

## Subject matter of the application

All the information concerning the facts, complaints and compliance with the requirements of exhaustion of domestic remedies and the six-month time-limit laid down in Article 35 § 1 of the Convention must be set out in this part of the application form (sections E, F and G). It is not acceptable to leave these sections blank or simply to refer to attached sheets. See Rule 47 § 2 and the Practice Direction on the Institution of proceedings as well as the "Notes for filling in the application form".

## E. Statement of the facts

56.

SUMMARY: This application is submitted against the violation of the applicant's rights under Articles 10, 11 and 18 of the Convention by Article 353/A of Hungary's Act C of 2012 on the Criminal Code (Criminal Code) as inserted into the Criminal Code by Act VI of 2018 on the Amendment of Certain Laws Related to Measures against Illegal Migration.

REQUEST FOR PRIORITY: The applicant requests that the application be given priority under Rule 41 of the Rules of Court, because as a result of the violation [including the chilling effect of the impugned legislation (see Section F)], the applicant might be forced to withdraw/deny its services from its existing and potential clients, including vulnerable asylum seekers with special needs, or migrants with family ties in Hungary, thus leaving vulnerable persons without the protection they are entitled to under international and EU law. In addition, the applicant's employees, must continue their work in the shadow of the risk of being prosecuted for carrying out their lawful jobs. The period of uncertainty and rights violation can only be reduced through the prioritisation of the application, which is in the interest of not only the applicant, and its staff, but also the vulnerable group of clients it serves (c.f. M.S. S. v. Belgium, § 25).

THE APPLICANT: The Hungarian Helsinki Committee (HHC) is an association registered under Hungarian law, which has been active in the area of asylum law for close to 25 years. Since 1998, as an implementing partner of the UN Refugee Agency (UNHCR), the HHC has provided through its contracted LAWYERS free LEGAL ASSISTANCE to asylum-seekers, refugees and stateless persons in Hungary. In the past five years (2013-2017), the HHC provided assistance to 7977 persons in need. In the same period, the HHC provided legal representation before administrative authorities or courts in 1935 cases. The majority of these cases concerned asylum procedures, while others included expulsion cases with human rights concerns, family reunification of refugees and statelessness determination. The HHC has also provided TRAININGS in the field of asylum, statelessness and migrant detention. In the past ten years, HHC experts have trained over 4000 professionals on these issues, including lawyers, judges, prosecutors, police officers and journalists from over 80 countries. Between 2007 and 2017, the HHC conducted a BORDER MONITORING PROGRAM based on a tripartite Memorandum of Understanding it concluded with the Border Guard (later Police) and UNHCR. Under this agreement, HHC's monitors regularly visited short term detention facilities along the border with the aim of ensuring asylum seekers' access to territory and protection. The HHC has also regularly published INFORMATION LEAFLETS for asylum-seekers on the asylum procedure and on specific subjects, such as a brochure on family reunification, the Dublin procedure, a leaflet for unaccompanied minors or a short guidance note to volunteers assisting asylum seekers. Open Society Foundations (founded by Hungarian born financier George Soros) has been one of the most important donors of the HHC's activities.

