



Asylum: Commission takes next step in infringement procedure against Hungary for criminalising activities in support of asylum applicants

Brussels, 24 January 2019

The European Commission has today decided to send a reasoned opinion to Hungary concerning legislation that criminalises activities that support asylum and residence applications and further restricts the right to request asylum.

On [19 July 2018](#), the Commission sent a letter of formal notice to Hungary concerning the new legislation. After analysing the reply provided by the Hungarian authorities, the Commission considers that the majority of the concerns raised have still not been addressed, in particular as regards the following points:

- **Criminalisation of support to asylum applicants:** The Hungarian legislation curtails asylum applicants' right to communicate with and be assisted by relevant national, international and non-governmental organisations by criminalising support to asylum applications. This is in violation of the [Asylum Procedures Directive](#) ([Directive 2013/32/EU](#)) and the [Reception Conditions Directive](#) ([Directive 2013/33/EU](#)).
- **Restriction of individual freedoms:** By preventing anyone who is subject to a criminal procedure under these laws from approaching the transit zones at Hungary's borders, the legislation unduly restricts the exercise of free movement rights of EU citizens and their family members. Sanctions range from temporary confinement to imprisonment of up to 1 year and expulsion from the country. This is in violation of Articles 20 and 21(1) of the Treaty on the Functioning of the EU ([TFEU](#)) and the Free Movement Directive ([Directive 2004/38/EC](#)), as well as the [EU Charter of Fundamental Rights](#).
- **Unlawful limitation of the right to asylum:** The introduction of an additional non-admissibility ground for asylum applications, not provided for by EU law, is a violation of the Asylum Procedures Directive. In addition, while EU law provides for the possibility to introduce non-admissibility grounds under the "safe third country" and the "first country of asylum" concepts, the Hungarian legislation, including the constitutional amendment on asylum, curtail the right to asylum in a way which is incompatible with the [Asylum Qualifications Directive](#) ([Directive 2011/95/EU](#)) and the EU Charter of Fundamental Rights.

The Commission has therefore decided to send a reasoned opinion to Hungary – the second step in an infringement procedure for breach of EU law. The Hungarian authorities now have 2 months to respond to the Commission's concerns. Otherwise, the Commission may refer the case to the Court of Justice of the European Union.

Background

The legislation in question – referred to by the Hungarian authorities as the "Stop Soros laws" – combined with existing asylum provisions has the effect of criminalising any assistance offered by any person on behalf of organisations to people wishing to apply for asylum or for a residence permit in Hungary. The laws also include measures that restrict individual freedoms by preventing anyone who is subject to a criminal procedure from approaching the transit zones at Hungary's borders, where asylum seekers are held. Sanctions range from temporary confinement to imprisonment of up to 1 year and expulsion from the country. In addition, the new law and a constitutional amendment have introduced new grounds for declaring an asylum application non-admissible, restricting the right to asylum only to people arriving in Hungary directly from a place where their life or freedom are at risk.

The present infringement procedure comes in addition to an infringement procedure regarding Hungary's failure to comply with EU asylum and return legislation that the Commission decided to the Court of Justice of the EU on [19 July 2018](#).

For More Information

- Commission opens an infringement procedure against Hungary (a decision of sending a letter of formal notice on [19 July 2018](#))
- On the key decisions in the January 2019 infringements package, see full [MEMO/19/462](#).

- On the general infringements procedure, see [MEMO/12/12](#).
- On the [EU infringements procedure](#).

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Press contacts:

[Natasha BERTAUD](#) (+32 2 296 74 56)

[Markus LAMMERT](#) (+ 32 2 298 04 23)

General public inquiries: [Europe Direct](#) by phone [00 800 67 89 10 11](#) or by [email](#)