



## Commission opens infringement procedure against Hungary concerning its asylum law

Brussels, 10 December 2015

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The European Commission has today addressed a letter of formal notice to **Hungary**, opening an infringement procedure concerning the recently adopted Hungarian asylum legislation. The Commission has found the Hungarian legislation in some instances to be incompatible with EU law (specifically, the recast Asylum Procedures Directive ([Directive 2013/32/EU](#)) and the Directive on the right to interpretation and translation in criminal proceedings (Directive [2010/64/EU](#))).

The Commission had already examined the legislative amendments adopted by the Hungarian Parliament in July and September 2015 and sent an administrative letter outlining our preliminary concerns to the Hungarian authorities. After careful examination of the reply from the Hungarian authorities, a number of concerns remain:

Firstly, regarding the asylum procedures, the Commission is concerned that there is **no possibility to refer to new facts and circumstances** in the context of appeals and that Hungary is **not automatically suspending decisions in case of appeals** - effectively **forcing applicants to leave their territory** before the time limit for lodging an appeal expires, or before an appeal has been heard. The recast Asylum Procedures Directive establishes common procedures for granting and withdrawing international protection and sets clear rules on how to apply for asylum. 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.

Secondly, regarding **rights to translation and interpretation**, the Commission is concerned the Hungarian law on fast-tracked criminal proceedings for irregular border crossings **does not respect provisions** of the Directive on the **right to interpretation and translation** in criminal proceedings, which ensures that every suspect or accused person who does not understand the language of the proceedings is provided with a written translation of all essential documents, including any judgment.

Thirdly, on the fundamental right to an effective remedy and to a fair trial under Article 47 of the Charter of Fundamental Rights of the EU, there are concerns as to the fact that under the new Hungarian law dealing with the judicial review of decisions rejecting an asylum application a personal hearing of the applicants is optional. **Judicial decisions taken by court secretaries (a sub-judicial level)** lacking judicial independence also seem to be in breach of the Asylum Procedures Directive and Article 47 of the Charter.

As a consequence of these concerns, the Commission has today initiated an infringement procedure and sent a letter of formal notice to Hungary. The Hungarian authorities have two months to respond to the Commission.

In addition to the letter of formal notice concerning these specific issues, the Commission will continue bilateral contacts with the Hungarian authorities and will request additional clarification on other 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.

### More information

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

On key decisions in the December 2015 infringement package, see [MEMO/15/6223](#).

On the general infringement procedure, see [MEMO/12/12](#).

On [infringement procedures](#).

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