THE PROCESS LEADING TO THE ENACTMENT OF THE LAW: Since August 2013, human rights watchdog CSOs (which – by the very nature of their core mission – are inevitably critical of any government) have been targeted by attacks by the Hungarian government and the ruling coalition (see attached timeline). In the summer of 2014, the Hungarian Prime Minister (PM) publicly denounced human rights CSOs as "paid political activists who are trying to help foreign interests". Rhetorical attacks were followed by administrative and criminal investigations against a number of CSOs. Although a year later these organizations were cleared of all charges, and the proceedings were dropped, there has been considerable damage to the credibility of watchdog CSOs. During the 2015 migration crisis, the Hungarian government started an intensive campaign vilifying migration and migrants. The campaign that has been going on ever since depicts migrants as potential terrorists, harassers, and it has become its central theme that the force behind the crisis is Mr Soros, who – by flooding Europe with Muslim immigrants – plans to undermine European and Christian values in order to realise his idea of an open society. The campaign is connected to the issue of CSOs through the allegation that as part of this "Soros Plan" Mr Soros finances "fake" CSOs which under the guise of human rights activities work to realise his intentions. In his "state of the nation" speech in February 2017, the PM said that "in 2017 we will also need to take up the struggle against international organisations' increasingly strong activists. [...] We are not talking [here] about non-governmental organisations fighting to promote an important cause, but about paid activists from international organisations and their branch offices in Hungary. [...] The organisations of George Soros are working tirelessly to bring hundreds of thousands of migrants into Europe". In April 2017, a so-called "national consultation" (questionnaires sent out to the adult population, but collected and processed in an unregulated and non-transparent manner) titled "Let's Stop Brussels" was launched, presenting citizens with six questions relating to the alleged interference in the Hungarian domestic affairs by foreign actors. The questions were formulated in a highly manipulative manner confirming the message of the government propaganda that organisations receiving foreign funding pose a very severe risk to Hungary. Quoting the overwhelming support of its stance among respondents, the Hungarian legislature passed Act LXXVI of 2017 on the Transparency

**Statement of the facts (continued)**

57. of Organisations Receiving Support from Abroad, which imposed the obligation on CSOs receiving over HUF 7.2 million per annum from abroad to register as "organisations supported from abroad" and indicate this fact in all their public communications under the ultimate threat of being dissolved. (An application challenging this legislation is pending before the Court and an infringement procedure was launched by the European Commission.) Another national consultation concerning the "Soros Plan" was launched in September 2017. Question 6 stated that "the aim of the Soros Plan is to repress the languages and cultures of European countries in order to accelerate the integration of illegal migrants". Question 5 expressly mentioned two NGOs, the HHC and Amnesty International, claiming that these Soros-supported organisations "assist immigration and defend immigrants who have committed unlawful acts". (The HHC challenged this statement in a lawsuit, and on 4 May 2018 the Budapest Regional Appeals Court found that it was false and misrepresented HHC's position.) Again quoting the results of the consultation, on 18 January 2018, the Hungarian government launched the First "Stop Soros" Package, a proposal of three laws targeting CSOs, requiring organisations that receive foreign funding and that allegedly "propagate mass migration" or "support illegal migration" to register as such and pay a 25% tax on any foreign revenue given for "supporting illegal migration". This package was replaced on 13 February 2018 by the Second "Stop Soros" Package, another legislative proposal of three bills that would have – among others – required organisations carrying out activities in the field of migration to apply for a license from the Interior