



Commission takes Hungary to Court for criminalising activities in support of asylum seekers and opens new infringement for non-provision of food in transit zones

Brussels, 25 July 2019

Today, the European Commission decided to **refer Hungary to the Court of Justice** of the EU concerning legislation that criminalises activities in support of asylum applications and further restricts the right to request asylum. The Commission has also decided to send a **letter of formal notice to Hungary** concerning the non-provision of food to persons awaiting return who are detained in the Hungarian transit zones at the border with Serbia. Another decision taken today concerns the **referral of Hungary to the Court of Justice** of the EU for excluding non-EU nationals with long-term resident status from exercising the veterinary profession.

Court referral for criminalising activities in support of asylum and residence applications

In July 2018, the Commission sent a [letter of formal notice](#) to Hungary concerning the so-called "Stop Soros" legislation - which criminalises activities that support asylum and residence applications and further restricts the right to request asylum. In view of the unsatisfactory response, the Commission followed-up with a [reasoned opinion](#) in January 2019. After analysing the Hungarian authorities' reply, the Commission considered that the majority of the concerns raised have still not been addressed and has decided to refer Hungary to the Court of Justice of the EU. Specifically, the Commission finds that Hungarian legislation is incompatible with EU law in the following respects:

- **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](#) and the [Reception Conditions Directive](#).**
- **Unlawful limitation of the right to asylum and introduction of new non-admissibility grounds for asylum applications:** The new law and the constitutional amendment on asylum have introduced new grounds for declaring an asylum application inadmissible, restricting the right to asylum only to people arriving in Hungary directly from a place where their life or freedom are at risk. These additional inadmissibility grounds for asylum applications exclude persons who entered Hungary from a country where they were not persecuted but which does not fulfil the criteria of a safe-third-country. Therefore, these inadmissibility grounds curtail the right to asylum in a way that is not compatible with EU or international law. As such, the national rules are in violation of the EU [Asylum Procedures Directive](#), the [Asylum Qualifications Directive](#) and the [Charter of Fundamental Rights](#) of the European Union.

Letter of formal notice concerning the situation of returnees in the Hungarian transit zones

The European Commission has decided today to send a **letter of formal notice to Hungary** concerning the situation of persons in the Hungarian transit zones at the border with Serbia, whose applications for international protection have been rejected, and who are waiting to be returned to a third country.

In the Commission's view, their compulsory stay in the Hungarian transit zones qualifies as detention under the [EU's Return Directive](#). The Commission finds that the detention conditions in the Hungarian transit zones, in particular the withholding of food, do not respect the material conditions set out in the Return Directive and the Charter of Fundamental Rights of the European Union.

In view of the urgency of the situation, the deadline for Hungary to respond to the Commission's concerns is set to 1 month, after which the Commission may decide to follow-up by sending a reasoned opinion.

The European Court of Human Rights has already granted interim measures in several instances, obliging Hungary to provide food to persons detained in the transit zones. In [July 2018](#), the

Commission referred Hungary to the Court of Justice in a case relating to the detention of asylum seekers in the Hungarian transit zones. The case is currently pending before the Court.

Court referral for non-compliance with EU long-term residence legislation

The European Commission has today decided to refer **Hungary** to the Court of Justice of the EU for excluding non-EU nationals with long-term resident status from exercising the veterinary profession, thereby incorrectly implementing certain provisions of the Long-Term Residents Directive ([Council Directive 2003/109/EC](#)). This Directive requires that non-EU nationals who are legally resident in an EU Member State for at least 5 years enjoy equal treatment with nationals in certain areas, including access to employment and self-employed activities. The Commission had addressed a letter of formal notice to Hungary in [July 2018](#) and followed up by sending a reasoned opinion in [January 2019](#).

For More Information

- [Council Directive 2003/109/EC](#) concerning the status of third-country nationals who are long-term residents
- [Council Directive 2008/115/EC](#) concerning common standards and procedures in Member States for returning illegally staying third-country nationals
- [Council Directive 2011/95/EU](#) on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted
- [Council Directive 2013/32/EU](#) on common procedures for granting and withdrawing international protection
- [Council Directive 2013/33/EU](#) laying down standards for the reception of applicants for international protection
- On the key decisions in the July 2019 infringements package, see a full MEMO: [INF/19/4251](#).
- On the general infringements procedures, see [MEMO/12/12](#).
- On the [EU infringement procedure](#).

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