



21 December 2022

On 7 December 2022, the Hungarian Parliament amended the infamous [Stop Soros](#) law in a last-minute amendment that was introduced through a parliamentary supercommittee to an unrelated omnibus bill. The changes will enter into force on 1 January 2023. The amendments fail to implement the [CJEU's November 2021 judgment](#) that found criminalising assistance given to asylum-seekers to be in breach of EU law. The European Commission should continue the infringement procedure and take Hungary back to the Court and seek to impose financial penalties until domestic law fully complies with EU law.

The Government submitted Bill T/1837 on the Amendment of certain acts related to criminal law and to other laws on 2 November 2022. Despite existing legal obligations to do so, no public consultation was carried out either on the Bill or at the last minute, fundamental changes introduced to it. The originally submitted version of the Bill did not include any provision related to the 2018 Stop Soros package, a political project that was meant to stigmatise and intimidate civil society organisations working to help migrants and asylum-seekers and further restrict access to international protection. On the afternoon of 1 December, a parliamentary supercommittee that can introduce last-minute changes to bills immediately prior to the final plenary vote introduced a set of amendments to Bill T/1837. Among others, these changes are related to the Stop Soros package in the following manner:

1. The repealing of the automatic ban of persons accused of having violated Section 353/A of the Criminal Code (the provision on the criminalisation of assistance) from an 8-kilometre area of the external Schengen borders;
2. Removing from the Act on Asylum the ground to reject asylum applications as inadmissible on the basis that the applicant arrived in Hungary via a state in which that person had not been exposed to persecution or a risk of serious harm is. However, the rejection ground remains in the Fundamental Law as a restriction on the right to asylum, as amended in 2018;
3. Rewriting Section 353/A of the Criminal Code in a manner that upholds the chilling effect on providing assistance to asylum-seekers, and, through its unclear wording, retains the possibility to arbitrarily persecute helpers, including the staff and contracted attorneys of the Hungarian Helsinki Committee.

On 7 December 2022, Bill T/1837 was approved with the above last-minute modifications, and the new provisions are set to enter into force on 1 January 2023.¹

These changes fall short of implementing the CJEU judgment in case C-821/19 for the following reasons:

1. The inadmissibility ground introduced by the Stop Soros package remains a restriction on the right to asylum in the Fundamental Law, allowing the authorities to continue to use it in practice when deciding on asylum applications. The restriction, introduced as part of the Stop Soros package in 2018, must be removed from the Fundamental Law.
2. The general criminalisation of assistance was replaced by a new, vaguely defined criminal activity that jeopardises the attorney-client privilege, and in the case of non-attorney helpers, forces them to sacrifice the applicant's best interests in order to protect themselves from potential prosecution.

¹ An unofficial English translation of the adopted amendment and its reasoning is available at: https://helsinki.hu/en/wp-content/uploads/sites/2/2022/12/criminalisation_2022.pdf