

**THE HUNGARIAN GOVERNMENT'S  
PROPOSAL  
ON THE  
STOP SOROS LEGISLATIVE PACKAGE**

The state has a duty to ensure the survival of the nation and to create a solid basis for future generations. It is the primary obligation and also the right of the Hungarian state to protect its citizens and our national culture.

Recognising the emergency, the Hungarian government has spent HUF 270 billion from the budget to stop immigration as well as to protect the borders of both Hungary and the EU against migrants.

Any activity intended to promote illegal immigration and to intensify the migratory pressure is against the Hungarian state interest and causes also quantifiable damage to the budget. The migration propaganda assists smuggling organisations and puts illegal border-crossers who deserve a better life at risk.

Therefore a regulation is needed that identifies organisations that support migration and takes action against persons who jeopardise national security.

The creation of the legislative package has been authorised by the citizens of Hungary: 98% of participants in the referendum clearly rejected the mandatory quota and 2.3 million people expressed their clear opinion in the national consultation on the Soros Plan. Based on these results, Hungarians unanimously demand strong action against illegal immigration and promote strengthened protection of the borders instead of settling [migrants in the country].

**Therefore the Government considers it necessary to draft legislation based on which:**

- **organisations propagating mass migration that are supported from abroad must register;**
- **they must publicly give an account of their activities;**
- **these organisations must pay duties, the revenue of which the state will allocate to border protection;**
- **persons organising immigration could be restrained, expelled.**

For these purposes, the Government has proposed three acts.

*A. Act on the social responsibility of organisations supporting illegal migration*

Organisations that propagate and support mass migration, or sponsor or otherwise support persons who commit illegal border-crossing and do not receive asylum are required to register.

Mandatory registration is not a criminal-law instrument, but ensures the transparency of the operation of organisations propagating mass migration. The obligations specified in the new legislation are definitely distinguished from the provisions listed in Act C of 2012 on the Criminal Code as regards both their subjects and the nature of the activities.

Irrespective of the level of financial or property benefits received from abroad, the migration supporting organisation must report to the registration court within 3 days if it receives any financial or property benefits from a foreign supporter person or organisation. The report on this and the related data are public.

The migration supporting organisation is obliged to declare the level and use of financial or property benefits received either indirectly or directly from abroad in the previous year, specifying the details of payments made that are related to the activity.

In addition, the migration supporting organisation is obliged to give information to the National Tax and Customs Administration of Hungary on persons and organisations receiving personal benefits and reimbursement of costs financed from such benefits as well as on the levels of these benefits and reimbursements.

The proposed act requires the migration supporting organisation maintain financial benefits originating from abroad on a separate bank account specifically opened for that purpose. The amount received on this bank account may only be further transferred to another association, foundation or economic organisation having its official seat or site in Hungary if the foreign supporter has given its specific written approval, specifically designating the organisation concerned by the further transfer.

In addition, the proposed act specifies the legal consequences for organisations supporting migration that fail to meet the obligations.

Based on the proposed act, only organisations effectively supported by the society may enjoy privileges related to the public benefit status. The proposed act sets out that sufficient support by the society is shown, inter alia, if at least half of the benefits received by the organisation in the subject year covered by its financial report originates from supporters residing or having their seat in Hungary, and the amount offered by taxpayers as a determined part of their personal income tax reaches at least half of the amount of the financial support received from abroad.

#### *B. Act on the immigration financing duty*

The immigration financing duty creates a legal basis for the common social responsibility, as Hungary expends several hundreds of billions of forints from the national budget on protecting its borders. Any organisation that assists migration causes damages to the budget.

In order to ensure the common social responsibility of migration supporting organisations as well as in the interest of hindering any attempts to change the composition of the population, its culture, language and religion, the proposal requires the migration supporting organisations pay a duty.

The rate of the immigration financing duty is 25 % of the financial or property benefit originating from abroad.

If the migration supporting organisation fails to meet its duty payment obligation, the tax authority may impose a fine that will be equivalent to double the amount of the unpaid duty.