Minister to continue performing their work. Failure to apply for a license could have ultimately resulted in dissolution by a court. Licensed groups would have been required to pay a 25% tax on any foreign funding. In March 2018, the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe decided to request an opinion from the Venice Commission (VC) on the compatibility with international human rights standards of the Second "Stop Soros" Package, however, during the VC's visit, the package was technically withdrawn, and on 29 May 2018, a new draft legislative package was submitted to Parliament by the Minister of the Interior. This Third "Stop Soros" Package contained proposed amendments to a number of laws, including the Criminal Code. Since the new package did concern issues covered by the original mandate of the VC, the VC continued the examination, focusing on the proposed amendments to the Criminal Code. The VC requested that the Hungarian Parliament would wait for the VC's opinion on the proposed legislation, however, this request was disregarded, and the legislative package was adopted on 20 June 2018, and came into effect on 1 July 2018. Section 353/A of the Criminal Code as inserted by the new law ("Facilitating or supporting illegal immigration") runs as follows: "(1) Anyone who engages in organising activities in order (a) to facilitate that persons who are not persecuted in their country of origin, in the country of their habitual residence or in the country through which they arrived to Hungary for reasons of race, nationality, the membership of a particular social group, religious or political beliefs, or whose reason to fear direct persecution is not well-founded initiate asylum proceedings in Hungary, or (b) for persons entering or staying illegally in Hungary to acquire a title of residence, shall be punished with confinement unless a more serious criminal offence is committed. (2) Anyone who provides material resources for the criminal offence specified in paragraph (1) or carries out such organising activities on a regular basis shall be punished with imprisonment for up to one year. (3) Anyone who commits the criminal offence specified in paragraph (1) (a) for financial gain, (b) by assisting more than one person, or (c) within the 8 kilometre zone counted from the borderline or boundary marker corresponding to the external border under Article 2, point 2 of [...] the Schengen Borders Code [...], shall be punished in accordance with paragraph (2). (4) The punishment of the perpetrator of the criminal offence specified in paragraph (1) may be reduced without limitation or, in cases deserving special consideration, may be waived if the perpetrator reveals the circumstances of committing the criminal offence not later than at the time the indictment is filed. (5) For the purposes of this section, organising activities shall include in particular if for a purpose specified in paragraph (1) [the perpetrator] (a) organises border monitoring at the borderline or boundary marker corresponding to the external border of Hungary according to Article 2, point 2 of the Schengen Borders Code, (b) prepares or distributes information materials or entrusts another with such acts, (c) builds or operates a network." In addition, the explanatory memorandum (reasoning) of the amending act states the following: "practical experience shows that persons entering Hungary or staying in Hungary illegally get assistance and support from not only international, but also from Hungarian organizations, which requires the use of criminal law measures. The introduction of the new offence will make it possible to investigate the responsibility of legal persons providing the organizational, personal and material conditions for such actions, and -- if the criteria set by Act CIV of 2001 on the Criminal Sanctions Applicable against Legal Persons are in place -- these [legal persons] will be sanctionable." Act CIV of 2001 prescribes sanctions against legal persons if a criminal offence is committed by the legal persons' senior officials, representatives or -- in certain cases -- employees through the legal person or with the purpose of ensuring financial gain for the legal person. Sanctions envisaged by Act CIV of 2001 include the dissolution of the legal person, the restriction of its activities and a fine imposed on the legal person.

