



## Commission refers HUNGARY to the Court of Justice of the European Union for unlawfully restricting access to the asylum procedure

Brussels, 15 July 2021

Today the Commission has decided to refer **Hungary** to the Court of Justice of the European Union for unlawfully restricting access to the asylum procedure in breach of Article 6 of the [Asylum Procedures Directive](#) (Directive 2013/32/EU), interpreted in light of Article 18 of the Charter of Fundamental Rights of the European Union.

Article 6 of the Asylum Procedures Directive requires Member States to ensure that non-EU nationals and stateless persons located in their territory, including at their borders, are able to exercise in an effective manner the right to apply for international protection.

According to the requirement in Hungarian law, before being able to apply for international protection in Hungary, non-EU nationals must first make a declaration of intent stating their wish to apply for asylum at a Hungarian Embassy outside the European Union and be issued with a special entry permit for that purpose.

The Commission considers that this requirement is an unlawful restriction to access the asylum procedure and is contrary to the Asylum Procedures Directive, read in light of the Charter of Fundamental Rights, as it precludes persons who are on Hungary's territory, including at the border, from applying for international protection there.

The Commission also considers that addressing the COVID-19 pandemic, which is the stated objective of the Hungarian law, cannot justify such a rule.

The Commission is therefore referring Hungary to the Court of Justice of the European Union.

### Background

The Hungarian Act LVIII of 2020 on the “transitional rules and epidemiological preparedness related to the cessation of the state of danger” was published on 17 June 2020. It introduced an asylum pre-procedure before a non-EU national can make an application for international protection in Hungary. This pre-procedure comprises two steps. Firstly, the submission of a “statement of intent” to apply for asylum at Hungarian Embassies (“diplomatic representations”) located in neighbouring non-EU countries (i.e. Serbia or Ukraine) and secondly, receipt of a special entry permit to Hungary for the purposes of making an application for international protection, granted at the discretion of the Hungarian authorities.

The transitional Act further provides that if a non-EU national crosses the border irregularly and subsequently states their intention to submit an application for international protection, the police must direct them to the Hungarian representation in the bordering non-EU countries.

The Act is of a temporary nature but its application has been extended by Section 54 of Act CLXII of 2020 to 30 June 2021 and by Section 166(b) of Act CI of 2021 to 31 December 2021.

### For More Information

[Asylum Procedures Directive](#)

[Charter of Fundamental Rights of the European Union](#)

[Link to the MEMO](#)

[On the EU infringement procedure](#)

[Infringements database](#)

Press contacts:

[Adalbert JAHNZ](#) (+ 32 2 295 31 56)

[Laura BERARD](#) (+32 2 295 57 21)

[Ciara BOTTOMLEY](#) (+32 2 296 99 71 )

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