**Law - beaten**

**Joint statement**

**Menedék Hungarian Association for Migrants and the Hungarian Helsinki Committee**

The line of containers established on the Hungarian-Serbian border (‘transit zone’) and the procedures conducted in it are breaking the law, inhuman and harmful to our international relations.

After checking clothes and taking photos/fingerprints, the applicants receive in an especially fast procedure – where the interpreter is only assisting on phone –l;’

1+6 a decision according to which it is not Hungary but Serbia who shall process their cases. This means that the decision does not provide that the applicant is not a refugee but it provides that the question ‘Shall asylum be granted to the applicant?’ is for Serbia to decide and if found refugee then it is also Serbia who shall take care of him/her until he/she can manage on his/her own. According to statistics of the European Union the 75-95 % of the Syrian, Afghan and Iraqi applicants qualify as refugees.

By considering the applications lodged in the territory of Hungary inadmissible, Hungary is shifting the tasks of conducting the substantive procedure and providing shelter to Serbia - in a procedure that is multiply breaking the law. The most critical points of the situation evolved are the following:

1. **Serbia is not a safe country** of asylum even if the Government says so in its Decree. UNHCR, the Amnesty International and the Hungarian Curia who all know better the Serbian conditions, think the opposite. In 2013, Serbia only granted asylum to two-two Turkish and Syrian citizens out of thousands of applicants; in 2014, it only granted to one Turkish and five Syrians out of even more applicants.
2. Accordingly, the applications submitted by those coming via Serbia should not be considered inadmissible. If the OIN would like to close the case on that basis – without deciding whether the person is a refugee or not – the applicant may appeal and that appeal has a suspensive effect on the execution of the expulsion – according to the law. However, in practice, the applicant is immediately escorted to the area laying between the fence and the Hungarian-Serbian border. Therefore **their** **effective right to appeal evaporates**, as sitting on the agricultural field without food or water, the applicant cannot draft a document based on which the court of Szeged could state that the authority had made a mistake on the matter that Serbia is not a safe country in respect of the person concerned, and thus the merits of his/her case shall be duly examined. The **lack of an effective legal remedy** against the **expulsion** also appears in the suppressed opportunity of defense. How could the expelled take part in the judicial procedure on the legality of the expulsion from the other side of the fence?!
3. **The treatment is inhuman**, the vast majority of the applicants are refugees whose protection is Hungary’s obligation based on the 1951 Geneva Convention, and the Convention does not recognize the safe third country concept. I. e. the Hungarian authorities are pushing genuine refugees out to the border territory between the two countries where there is no infrastructure and no guarantee that Serbia will conduct their procedure.
4. **The procedure infringes** **the EU-Serbia Convention (2007)** **on readmission** at the Hungarian-Serbian border, according to which: ‘before the readmission of a person, the competent authorities of Serbia and [Hungary] fix in writing the date of the transfer, the place of entry, the possible escort and other information needed for the transfer’. None of these take place when the applicant is expelled and escorted to the border.
5. **The procedure infringes the obligation relevant to providing information** to the person seeking recognition and to the safe third country. The Procedural Directive provides that if the safe third country concept is applied in a country, then ‘a document shall be set out for the applicant which informs the authorities of the third country in its own language that the merits of the application were not examined’. This does not take place therefore it is an infringement of EU obligations.
6. **The procedure is deceptive.** The Hungarian authorities pretend that the line of containers is not on Hungarian territory, whoever enters he/she did not enter Hungary. That is not true. There is nothing like a ‘nobody’s land’ between the two countries, the line of the containers are on Hungarian territory where Hungarian law applies. Consequently, whose application was considered inadmissible – we repeat: the decision is not about the applicant’s being or not being a refugee but that Serbia shall conduct his/her case – he/she will not be escorted to Serbia nor to ‘nobody’s land’ but to Hungarian territory on the Serbian side of the fence. If Serbia – legally, as Hungary does not follow its procedural rules – refuses to readmit the applicant then he/she will remain on Hungarian territory **in the middle of nothing**. This is also **inhuman treatment**.
7. **The procedure is unfit to address the problem:** a hundred applications are decided upon per day while several hundred or perhaps thousands are seeking asylum. In the crowd – reasonably – the tension will grow.
8. **The procedure demolishes our neighborhood relations.** By shifting the movements towards Croatia and Slovenia, Hungary will show the lack of solidarity, it pursues short-sighted and selfish politics. If Hungary hopes that Serbia with 7.5 million inhabitant will conduct the cases of two-three thousand people transiting and provide shelter for the entitled 70-90 %, then Hungary is politically blind, desires the impossible and it is deteriorating the delicate Hungarian-Serbian relations.

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