#### *C. Act on immigration restraining orders*

The proposed act contains rules that form the basis of provisions applicable to any person, regardless of their nationality, who jeopardises Hungary's national security interests from staying away from certain areas of the country. Considering that the prohibition to reside in a

location is a criminal law category, the proposed new measure should be distinguished from it by its name and therefore the proposed act proposes to introduce the immigration restraining order, which is a new legal institution entailing the same consequences as prohibition of residence.

Any persons who assist illegal migrants to unlawfully enter and residence in Hungary or who fund such organisations may be subject to restraining orders.

In accordance with the act, any persons who help illegal migrants to unlawfully enter and residence in Hungary or who support such persons or organisations performing such acts with financial or property benefits may be banned by the Minister of the Interior from entering the area of Hungary in an 8-kilometre zone from the external frontier of the EU. The regulation applies to all Schengen entry-points and an 8-kilometre zone from the Schengen external border. In particularly justified cases, the Minister may also impose a restraining order on a third-country national banning him/her from the entire territory of Hungary.

## **Act ... of 2018**

### **on the social responsibility of organisations supporting illegal migration**

In order to prevent any attempts to support migration, the National Assembly adopts the following act:

#### **Section 1**

(1) For the purposes of this Act, an association and foundation seated and registered in Hungary that sponsors the illegal entry, relocation and residence of a third-country national submitting an application for international protection in the European Union -- on the basis of an agreement between the association and foundation and the third-country national -- directly or indirectly from financial or property benefits originating from abroad shall be qualified as an organisation supporting illegal migration (hereinafter referred to as an “organisation supporting illegal migration”).

(2) For the purposes of this Act, an association and foundation seated and registered in Hungary that supports in any other way the illegal entry, relocation and residence of a third-country national submitting an application for international protection in the European Union directly or indirectly from financial or property benefits originating from abroad shall also be qualified as an organisation supporting illegal migration.

(3) For the purposes of this Act, benefits by any association, foundation, or non-profit economic organisation registered and seated in Hungary to each other whose source originates from a foreign supporter shall be qualified as indirect financial or property benefits deriving from abroad.

(4) This Act applies to an organisation supporting illegal migration pursuant to Section (1) if it sponsors or otherwise supports a third-country national applicant who counts towards the reference key specified in Article 35 of Regulation (EU) 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person on the basis of a final decision made on his or her application for international protection.

#### **Section 2**

(1) The organisation supporting illegal migration is obliged to notify the court competent

at the place where it is registered (hereinafter referred to as the “registration court”) about the data content specified in Annex 1 to this Act within 3 days, irrespective of the level of the financial or property benefit originating from abroad, if

- a) it receives any financial or property benefit, either directly or indirectly, from abroad and this benefit has been given by a person or organisation providing support from abroad in order to facilitate the unlawful entry, relocation and residence into or on the territory of Hungary, or
- b) it sponsors or otherwise supports way the unlawful entry, relocation and residence of a third-country national applicant on the territory of Hungary from a financial or property benefit provided from abroad either directly or indirectly.

(2) The registration court attaches the notification to the data of the association or the foundation in the Records (hereinafter referred to as “the Records”) pursuant to Section 2(2) of Act LXXVI of 2017 on the transparency of organisations supported from abroad (hereinafter referred to as “the Transparency Act”), and registers the association or foundation as an organisation supporting illegal migration.

(3) By the 15th day of each month, the registration court sends to the minister in charge of the management of the Civil Information Portal the names, seats and tax numbers of associations and foundations, in connection with which it registered the qualification as an organisation supporting illegal migration in the Records in the previous month. The minister in charge of the management of the Civil Information Portal publishes the data sent in this way without delay on a freely accessible electronic platform designed for this purpose.

(4) The organisation supporting illegal migration is obliged to publish the level of the financial or property benefit deriving either directly or indirectly from abroad and the purpose of its use after its notification pursuant to Section (1) on the website pursuant to Section 2(5)-(6) of the Transparency Act or in the media.

