

# Hungary: Update on Recent Rule-of-Law Developments

Thomas Wahl

## News

This news item outlines the main rule-of-law developments in Hungary related to Union law. It continues the ongoing overview provided in previous eucrim issues (→ [eucrim 4/2020, 257](#)).

- 18 February 2021: The Commission [initiates a new infringement procedure against Hungary](#) for not having reacted to the CJEU's ruling of 18 June 2020 (Case C-78/18). In this ruling, the CJEU declared the Hungarian NGO Act of 2017 to be contrary to Union law (→ [eucrim 2/2020, 69](#)). Hungary has not made any efforts to improve the situation since then. In the Commission's view, the disclosure obligation and requirements for associations and organisations receiving financial contributions from abroad are incompatible with data protection rights (Art. 8 CFR) and the free movement of capital (Art. 63 TFEU) within the EU. The Commission has repeatedly called on Hungary to remedy the situation as a matter of urgency. The initiation of the new infringement procedure may be referred back to the CJEU, which can impose financial sanctions in accordance with Art. 260(2) TFEU.
- 25 February 2021: According to Advocate General (AG) [Athanasios Rantos](#), [Hungary infringed its obligations under EU law through its 2018 asylum policy reform](#). The new Hungarian legislation, *inter alia*, criminalises the assistance of organisations to asylum seekers with the purpose of initiating international protection procedures. The AG concludes that “the criminalisation of those activities impinges on the exercise of the rights guaranteed by the EU legislature concerning assistance for applicants for international protection.” He points out that the criminalisation of assistance to applicants seeking international protection could have a particularly significant deterrent effect on any person or organisation who, knowingly, attempts to promote a change in national legislation concerning international protection or attempts to facilitate applicants' access to the procedure of obtaining that protection or access to humanitarian aid ([Case C-821/19](#)).
- 15 April 2021: According to Advocate General (AG) [Priit Pikamäe](#), Hungarian legislation enabling the public prosecutor to bring an action before the Hungarian Supreme Court (Kúria) for a declaration of unlawfulness of an order for reference made by a lower criminal court and the decision of the Supreme Court establishing this unlawfulness undermines the power to refer questions to the CJEU and is incompatible with EU law. On the basis of the primacy of EU law, a national judge must disapply such national legislation or judicial practice. The case ([C-564/19, IS](#)) was referred by the Central District Court of Pest, Hungary. It actually concerns the scope of the right to interpretation of a sufficient quality (interpretation of Directive 2010/64/EU) and the right to be informed of the accusations (Directive 2012/13/EU), in the specific case of a trial *in absentia*.

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