraine and the EU on expert level, and the Ukrainians wish to solve the question on EU level.

Regarding the question of guarantees given by the Ukrainian authorities for applying the principle of non-refoulement, I can only present the official position of the Border Guards that there is no such obligation in any readmission treaty signed by Hungary, to monitor with the fate of the person after the readmission. The asylum procedure in Hungary is not initiated ex officio, it starts by the request of the applicant and at the moment he or she enters the territory of Hungary there is an opportunity for asking asylum.

There has been a joint project initiated by UNHCR an HHC aimed at following up on the fate of deported persons.

## **6. Complaints against the Border Guards**

Regarding the statistics given by the Border Guards, I can confirm that in the last 3 years in 8 cases, 12 aliens filed complaints against Border Guard personnel. In these cases there is an obligatory protocol followed by the authorities. The superior initiates a disciplinary procedure against the officer, which (regardless of the outcome of the internal investigation) shall be followed by an official investigation carried out by the prosecutor. From the cases mentioned above, 3 cases went to court, and the complaints were rejected by the judge. In 1 case the prosecutor decided not to raise charges but as it was the second complaint against the officer, taken into consideration of the psychologist expert opinion, the officer has been transferred to a different position.

From these cases, later on 2 aliens claimed, that they were advised by the other detainees to make the complaints in order to get rid of stricter guards.

**7. Case when a person arrived injured to the border guards, followed by any procedure**

We do not have information about such a case.

**8. Training of Border Guards**

Human rights NGOs are very much involved into the training of the officials.

Last year the so called “Menedék” (Shelter) Association organized a training, where approximately half of the guards staff of detention centers were trained (140 persons), the program involved lectures of psychologist expert (stress management), human rights experts, professional aggression treatment techniques and so on. A similar training was organized by UNHCR for 40 persons.

The “Cordelia Foundation for the Rehabilitation of Torture Victims”, a Hungarian NGO which specializes in the treatment of traumatized, tortured victims, organized a training for the Border Guards about the treatment of vulnerable groups of migrants. Two teams were trained with 30 participants each.

Besides these civil trainings, there are trainings organized on a regular basis by the Border Guards themselves, including on psychological issues and stress management methods.

Speaking about the monitoring of the results of these efforts, we can say that thanks to the trainings, cases of conflict between the guards and the aliens are on the decrease.

**9. Legal help of detained aliens, treatment of vulnerable groups**

Besides the Hungarian Helsinki Committee the Border Guards has cooperation agreements with various NGOs and other organizations. There is the Hungarian Prison Association, The Hungarian Baptist Aid, the historical and smaller churches or the Hungarian Islam Community, who make regular visits at detention places.

The Border Guards also support the visits of “Menedék Hungarian Association for Migrants”, “Oltalom” Charity Society , UNHCR, Hungarian Red Cross, Hungarian Human Rights Defense Center or Mahathma Gandhi Association.

In every detention center a psychological expert has visiting hours once a week, but in case of emergency this service can be used at any time.

The above mentioned Cordelia Foundation also makes visits. In at the majority of the cases they are the ones who give professional help to the detained persons in case of any mental complaints.

Besides this, every detention center has an agreement with the local psychiatric hospital (city or county hospital) where the service needed is available and it is funded by the state.

**10. Person handcuffed to the radiator: ,Investigations, results**

The official position of the Border Guards is the following: they received the report of the CPT delegation which stated that in 31 March 2005 a person of Serbian origin claimed that he was handcuffed to the radiator. After the report – the information contained in became known to the Border Guards after it has been published - an investigation took place, where it turned out, that in the room where the detained claimed that he was handcuffed, there was no radiator at all.

#### **11. Return by the Border Guards patrol, principle of non-refoulement**

At the moment when an alien applies for asylum when entering the country at a checkpoint, immediately the asylum authority will be informed. However, when one doesn't wish to apply for asylum, the official can decide individually on the return of a person (for example if the person does not have a visa, which is obligatory). This method is applied only at the regular border check procedure of travelers as well.