### **Section 3**

(1) Simultaneously with the submission of an account pursuant to Act CLXXV of 2011 on the freedom of association, non-profit status and the operation and support of civil organisations (hereinafter referred to as “the Civil Act”), the organisation supporting illegal migration must submit a declaration, with the data content pursuant to Annex 2, on the levels of financial or property benefits received in the previous year and originating either directly or indirectly from abroad as well as on the use of the benefits by activity, detailing the payments related to the activities.

(2) The organisation supporting illegal migration is obliged to report to the tax authority, in relation to the subject year covered by the report by May 31st of each year, the persons and organisations receiving personal benefits or reimbursement of costs from financial or property

benefits originating either directly or indirectly from abroad and the levels of such benefits and reimbursements.

#### **Section 4**

(1) The organisation supporting illegal migration may only receive any financial benefits originating from abroad on a separate payment account intended for this purpose.

(2) All or part of the amount transferred by the organisation supporting illegal migration to the payment account pursuant to Section (1) may be further transferred to another association, foundation or economic organisation having its seat or site in Hungary only with the specific written approval issued by the foreign supporter authorising the financial benefit with the name of the organisation involved in the further transfer.

(3) The credit institution holding the payment account pursuant to Section (1) shall notify the National Bank of Hungary and -- for the execution of the measures specified in Section 5(1) -- the prosecutor via the Office of the Prosecutor General of Hungary on the transfer activity on the payment account of the organisation supporting illegal migration by the 15th day of each month.

#### **Section 5**

(1) If the organisation supporting illegal migration fails to meet its obligations pursuant to Sections 2(1), 3, and 4(1)-(2), after becoming informed thereof, the prosecutor shall call the association or the foundation in accordance with the rules applicable to it to perform its obligation within 15 days from the receipt of the notice.

(2) If the organisation supporting illegal migration fails to meet its obligations contained in the prosecutor's notice, the prosecutor may initiate at the registration court that a fine be imposed in double the amount of the financial benefit originating from abroad.

(3) If the organisation supporting illegal migration fails to meet its obligations pursuant to this Act even after the fine pursuant to Section (2) has been imposed, then the prosecutor

- a)* acts in compliance with the rules of the Civil Act and of Act CLXXXI of 2011 on the court registration of civil society organisations and related rules of proceeding, in view of the requirement of proportionality, and simultaneously
- b)* initiates that the registration court return the financial benefit originating from abroad to the supporter.

(4) If, on the basis of the proposal made by the prosecutor, the registration court dissolves the association or the foundation, it initiates a simplified deregistration procedure in accordance with Title 2/B of the Civil Act, and deletes the association or foundation from the

Records.

(5) If the prosecutor initiates the return of the financial benefit originating from abroad to the supporter, the registration court decide on the return of benefits at the expenses of the supported entity in a non-litigious procedure.

### **Section 6**

Section 32(5) of Act CLXXV of 2011 on the freedom of association, non-profit status and the operation and support of civil organisations is replaced with the following provision:

“(5) Sufficient support by the society of the organisation pursuant to Section (1) is demonstrated, if at least half of the benefits received by the organisation in the subject year covered by its financial report derives from supporters residing or seated in Hungary, and the amount offered by taxpayers as a determined part of their personal income tax reaches at least half of the amount of the financial support received from abroad, and at least one of the following conditions are met in relation to the previous two closed business years:

- a) the amount allocated from the amount offered by taxpayers to the organisation as a determined part of their personal income tax reaches two percent of the total income calculated without the income pursuant to Section 54, or
- b) the costs and expenses met in the interest of the public benefit activity reach half of the total expenses on the basis of the average of two years, or
- c) the public benefit activities are performed permanently (on the basis of the average of two years) by at least ten persons performing public benefit volunteer activities in accordance with Act LXXXVIII of 2005 on public benefit volunteer activities.”

### **Section 7**

Section 71/G of Act CLXXXI of 2011 on the court registration of civil society organisations and related rules of proceeding is supplemented with the following Paragraph (7):

“(7) The court takes a measure specified in a procedure initiated in accordance with Paragraph 5(3)(a) of Act ... of 2018 on the social responsibility of organisations supporting illegal migration, and also orders the return of the financial benefit originating from abroad to the supporter.”

### **Section 8**

This Act comes into effect on the day following its promulgation.



