



The Greens | European Free Alliance
in the European Parliament

Frans Timmermans, First Vice-President of the European Commission

Dimitris Avramopoulos, Commissioner Migration, Home Affairs and Citizenship, European Commission

Fabrice Leggeri, Executive Director, European Border and Coast Guard Agency

Brussels, 8 March 2017

RE: Amendments to laws pertaining to asylum and migration in Hungary

Dear Vice-President Timmermans,

Dear Commissioner Avramopoulos,

Dear Mr. Leggeri,

The Hungarian Parliament has adopted today bill no T/13976, “*On the amendment of certain acts related to increasing the strictness of procedures carried out in the areas of border management*”¹. This is a new package of amendments to five acts relating to asylum and migration which foresees de facto mandatory detention of all asylum seekers, including many children, for the entire length of the asylum procedure.

The amendments adopted today are at odds with Hungary’s obligations under European Union laws regulating asylum, migration and border control and therefore warrant the Commission’s most urgent attention.

The bill as amended not only significantly reduces access to asylum in terms of legal provisions, but its practical implementation would further curtail asylum seekers’ rights, to a point where access to asylum on the territory of an EU Member State would practically cease to exist. Essentially the new legal framework is a substitution of ordinary asylum procedures with an extended use of border procedures.

Furthermore, the general explanatory statement of the bill in its 4th paragraph states that the amendments adopted today aim at ensuring automatic and systematic detention of all asylum seekers. The place of detention is in container-style facilities in the transit zones at the Hungarian-Serbian border. All asylum-seekers, including all vulnerable persons and unaccompanied asylum-seeking children over the age of 14 will be detained in transit zones until an initial decision on the admissibility of their application is taken. This provision is clearly in breach of EU law. Automatic de facto detention of asylum seekers without a judicial order and an effective judicial remedy is in violation of the 2013/33 EU Directive on standards of reception, the right to liberty under the European Convention on Human Rights and international refugee law standards. According to EU law, detention of asylum seekers should

¹ <http://www.parlament.hu/irom40/13976/13976.pdf>

be an exceptional measure and decided by a competent authority on a case by case basis. The detention of children, including unaccompanied children between the ages of 14 and 18, further violates human rights standards including article 11 of the EU Reception Conditions Directive, article 24 of the EU Charter on Fundamental rights, articles 3 and 37(b) of the UN Convention of the Rights of the Child.

We wish furthermore to express our serious concern over the new provisions authorising Hungarian law enforcement to “escort” all third-country nationals detected on Hungarian territory who lack regular status to the Serbian side of the razor wire border fence. This procedure is clearly in violation of the right to asylum under the EU Charter of Fundamental Rights and EU asylum *acquis*.

In light of these worrying developments, we, urge the European Commission to fulfil its role as guardian of the treaties by taking the steps needed to bring Hungary’s asylum and migration laws into compliance with its obligations under EU law and to urgently launch infringement proceedings against Hungary, with a view not only to address the numerous breaches of EU legislation following the adoption of the revised bill, but also to address the well-documented practice of the Hungarian authorities including the numerous actions of violence against asylum seekers reported by a wide range of NGOs, including Human Rights Watch, Médecins Sans Frontières, the media and UNHCR as of 25 May 2016. In the past days there have been media reports about a substantial increase of violence against asylum seekers.

We furthermore call on the Executive Director of the European Border and Coast Guard to activate Article 25 of Regulation 2016/1624 and suspend its ongoing operations in Hungary in view of the serious and persistent violations of fundamental rights and international protection obligations on behalf of the Hungarian authorities. The European Agency and border guards of other Member States should neither directly nor indirectly be involved in the mistreatment of migrants and asylum seekers.

Thank you for your attention to these pressing matters.

Sincerely,

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