In any other case, for example aliens crossing the border illegally, any measures taken qualify as an alien policing procedure. This is important because the individual border guard officer does not have a right to decide on the question of return. The rules and guarantees of the alien policing procedure have been already provided to the Committee.

#### **12. Schengen harmonization**

The harmonization procedure is still ongoing, we are expecting to fulfill all the criteria needed by the time of accession to the Schengen system. Since 17 October 2006 Hungary applies the manual book of Schengen acquis. A monitoring procedure took place in this year from February to June, and we are glad to say, that the SCHEVAL gave Hungary a good score. We have to admit however that there are still some things to be done, but no substantive gap was found, which could thwart the accession.

13. Regarding the question of the **readmission agreement with Serbia and Montenegro**, according to the information given by the Border Guards, the type of this agreement is a "EURO II." which means, it fulfills the EU criteria. After the referendum about the separation of Serbia and Montenegro, the Serbian authorities declared via our Ministry of Foreign Affairs, that they will still apply the readmission agreement between Hungary and Serbia.

### **Alien Police OIN**

#### **1. When do the aliens have the right to request legal counsel**

The possibility of asking the help of a lawyer, legal representative is granted during the entire procedure. In practice this means that the information about contacting a legal representative is available at all detention places and audition rooms. In most cases the HHC provides legal help, whose lawyers have professional experience on the field of asylum and aliens procedure, and their service is free of charge.

## **2. Possible remedies against detention in alien procedures. Statistics on the duration of detention**

Legal remedy is automatically provided by the courts after 5 days of detention. However, on request judicial review is possible at an earlier stage.

Detention shall be terminated immediately when the grounds no longer exist. In practice this means, if the alien gives false statement about his or her identity or citizenship, the period of time it takes to get the documentation needed to return the person, could be longer. The consulate of the alien has also great responsibility on providing the documentation as soon as possible, but in real life that could take months.

### **Statistics on detention**

Today there are 45 persons staying at detention ordered by the alien police.

As of the 19 September 2006 we have information, that no alien spent the whole 12 month at the detention center.

In 2006:

6-12 months:	11 persons
3-6 month:	65 persons
1-3 months:	6 persons
15-30 days:	21 persons
5-15 days:	19 persons
-5 days	39 persons

### **Statistics on subsidiary protected persons**

According to the information I have been given, in 31 October 2006 there were 364 persons granted this status, most of them are: 55 Albanians from Kosovo, Serbian Romas, 43 Afghan persons, and 28 persons from Iraq.

## **3. What happens if an undocumented alien meets with the authorities?**

There can be many solutions. If the alien does not have his passport or other documentation like residence permit, or because he left it at his hotel room, he will be escorted there and no alien procedure is initiated.

If the alien lost his documentation, according to the Alien Act, after his identity is checked he will be given a temporary residence card by the time he can get a new passport or laissez passer.

If the identity and/or the citizenship of the alien could not be established, he would get into detention.

In these cases the alien police has the possibility to take a decision on the expulsion of the alien, but the execution of the expulsion of course could not be made until the documentation needed has been provided.

There is a possibility to leave the country voluntarily, and deportation will be used only if the voluntary return seems to be unsuccessful.

Just one case provided by the alien police, 3 April 2006 a Vietnamese citizen asked for asylum presenting a subsequent application 1.5 hours before his plane was about to take off. His travel was immediately cancelled and he was granted access to asylum procedure.

#### **4. Community shelters, release from detention in case the non-refoulement principle applies**

Aliens could stay at an open community shelter in case they are minors (Nagykanizsa) or if the alien police by its own jurisdiction gives the subsidiary status to the alien who did not lodge an asylum application. or when there is an alien police procedure is going on, but there is no need for detention.

