



Commission follows up on infringement procedure against Hungary concerning its asylum law

Brussels, 17 May 2017

The European Commission has today decided to move forward on the infringement procedure against Hungary concerning its asylum legislation by sending a complementary letter of formal notice.

Following a series of exchanges both at political and technical level with the Hungarian authorities over the past weeks, the letter sets out concerns raised by the amendments to the Hungarian asylum law introduced in March this year and comes as a follow-up to an infringement procedure initiated by the Commission in [December 2015](#).

The Commission considers that of the five issues identified in the letter of formal notice from 2015, three remain to be addressed, in particular in the area of asylum procedures. In addition, the letter outlines new incompatibilities of the Hungarian asylum law, as recently modified by the amendments of 2017. The incompatibilities focus mainly on three areas: asylum procedures, rules on return and reception conditions.

The Commission considers that the Hungarian legislation does not comply with EU law, in particular [Directive 2013/32/EU](#) on Asylum Procedures, [Directive 2008/115/EC](#) on Return, [Directive 2013/33/EU](#) on Reception Conditions and several provisions of the Charter of Fundamental Rights.

As regards the **asylum procedures**, the Hungarian law does not allow for applications to be submitted outside of special transit zones at the borders, and restricts access to these zones, thus failing to provide an effective access to asylum procedures within its territory. The border procedures are not in accordance with the conditions of EU law and the special guarantees for vulnerable individuals not respected. The reduced time for appeals violates the fundamental right to an effective remedy.

The Hungarian asylum law also falls short of the EU rules on **return of illegally staying third country nationals**. The Commission is concerned that Hungary is currently returning migrants (including asylum seekers) who cross the border irregularly to Serbia without following the procedures and conditions of EU law on return and asylum. Individual return decisions are not being issued by Hungary as required.

Finally, the Commission believes that the systematic and indefinite confinement of asylum seekers, including minors over 14, in closed facilities in the transit zone without respecting required procedural safeguards, such as the right to appeal, leads to systematic detentions, which are in breach of the EU law on **reception conditions** and the **Charter of Fundamental Rights of the EU**. The Hungarian law fails to provide the required material reception conditions for asylum applicants, thus violating the EU rules in this respect.

The reply of the Hungarian authorities to the letter of formal notice sent in December 2015 did not address the Commission's concerns. The Commission shared its additional concerns regarding the amendments to the Hungarian asylum legislation introduced in March 2017 and organised a series of meetings at expert and political level to support the Hungarian authorities in making the necessary adjustments to bring the new provisions in line with EU standards and rules. The Hungarian Government however decided not to modify any of the relevant legal provisions.

As a consequence, the Commission has today followed up on its initial letter of formal notice, giving the Hungarian authorities two months to respond. At the same time, the Commission will continue bilateral contacts, at the political and technical level, to support and assist the Hungarian authorities in addressing the outstanding issues.

Background

A letter of formal notice is a first official request for information and the first step in an infringement procedure. The Hungarian authorities now have two months to respond to the arguments put forward by the Commission. If no reply to the letter of formal notice is received, or if the observations presented by Hungary in reply to that notice cannot be considered satisfactory, the Commission may decide to move to the next stage of the infringement procedure, and send a 'reasoned opinion' to

Hungary. If necessary, the Commission may then refer the case to the Court of Justice of the EU.

The recast **Asylum Procedures Directive** ([Directive 2013/32/EU](#)) establishes rules on the process of claiming asylum, including on how to apply, how the application will be examined, what help the asylum seeker will be given, how to appeal or how to deal with repeated applications. It applies to all applications for international protection made in the territory, including at the border, in the territorial waters or in the transit zones of the Member States.

The recast **Reception Conditions Directive** ([Directive 2013/33/EU](#)) aims to guarantee a dignified standard of living for asylum seekers in the EU and ensure their human rights are respected. It ensures that asylum seekers have access to housing, food, clothing, health care, education for minors and access to employment under certain conditions. It contains rules on vulnerable asylum seekers and on detention.

The **Return Directive** ([Directive 2008/115/EC](#)) establishes common standards and procedures for EU countries, whereby illegally staying non-EU nationals may be removed from their territories. It lays down provisions for terminating illegal stays, detaining non-EU nationals with the aim of removing them and procedural safeguards

For More Information

Commission opens infringement procedure against Hungary concerning its asylum law (press release of [10 December 2015](#)).

Monitoring of the EU law in the area of [Home Affairs](#).

On the key decisions in the May 2017 infringements package, see full [MEMO/17/1280](#).

On the May infringements package (on letters of formal notices only), see full [MEMO/17/1281](#).

On the general infringements procedure, see [MEMO/12/12\(an info graph\)](#).

On the [EU infringements procedure](#).

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