GOVERNMENT COMMUNICATION: Throughout the above outlined process, government agencies and representatives of the ruling coalition have (i) repeatedly charged HHC with supporting and facilitating illegal migration (although they could never concretely identify any illegal action by HHC); (ii) made it clear that the Package targets CSOs focusing on migration

**Statement of the facts (continued)**

58. including the HHC; and (iii) unveiled their wish that HHC would be dissolved, banned or expelled from Hungary. E.g. MP Szilárd Németh, Vice President of Fidesz stated on 10 January 2017 that "the Soros empire's fake civil organisations are maintained so that global capital and the world of political correctness can be imposed on national governments. These organisations have to be pushed back with every means, [...] they have to be swept out of here". On 5 April 2017, Fidesz issued a statement, including the following: "Soros-organisations have been attacking the Hungarian government's measures for the past two years. Their aim is to destroy border protection and enforce the free access of immigrants. They are openly inciting for the violation of the Hungarian laws. Hungary must protect itself. [...]" János Lázár, Head of the Prime Minister's Office submitted that at the Hungarian-Serbian border the HHC "calls upon those waiting in the transit zone to step up against the Hungarian laws". When he was asked whether they filed a criminal report, he said no, because this happened on Serbian territory, so no criminal sanction could be applied, but "it harms the state, harms Hungary". On 11 July 2017, Parliamentary Secretary of State Károly Konrád submitted that foreign funded organisations "often encourage illegal immigrants to simply break the law, they are supporting the illegal crossing of borders and are cooperating with smugglers". On 24 October 2017, the PM said that while Hungary was fighting to protect the border, George Soros's organisations kept helping migrants entering the country illegally, and aiding them in crossing the border unlawfully, which is unacceptable. On 21 March 2018, the government's press office issued a press release, in which it stated: "[W]hat has come to light in the past few days has confirmed our stance: the operation of Soros organisations **MUST BE BANNED** [emph. added], the operation of organisations focusing on immigration must be made dependent on the permission of the state, and the STOP Soros legislative package [...] must be passed by the Parliament immediately after the elections". A week later, Bence Tuzson, Secretary of State Responsible for Government Communication said the following: "what we have already known and suspected will become obvious: the clear aim of the Helsinki Committee is to settle migrants in Hungary [...]". He added that the organisations funded by George Soros work to change Hungary and turn it into an immigrant-country and "if at the general elections of 8 April the 'people of Soros' seize power, they will accomplish [their plan of] settling [migrants in Hungary] and "will settle migrants in apartments owned by the state, municipalities and private persons". On 27 June 2018, the spokesperson of Fidelitas (the youth branch of Fidesz) placed a sticker with the text "Organisation supporting immigration" on the door of the building where HHC is seated. He said that "the Helsinki Committee and several other organisations work to turn Hungary into an immigrant country" and "Europe into an immigrant continent". Not only CSOs were "charged" with being moved by Mr Soros from the background with the aim of invading Hungary: this conspiracy theory was extended to all entities criticising the ruling coalition or taking a stance opposing that of the government. The list ranges from opposition parties through the European Commission to the European Court of Human Rights (e.g. referring to the Ilias and Ahmed judgement, István Hollik, MP of the Christian Democratic People's Party (the smaller party of the ruling coalition) stated that the Hungarian judge András Sajó is a "man of George Soros", and this is how the "migrant business" is set up: organisations that can be linked to Soros [the HHC] sue Hungary before a court where the people of Soros sit). This propaganda is reflected/repeated word-by-word in the reasoning of Act VI of 2018: "At the 8 April elections and in the course of the national consultations [...] the Hungarians [...] have made it clear: they do not want Hungary to turn into an immigrant country. [...] It is our firm stance that immigration poses serious risks, and is therefore an issue of national security. The Hungarian people rightly expect the government to take action against illegal migration and the actions facilitating it. This is the aim served by the STOP Soros legislative pack that renders the organisation of illegal immigration punishable. The law is aimed at preventing Hungary from becoming an immigrant country. [...]" It is equally telling that Article 353/A(5) lists as examples of organising activities practically all the types of activities that the HHC has conducted in the past 25 years in the field of asylum: the creation of a network (of lawyers), border monitoring and the preparation of information materials.

OPINION OF THE VC: Two days after the passing of the law, the VC published its joint opinion with OSCE/ODIHR (hereafter: VC Op.) on the draft legislation (which practically coincides with the final text), in which the body concluded that Article 353/A "infringes upon the right to freedom of association and expression and should be repealed". The VC Op. based this on -- among others -- the following: "it criminalises organisational activities which are not directly related to the materialization of the illegal migration" and "are fully legitimate including activities which support the State in the fulfilment of its obligations under international law". It also "lacks the required clarity to qualify as a 'legal basis' within the meaning of Article 11" and "does not meet the foreseeability criterion as understood in the ECtHR case-law". Furthermore, "as it criminalises the initiation of an asylum procedure or asserting other legal rights on behalf of asylum seekers, it entails a risk of criminal prosecution for individuals and organisations providing lawful assistance to migrants". Finally, the opinion emphasizes that "only intentionally encouraging migrants to circumventing the law could give rise to criminal prosecution", but "assistance by NGOs of asylum seekers in applying for asylum and lodging appeals cannot be regarded as such circumvention" (§§ 100-104).