If an alien lodges an asylum application after being detained by the alien police, if the asylum authority or the court who decides on the asylum application at the second instance decides that non refoulement principle should be applied, the alien would be transferred without any delay to a reception center or community shelter.

There is no overcrowding at reception centers and community shelters. As the migration routes have changed in the past few years, we receive less asylum seekers and illegal migrants.

The three reception centers in Hungary have 1770 places (including separate wing for single women with children) and out of these 493 places were occupied at 13 November 2006.

#### **5. Victims of human trafficking**

We introduced some amendments into our legislation for the protection of these victims. The Aliens Act in Art. 15 (1) c. provides, that foreign national who have cooperated with the authorities in a criminal investigation and have provided significant assistance in gathering evidence, shall be given humanitarian residence permits, irrespective of whether the requirements specified by law are satisfied or not.

We also have a shelter designated specifically for these victims, runned by one of our civil organization where they are separated from other foreign nationals, but the exact location or other data is classified information, that I am not authorized to share with this Committee.

### **Asylum procedure**

#### **1. Border Procedure**

There is no border procedure in Hungary as such, but we have in our legislation a special procedure called "airport procedure".

Art. 14. of Act on Asylum: The alien police authority is obliged to inform the asylum authority immediately if an alien asks for asylum entering Hungary at the international airport.

The decision making asylum officer arrives to the airport sometimes after the official working hours to interview the asylum seeker. In most of the cases it turns out that the procedure could not be finished within 8 days which is a deadline for this special procedure, after 8 day the applicant shall be entered to the territory of Hungary and he would be accommodated at one of the reception centers.

In practice we have very few cases, 1-2 per a year, and these applicants are claiming to have come from countries like Sierra Leone, Liberia so as their case could not be dealt within 8 days, they will be transferred after their interview to the reception centers.

Besides this, the airport procedure can not be managed because of technical reasons: even if the asylum authority brings the decision within 8 days, it is almost certain that the applicant will lodge a remedy against the decision and the judicial procedure in practice would last at a minimum 4 months.

## **2. The principle of non-refoulement, Safe third country lists, Safe countries of origin lists.**

At the Hungarian asylum procedure there is an individual examination of the non-refoulement principle. It is decided on a case by case basis, no matter if we decide on an application lodged by an Iraqi or a Slovak citizen.

Even if the asylum seeker is coming from a safe third country like for instance Slovakia, an individual examination takes place, we make a request to our COI unit (4 plus 3 researchers) to provide country of origin.

## **3. Harmonization with EU directives on asylum**

We started the harmonization process 2 years ago but there is still no political agreement on the amendment of the Act on Asylum. One thing is have to be mentioned. I am sure that our NGO partner members of HHC would confirm that the Hungarian Act on Asylum today applies more favourable standards than the EU regulation. Just a few examples: we do not have a so called admissibility procedure, everyone has the right for an interview, there is no border procedure, every decision on asylum cases is made by asylum experts, everyone shall have the right to stay at the territory of Hungary during the asylum procedure, both administrative and judicial level.

This system is very often abused by asylum-seekers who present manifestly unfounded subsequent application to avoid deportation.

The asylum authority also welcomes the new concept of the Alien Act presented by the government before the Parliament and it is expected to come in force at earliest 1 January 2007. This new concept would change the legislation, the 5 days of detention ordered by the alien policing authority would be reduced to 72 hours, and the maximum length or duration of detention would be 6 month.

**Art. 1** [Mr. Andras Szucs]

1. As for the definition of torture contained in Art 1. of the Convention we must underline that this fairly generally formulated definition cannot be incorporated into the traditional structure of the Hungarian Criminal Code, therefore we need some specific provisions, especially some provisions concerning certain acts of crime to cover the content of the definition. These special acts of crime are the following: ill-treatment in official proceedings; forced interrogation; unlawful detention. There are also criminal offences that serve as a background offence, the purpose of which is to make sure that when a specific crime cannot be established, the act of the perpetrator still qualifies as a criminal offence. The abuse of criminal authority is such a criminal provision.