**Data content of the report on the organisation's becoming an organisation supporting illegal migration**

Indication of the subject year:

I. Data related to the organisation supporting illegal migration

Name of the organisation:

Registered seat:

Registration number:

II. Data related to the supporter giving a financial or property benefit from abroad:

Name of the supporter giving a financial or property benefit from abroad, name of the organisation:

Address or seat of the supporter giving a financial or property benefit from abroad:

Purpose of the support specified by the supporter giving a financial or property benefit from abroad:

III. Financial or property benefit originating from abroad

A) Total of financial or property benefits deriving from abroad:

1. total financial benefits:

2. other property benefits:

B) Use of financial or property benefits deriving from abroad:

Declaration of the executive officers of the organisation supporting illegal migration on the purpose of the use of the financial or property benefit deriving from abroad:

Planned budget of the activities to be performed from a financial or property benefit deriving from abroad by elements of the activity:

Levels of personal benefits and reimbursement of costs to be financed from a financial or property benefit deriving from abroad:

**Data content of the declaration of the organisation supporting illegal migration on the level and use of the financial or property benefit deriving from abroad**

Indication of the subject year:

I. Data related to the organisation supporting illegal migration

The name of the organisation:

Registered seat:

Registration number:

II. Data related to the supporter granting a financial or property benefit from abroad which was used in the previous year:

Name of the supporter giving a financial or property benefit from abroad, name of the organisation:

Address or seat of the supporter giving a financial or property benefit from abroad:

Purpose of the support specified by the supporter giving a financial or property benefit from abroad:

III. Financial or property benefit deriving from abroad which was used in the previous year

A) Total of financial or property benefits deriving from abroad:

1. total of financial benefits:

2. other property benefits:

B) Details related to the financial or property benefit deriving from abroad which was used in the previous year

Declaration of the executive officer of the organisation supporting illegal migration on the description of the use of the financial or property benefit deriving from abroad:

Costs of the activities performed from a financial or property benefit deriving from abroad by elements of the activity:

Levels of personal benefits and cost reimbursements financed from a financial or property benefit deriving from abroad:

**Data content of the report on personal expenses related to the financial or property benefit granted to the organisation supporting illegal migration from abroad**

Indication of the subject year:

I. Data related to the organisation supporting illegal migration

The name of the organisation:

Registered seat:

Registration number:

II. Data related to the supporter giving a financial or property benefit from abroad:

Name of the supporter, name of the organisation:

Address of residence or seat of the supporter:

III. Personal benefits financed from a financial or property benefit deriving directly from abroad:

Levels of personal benefits and cost reimbursements financed from financial or property benefits deriving from abroad:

List of persons and organisations receiving personal benefits and reimbursements for costs from financial or property benefits deriving from abroad, indication of their benefits

## **General reasoning**

The Act provides that any activities financed from foreign resources and intended to facilitate illegal immigration by circumventing Hungarian legislation will become known to the Hungarian citizens, and publicly accessible records available to anyone must be kept on such organisations in the future.

In addition, the Act ensures the efficient control by society over civil organisations supporting illegal migration and financed from abroad, and also allows the general public to clearly know what organisations want to change the composition of the permanent population of Hungary and to influence Hungarian migration policy and for what purposes.

## **Detailed reasoning**

### *To Section 1*

The Act covers organisations registered as associations or foundations, and registered as civil organisations on the basis of Act CLXXV of 2011 on the freedom of association, non-profit status and the operation and support of civil organisations (hereinafter referred to as “the Civil Act”), which sponsor or support in any other way -- on the basis of a special agreement on this -- the illegal entry, relocation and residence of a third-country national submitting an application for international protection in the European Union directly or indirectly from financial or property benefits granted from abroad.

Benefits granted by any associations, foundations, or non-profit economic organisations registered and seated in Hungary to each other and deriving from a foreign supporter are qualified as indirect financial or property benefits deriving from a foreign supporter.

This Act applies to an organisation supporting illegal migration if it sponsored or supported in any other way an applicant who belongs to a reference key specified in Regulation (EU) 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person on the basis of a final decision made on his or her application for international protection.