**F. Statement of alleged violation(s) of the Convention and/or Protocols and relevant arguments**

59. Article invoked Victim status of the applicant in relation to the breached Convention rights (Articles 10, 11 and 18)	Explanation
	<p>"Criminalising certain activities by persons working for NGOs in the framework of their functions represents an interference with their freedoms of association and [...] expression" (VC Op., § 70). While on its face, Article 353/A undoubtedly criminalises the type of assistance the HHC provides to some asylum seekers, it might be argued that since the title of the offence refers to "illegal" migration and since the HHC has always performed its activities in accordance with Hungarian laws and assisted asylum seekers in lawful proceedings before Hungarian authorities, Article 353/A -- if applied fairly -- may not pertain to the applicant. However, even in this case, the applicant is still a victim of the violation, since HHC is "directly affected" by the impugned legislation's chilling effect. The government communication (often naming HHC), the formulation of Article 353/A (listing types of activities characteristic of HHC) and the express reference to Act CIV of 2001 leave no doubt that the legislation targets the applicant and its employees, who -- due to the ambiguity of the formulation -- must continue their work in the shadow of the risk of being prosecuted for carrying out their lawful jobs. This also poses a risk to the applicant through Act CIV of 2001. A presumption of legality and the consequent trust in protection by the authorities constitute "a vital aspect of effective and unhindered exercise of freedom of assembly and [...] expression" (Baczowski v Poland, § 67). The legislation along with the government propaganda against the applicant deprives HHC of the ability to exercise its rights in this unhindered manner: in order to continue the activities it has carried out lawfully for 25 years, it must face the risk of prosecution, which obviously has a chilling effect on the applicant, and hence constitutes an interference even if the applicant refuses to refrain from exercising its Convention rights detailed below (Ibid., § 67). Much milder sanctions have also been regarded by the Court as having a chilling effect that is sufficiently strong to trigger protection (Gra Stiftung v. Switzerland, § 78). Thus, the applicant is a victim irrespective of the future interpretation of Article 353/A.</p>
Articles 11 and 10	<p>In pursuing their objectives and in conducting their activities, associations shall be free from undue interference (joint OSCE and VC guidelines on the freedom of association, § 47). One of HHC's core objectives is to assist those in need of international protection, which it strives to achieve through the methods outlined in the facts. The criminalization of these objectives and activities is clearly an interference with the rights under ARTICLE 11. ARTICLE 10 protects the freedom to impart information and ideas without interference by public authority. Legislation criminalizing the distribution of information materials constitutes interference with this freedom. The strong link between the two freedoms is acknowledged by the Court (c.f. Gorzelik v Poland, § 91). The interference is not compatible with the Convention. (i) IT IS NOT PRESCRIBED BY LAW: Article 353/A does not have the quality required to meet this criterion. It is not foreseeable (not formulated with sufficient precision to enable the individual to regulate his/her conduct), nor does it afford protection against arbitrary interferences by public authorities (c.f. Koretskyy v. Ukraine, §§ 46-48). The reasoning of Act VI of 2018 itself states that "the exact contents of [the term] organising activities cannot be listed exhaustively, so par. (5) defines [...] the most typical [...] activities. Thus, it makes it possible [...] to sanction ANY [emph. added] action that may in practice be regarded as corresponding to organising activities." Hence, even legislators admit their inability to precisely define the behaviours they wish to penalise. The VC Op. quotes further examples of overly broad formulation, and concludes that Article 353/A "lacks the required clarity and precision and does not meet the criteria of 'legality' under Articles 10 and 11 ECHR [...]" (§ 78). (ii) IT HAS NO LEGITIMATE AIM: the law's reasoning quotes national security as one of the two aims of the interference, but based on the context, it is a pretext and is of secondary importance. The main aim recurrently quoted in the government rhetoric and in the reasoning is to "prevent Hungary from becoming an immigrant country". This inhumane formulation depicts migrants in an inciting manner as a threat, does not make any meaningful distinction between forms of migration as to their relevance for national security, and disregards Hungary's obligations under international law. Hence, it runs against the core values of of the Convention, and thus</p>