According to the Criminal Code regarding the abuse of authority: “Any public official who breaches his official duty, transgresses his competence, or performs any official act that is illegal or wrongful with the aim of causing unlawful disadvantage or obtaining unlawful advantage is guilty of felony, punishable by imprisonment for up to three years.

In our opinion, the phrase “with the aim of causing unlawful disadvantage” covers the cases in which torture, or inhuman or degrading treatment carried out by official persons is applied as a punishment. You can find in these provisions not only the prohibition of torture, but also the prohibition of inhuman or degrading treatment as well. This prohibition can be found in the provisions regarding forced interrogation, which say that this crime can be committed by force, or threat of force, or – that is most important – by other similar means.

We must stress that, under the General Part of the Hungarian Criminal Code, not only the perpetrator, and the co-actor of the crime, but the abettor and the accomplices are also punishable. That means that the person who helps another person to commit a crime and who intentionally persuades another person to commit a crime, is also punishable.

2. Yesterday we received a question in connection with the restriction of the detainees’ right to correspondence, to receive parcels and visitors. These rights can be restricted only in the interest of the criminal proceedings. This means that these rights can be restricted only in order to prevent the defendant from influencing the witnesses; from having discussions with other defendants on the criminal case; and from threatening the offended persons. These restrictions can be taken - before the indictment - by the competent public prosecutor, or – after the indictment – by the competent judge. Naturally, the defendant can appeal against this decision and he/she can turn to the superior authority for remedy. In my practice, I have met some appeals against this kind of decision, but such an appeal is requested on rare occasions.

3. As far as the maximum duration of the pre-trial detention executed in the police cell is concerned, I can tell you that a pre-trial detainee may not be accommodated in this holding facility longer than 60 days. Pre-trial detainees can be placed in police holding facilities in exceptional cases, only if it is necessary in the interest of the investigation. Mainly at the beginning of the criminal procedure there can be some investigating acts closely related to the suspect, which are very urgent and the defendant’s accommodation in the penitentiary institution could make it very difficult for the investigating authority (which is the police in most of the cases) to accomplish them. You can think of some special forensic examinations etc.

[Mr. Zsolt Bereczki]

4. As to the length of pre-trial custody, we cannot provide the Committee with a survey about the average time spent in prison. We can, however, summarize that with regard to 2006, the following periods were spent in pre-trial custody:

1-2 months: 384 persons  
2-3 months: 331 persons  
3-4 months: 252 persons  
5-6 months: 208 persons  
7-8 months: 171 persons  
8-9 months: 156 persons  
9-10 months: 146 persons  
10-11 months: 84 persons  
11-12 months: 110 persons  
12-15 months: 206 persons  
15-18 months: 118 persons  
18-21 months: 78 persons  
21-24 months: 29 persons  
24-27 months: 22 persons  
27-30 months: 24 persons  
30-33 months: 25 persons  
33-36 months: 11 persons  
36 months- : 10 persons

This means that approximately only 13% of the remand prisoners spent more than 12 months in prison.

[Ms. Borbála Garai]

4. The third periodic report of Hungary states that Article 123 of the Hungarian Criminal Code, having direct relevance to the police and law enforcement officers, makes it possible to refuse to obey an order for committing a prohibited offence. Article 123 of the Criminal Code states that a soldier/policeman is not punishable for carrying out an order, unless he was aware that by doing so he would be committing an offence. Article 16, paragraph 3 of the Act on the Police provides that the policeman shall not carry out torture, cruel, inhuman or degrading treatment and he is obliged to refuse to obey such an order of a superior officer. Furthermore, he is obliged to initiate a legal procedure aimed at eliminating this act as well as to have the case investigated.