### *To Section 2*

The proposed act specifies the obligations resulting from becoming an organisation supporting illegal migration.

Irrespective of the level of the financial or property benefit deriving from abroad, the association or foundation is obliged to report within 3 days if the person or organisation giving the support from abroad has given the financial or property benefit deriving from

abroad in order to promote illegal entry, relocation or residence in the territory of Hungary, or the association or foundation sponsors or supports in any other way the illegal entry, relocation or residence on the territory of Hungary from this benefit.

The organisation supporting illegal migration must submit the report with the data content pursuant to Annex 1. The registration court registers this fact in the records of organisations not qualified as civil or other companies, and indicates it among the other existing data of the association or foundation.

Based on the information provided by the registration court, the minister in charge of the management of the Civil Information Portal immediately publishes the name, seat and tax number of the association or foundation on a freely accessible electronic platform designed for this purpose. The organisation supporting illegal migration indicates the level of the financial or property benefit deriving either directly or indirectly from abroad and the purpose of its use on its website and in its publications (e.g. leaflets, printed and electronic media).

### *To Section 3*

The proposed act specifies additional obligations for the organisations supporting illegal migration. Based on the Act, in parallel with the submission of its report pursuant to the Civil Act and with the data content pursuant to Annex 2, the organisation supporting illegal migration is obliged to give a declaration on the levels of the financial or property benefits received either indirectly or directly from abroad in the previous year and its use by activity, detailing the payments related to the activity.

In addition, the organisation supporting illegal migration is obliged to give information to the National Tax and Customs Administration on persons and organisations receiving personal benefits and compensated for costs financed from such benefits as well as on the levels of these benefits and compensations in relation to the subject year covered by the report.

### *To Section 4*

The proposed act requires the organisation supporting illegal migration to receive the financial benefits deriving from abroad on a bank account created for that purpose. The amount received on this bank account may be further transferred to another association, foundation or economic organisation having its seat or site in Hungary, if the foreign supporter has given its specific written approval specifying that it is intended for the benefit of the organisation finally receiving the amount.

The credit institution holding the payment account notifies the National Bank of Hungary and the prosecutor via the Office of the Prosecutor General of Hungary on the transfer activity on the payment account of the organisation supporting illegal migration by the 15th day of each month.

*To Sections 5 and 7*

The act provides for a progressive system of sanctions if the obligations specified in the Act are breached. If the organisation supporting illegal migration fails to meet its obligations contained in the prosecutor's notice after its receipt, the prosecutor may propose the registration court to impose a fine double the amount of the financial benefit deriving from abroad. Eventually, if none of the previous measures resulted in compliant behaviour, following a procedure carried out by the prosecutor, the registration court will, in accordance with the rules on a simplified procedure, deregister the association or foundation, and the prosecutor may simultaneously propose that the registration court order the return of the financial benefit deriving from abroad to the supporter.

*To Section 6*

In accordance with the Civil Act, public benefit qualification may be granted to an organisation registered in Hungary which is carrying out public benefit activities and has sufficient resources to meet the common needs of the society and of the individual, and which is able to demonstrate sufficiently support by society.

The proposed act excludes the qualification of organisations not effectively supported by the society as public benefit ones by raising the criteria of sufficient support by the society and laying down that sufficient support by the society is demonstrated, beyond the criteria specified in the Civil Act, if at least half of the benefits received by the organisation in the subject year covered by its financial report derive from supporters domiciled or seated in Hungary, and the amount offered by taxpayers as a determined part of their personal income tax reaches at least half of the amount of the financial support received from abroad.

*To Section 8*

Provision on entry into force.

## **Act ... of 2018**

### **on the immigration financing duty**

In order to create common social responsibility, the National Assembly legislates the following act:

#### **Section 1**

This Act covers organisations supporting illegal migration pursuant to the Act on the social responsibility of organisations supporting illegal migration.