**Statement of alleged violation(s) of the Convention and/or Protocols and relevant arguments (continued)**

60. Article invoked	<p>Explanation cannot be legitimate. The message is that all migration is inherently bad, it is encouraged by malevolent outside forces, and only the ruling coalition's reelection can save the country from this menace. The law is not a measure to protect national security, but an element of the electoral hate propaganda threatening Hungarians with a migrant-invasion assisted by Soros "mercenaries" and aimed at holding on to political power. This is supported by the fact that the law penalises behaviours that clearly do not threaten national security, such as the distribution of informational materials (VC Op., § 74) or organising assistance in asylum procedures (where state authorities make the decision) (VC Op., § 72). "Legitimate aims must not be used as a pretext to control NGOs or to restrict their ability to carry out their legitimate work", and "the surrounding rhetoric of the criminal provision [...] raise[s] serious doubts about the legitimacy of the aim behind the [...] provision" (VC Op., § 80). (iii) IT IS NOT NECESSARY IN A DEMOCRATIC SOCIETY: Even if - for the sake of the argument - one accepted that migration always and inevitably poses a threat to national security, there would be NO PRESSING NEED for the legislation. In the months preceding the passing of the law, the number of asylum seekers in Hungary had been minuscule. Whereas in 2016, 29400 asylum claims were registered, in 2017, only 3400, and up to 1 May 2018, only 325. The average number of asylum seekers allowed to enter the country is one per day. The number of irregular attempts to enter the country is dropping: from 38200 in 2016 to 21700 in 2017 and 2400 in the first 4 months of 2018. The Penal Code already criminalizes behaviours aimed at assisting migrants in circumventing immigration laws: Article 353 criminalises the smuggling of illegal immigrants to Hungary, Article 354 penalises the aiding of a foreign national in residing unlawfully in Hungary. If someone assists migrants by advising them to make false statements in their proceedings, he/she is liable for abetting forgery of an official document (Article 342). Article 355 penalizes the establishing of fake family relations to legalise residence. The instruments of action against those who encourage/help migrants to circumvent laws are in place, so no pressing social need for introducing additional criminal legislation can be invoked. But even if it could, it would be clearly DISPROPORTIONATE to threaten with criminal sanctions CSO employees performing activities aimed at asserting asylum seekers' internationally protected rights through means that acknowledged under international and EU law (e.g. the provision of assistance to asylum seekers - c.f. Articles 8, 10 and 19 of Directive 2013/32/EU ). The disproportionality of the interference is further exacerbated by the law's (i) lack of foreseeability and (ii) the threat of dissolving CSOs, since "dissolution shall always be a measure of last resort such as when the association has engaged in conduct that creates an imminent threat of violence or other grave violation of the law" (Joint Guidelines, § 114). Government officials could never quote any such example on the part of refugee-aiding organisations. Criminalising their regular activities so that what they normally do could be condemned as a grave violation is more than disproportionate interference, it is an abuse of legislative powers. Thus, there has been a violation of HHC's rights under Articles 10 and 11 of the Convention.</p>
Article 18	<p>The purpose of Article 18 is to prohibit the misuse of power (Merabishvili v. Georgia [GC], §§ 303 and 306). It prohibits the restriction of Convention rights for purposes not prescribed by the Convention. In the present case, there is clearly an ulterior motive (political gain through the discreditation of government critics) besides the professed aim (national security). In such cases, it must be examined which one is predominant (Ibid, § 309). Based on arguments outlined above concerning the lack of legitimate aim and the VC Op.'s identical conclusion, the predominance of the ulterior motive can be established. It must also be recalled that references to national security risks must be specific to serve as grounds for severe interferences with rights under Articles 10 and 11 (Sidiropoulos v Greece, §§ 40-47, Stomakhin v Russia, § 85). The Hungarian government has not been able to point to any concrete instance showing that the operation of CSOs aiding asylum seekers has threatened national security, which again confirms the conclusion that national security is only a pretext, and the impugned legislation amounts to a violation of Article 18 read in conjunction with Articles 10 and 11.</p>

**G. Compliance with admissibility criteria laid down in Article 35 § 1 of the Convention**

For each complaint, please confirm that you have used the available effective remedies in the country concerned, including appeals, and also indicate the date when the final decision at domestic level was delivered and received, to show that you have complied with the six-month time-limit.