[Jakab Richárd]

**Art. 2** [ Mr. Andras Szucs]

We have received a question concerning the apprehended persons' right to defense. First of all I would like to draw your attention to the fact that in Hungary, under the Act on the Police, a person can be apprehended by the police for a couple of reasons. This measure can be taken in special cases, when someone commits a contravention, in case of suspecting someone of committing a crime, for lack of self-identification etc. However, legal counseling is compulsory only in the criminal proceedings if the defendant is in detention. In the criminal

proceedings, if the defendant in detention has not commissioned a counsel for the defense, the investigating authority shall officially appoint a defense counsel at the very beginning of the detention. If the apprehension (which can last for a maximum of 12 hours) is followed immediately by custody (which can last for a maximum of 72 hours and the term of apprehension is counted as part of custody) legal counseling is compulsory from the very beginning of the apprehension. In other proceedings, the apprehended person can have legal assistance of his own choice as well, but the authorities are not obliged to appoint a counsel for him/her. The National Police Headquarters issued a list of useful information which contains the apprehended persons' rights, thus it comprises the information on the right to legal assistance as well. This kind of list is given to each apprehended person by the police at the very beginning of the detention.

**Art. 3** [Mr. Zoltan Tallodi]

The Law on Ombudsman (Act No. 59 of 1993) defines the legal status and authority of the ombudsmen. According to this Act, the ombudsman has the right to make recommendations. These recommendations are not obligatory or legally binding in nature. However, in the majority of cases the authorities meet the requirements of the recommendations. The ombudsmen submit every year a report on their activities to the Parliament. In these reports they inform the Parliament of instances where an authority did not fulfill the criteria included in the recommendation.

**Art. 10** [Mr. Zoltan Tallodi]

All the policemen and civil servants of the Hungarian Prison Administration Authority take part in human rights training. These trainings provide relevant information on the most important international human rights instruments, eg. UN Conventions, including the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. These trainings are obligatory for all the staff concerned. It is also very important to highlight once again that special trainings for the prison administration staff are aimed at stress prevention as well, as was mentioned by Ms. Sveaass too. Another very important element of the monitoring is a compulsory psychological screening, carried out every two years on all law enforcement officials (police officers, prison guards, border guards etc.).

**Art. 11** [Mr. Zsolt Bereczki]

We have received questions from Ms. Sveaass regarding vulnerable groups of persons kept in detention. In regard this issues, we can say that in the Hungarian prison system we can determine and specify some specific groups among the inmates.

These are the following:

**Mothers caring for children:** the mothers are allowed to raise a family behind the bars, until the child reaches his first year. A special facility was set up specifically for this reason in Kecskemét, with 20 living spaces furnished with a toilet, a basin, a bunk, a cot and diaper changing table, along with all necessary medical and social facilities.

Pregnant women in detention may decide whether they wish to deliver in the prison hospital facility or in a civil hospital. In the latter case they can request the suspension of their sentence for the period concerned.

**Prisoners with mental disorders** are placed in a separate institution, where medical service is available, along with psychologists and psychiatrist. The capacity of the facility is 186 persons. According to the relevant laws, persons with mental disorders cannot be punished and cannot be put in prisons.

Furthermore, in nearly every prison facility there is a special remedial group, where people suffering from depression or personality disorder are treated.(currently approximately 180 persons). At present we have no special treatment unit for **sex offenders**.

Another special treatment group is the so-called **drug free unit**, for drug addicts. We try to help them to give the addiction up.

Prisoners with different locomotor disorders can be placed in **physiotherapy units** in 2 prisons facilities.

Foreigner prisoners expelled from Hungary as a punishment are taken to the so-called **foreigner unit**.

#### Art. 12-13 [Mr. Andras Szucs]

1. As for the examination of the alleged brutality of certain policemen, occurred in September and October this year, we cannot give you detailed information because the investigations are still in progress. We know that 104 investigations have been initiated in this matter and these investigations are being conducted by the prosecution service. We are also aware that investigations have been initiated against 117 participants of the demonstrations. Besides, we must mention that a Committee, consisting of different expert, has been commissioned by the Hungarian Government to examine the reasons and consequences of the incidents.

2. We have received a question regarding the connection between the cessation of the investigation concerning torture acts and the occurrence of compulsion or menace, which exclude the punishability of a perpetrator. So as to clarify this issue, let me give you a short example: let us imagine that a member of prison staff gives an order to a prisoner to beat his/her fellow cell-mates. The guard threatens seriously, or beats the prisoner in order to force him/her to act so. If the prisoner executes the order, he/she cannot be punishable because of acting under compulsion or menace. In this special case, the guard is a so-called indirect perpetrator, so he/she is to be punished for that crime. If the investigation was also initiated against the prisoner, it has to be ceased.

3. The Prosecution Service of Hungary makes a comprehensive examination on the lawfulness of the treatment of detainees every year. In the framework of this examination, we supervise the practice concerning the suspension of the official status of staff members of holding facilities. On the basis of these examinations we can state that there haven't been such cases in the last 3 years in which the member of the staff has been allowed to continue his/her work unreasonably. I must add one more comment to this issue: when deciding to keep someone in office or not, the head of the holding facility has to take into consideration that if he suspended every member of the staff being investigated, he would risk making the prison or other holding facility unable to function.

#### Art. 14 [Mr. Zoltan Tallodi]

Under Hungarian law victims of crimes are treated in the form of assistance. A very important legal norm concerning this assistance is Government decree No. 209/2001 on the mitigation

of damages, to be afforded to victims. According to this decree, the victim is entitled to mitigation of damages, provided that his bodily integrity has been harmed.

The other relevant law to this question in Hungarian legal system is Act No. 135 of 2005 on the assistance to be afforded to victims of crimes and on the mitigation of damages by the State. In addition to mitigation of damages by the state, the Act also specifies victims supporting services available for victims of any crime. The Act entered into force on 1 January 2006. Since that time the Victim Assistance Service has adjudicated 276 requests and paid almost 14 M HUF for mitigation. We would also like to add that the first 6 months of activity of the Service were very successful.

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Question by Ms Belmir concerning national and ethnic minorities [Mr. Zoltan Tallodi]

According to the Law on National and Ethnic Minorities (Act No. 77 of 1993) there are national and ethnic minorities in Hungary. The Ruthenians, Romanians, Bulgarians, Serbians, Slovaks, Croatians, Slovenians, German, Armenians, Greeks and Polish are the national minorities, the Roma belong to an ethnic minority. There are no indigenous people in Hungary. According to the Data Protection Act (Act No. 63 of 1992) the data in connection with minority status is a personal and sensitive data. According to the Act, personal data can be registered on the basis of an act or consent of the person concerned. Minority status in Hungary is based on self-declaration. There exists no central registration in this regard. The only exception to the rule is when someone wishes to stand for, or participate in, the elections to the minority self-governments, in which case the person concerned has to register as a member of the relevant minority. In this case he/she can elect members of the national or ethnic minority self-government.

Question by Mr. Marino-Menendez [Protection of nationals in trafficking cases abroad]:

[Ms Orsolya Toth]

The consular protection of Hungarian nationals who have been victims of trafficking is governed by Act 46 of 2001 on Consular Protection. According to this Act, the consular services of Hungary, when such a case is brought to their attention, are carrying out the following steps. If the person in question is without valid travel documents (passport or ID card), the consulate makes the necessary steps to furnish the person with the necessary documents. The consulate also assists the person in getting into contact with family members. In case the family is able to provide the financial means needed for the travel back to Hungary, the consulate helps in transferring the money. In case neither the person in question, nor the family members are able to provide for the necessary financial means, the consulate provides a loan and helps in the travel back to Hungary. In countries where Hungary does not have diplomatic representation, such consular assistance is provided by other EU member states.