61. Complaint	<p>Information about remedies used and the date of the final decision</p> <p>The impugned legislation came into effect on 1 July 2018. On 18 September 2018, the applicant submitted a constitutional complaint to the Constitutional Court (CC) under Article 26(2) of Act CLI of 2011 on the Constitutional Court (CC Act). However, this remedy is not effective for the purposes of Article 35(1) of the Convention for the following reasons. Under this provision, constitutional court proceedings may be initiated in EXCEPTIONAL CIRCUMSTANCES if due to the application of a legal provision contrary to the Fundamental Law, or when such legal provision becomes effective, rights have been directly violated, without a judicial decision, and there is no procedure for obtaining a legal remedy. Due to the chilling effect of the impugned legislation, the interference with the HHC's Convention rights took place as soon as the impugned legislation came into effect, so Article 26(2) is in principle applicable in the present case. However, as it is clear from the text of the CC Act, this is an exceptional remedy, which is only regarded as admissible if in the CC's view the complaint raises "constitutional-law issues of fundamental importance" (CC Act, Article 29). Thus, the CC has very wide discretion to decide whether to admit a complaint at all, so the availability of this remedy is not sufficiently certain to render it effective for the purposes of Article 35(1). In addition, there is no time limit for the CC to decide on such complaints, and in several cases, it has taken the CC years to decide on similar, politically sensitive issues. E.g. a year has passed since the applicant together with other CSOs lodged a constitutional complaint against Act LXXVI of 2017 on 28 August 2017 (see the description of the facts above), but the CC still has not delivered a judgment on that complaint. The CC did deal with the legislation on foreign-funded CSOs -- but not on the basis of the concerned CSOs' complaint. In response to a submission by Hungarian MP's under Article 24(1) of the CC Act, the CC delivered in June 2018 Resolution 3198/2018. (VI. 21.) AB, in which it suspended the examination of the legislation until the infringement procedure launched by the European Commission into the law's incompatibility with EU law is concluded. The CC stated that with a view "to the fundamental rights' context and the obligation of cooperation within the European Union, it is necessary to wait for the closing of the procedures pending at the European Court of Justice". This means that as far as the CC is concerned, Act LXXVI of 2017 on the Transparency of Organisations Receiving Support from Abroad will remain in force and applicable at least until the infringement procedure is concluded. Furthermore, if no violation of the EU acquis is found by the CJEU, there is no deadline for the CC to restart its examination into the complaint. Since on 19 July 2018, the European Commission also launched an infringement procedure concerning Act VI of 2018, it is highly likely that the CC will not be willing to deal with the substantive issues of its constitutionality until that procedure is concluded, so even if the applicant's constitutional complaint is admitted and dealt with on the merits, no sufficiently speedy decision could be expected from the CC, depriving this remedy from its effectiveness for the purposes of Article 35(1) of the Convention.</p> <p>Furthermore, a complaint based on Article 26(2) in such a situation cannot remedy the violation that takes place in the time period when the impugned legislation is still in force. The quashing of the law ends the violation and contains an acknowledgment of the violation, but no redress is provided for the period when it was still ongoing, as the CC cannot grant compensation (c.f. <i>Chevrol v France</i>, § 43).</p> <p>Finally, the applicant points out that the present case is different from what is described in § 37 of the case of <i>Mendrei v Hungary</i>, since it concerns issues that have been dealt with by the Court extensively in the past.</p>
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