#### **Section 2**

The organisation supporting illegal migration is obliged to pay an immigration financing duty if

- a)* it receives any financial or property benefit either directly or indirectly from abroad, and this benefit has been given by a person or organisation providing benefits from abroad in order to facilitate unlawful entry, relocation and residence on the territory of Hungary, or
- b)* it sponsors or supports in any other way the unlawful entry, relocation and residence of a third-country national applicant on the territory of Hungary from a financial or property benefit given either directly or indirectly and deriving from abroad.

#### **Section 3**

The obligation to pay the immigration financing duty is due when the organisation supporting illegal migration submits its report to the court competent at the place where it is registered.

#### **Section 4**

(1) The immigration financing duty is based on the financial or property benefit given to the organisation supporting illegal migration from abroad. The rate of the immigration financing duty is 25 % of the financial or property benefit serving as a basis for the duty, which must be paid by the organisation supporting illegal migration, in a way specified in the governmental decree issued for the execution of this Act, by June 30 following the year concerned by the benefit.

(2) The organisation supporting illegal migration is entitled to reclaim that part of the duty paid by it, in connection with which it can creditably certify to the tax authority that

- a) the financial or property benefit received directly or indirectly from abroad has been given by a person or organisation providing benefits from abroad not for the purpose of facilitating the unlawful entry, relocation and residence on the territory of Hungary, or
- b) it did not sponsor or support in any other way the unlawful entry, relocation and residence of a third-country national applicant on the territory of Hungary from a financial or property benefit given either directly or indirectly and deriving from abroad.

### **Section 5**

If the organisation supporting illegal migration fails to meet its obligation to pay the immigration financing duty, a fine double the amount of the unpaid duty may be imposed on it.

### **Section 6**

- (1) The state tax authority performs the tax authority tasks related to the immigration financing duty.
- (2) Revenue from the immigration financing duty will be allocated to the central budget revenues and shall be spent on border protection tasks.

### **Section 7**

The Government is authorised to regulate in a decree the detailed rules related to the procedure of the payment, control and execution of the immigration financing duty.

### **Section 8**

This Act comes into effect on the 31st day following its promulgation.



## **General reasoning**

In order to ensure the social responsibility of migration supporting organisations, the proposal prescribes that migration supporting organisations pay a duty.

## **Detailed reasoning**

### *To Sections 1 and 2*

The proposal specifies the obligation of the organisation supporting illegal migration to pay a duty as well as the activities entailing this obligation.

### *To Section 3*

The proposed act specifies the day when the obligation to pay the immigration financing duty becomes due.

### *To Section 4*

The proposed act sets out that the rate of the immigration financing duty is 25 % of the financial or property benefit originating either directly or indirectly from abroad.

The organisation supporting illegal migration is entitled to reclaim that part of the duty paid by it in connection with which it can prove that

- the financial or property benefit received directly or indirectly from abroad has been provided by a person or organisation providing benefits from abroad not for the purpose of facilitating the unlawful entry, relocation and residence on the territory of Hungary, or
- it did not sponsor or support in any other way the unlawful entry, relocation and residence of a third-country national applicant on the territory of Hungary from a financial or property benefit given either directly or indirectly deriving from abroad.

The organisation supporting illegal migration must pay the duty by June 30 each year in a way specified in the governmental decree issued on the execution of this Act.

### *To Section 5*

The proposed act specifies the legal consequences of failure to meet the obligation. If the organisation supporting illegal migration fails to meet its duty payment obligation, the tax authority may impose a fine double the amount of the unpaid duty.

*To Section 6*

The proposed act lays down that the tasks of the tax authority are performed by the National Tax and Customs Administration, and the revenues are allocated to the state budget, and must be spent on the performance of border protection tasks.

*To Section 7*

The Act authorises the Government to specify the detailed rules related to the procedure of the payment of the immigration financing duty, its control and execution in a decree.

*To Section 8*

Provision on entry into force.

## Act ... of 2018

### on immigration restraining orders

For the safety of the Hungarian citizens and for the protection of their full and inviolable rights, the National Assembly legislates the following act:

#### Section 1

(1) In addition to the aliens policing procedures regulated in Act II of 2007 on the admission and right of residence of third-country nationals, in order to conduct aliens police procedures in an unhindered manner, the minister in charge of immigration and refugee affairs (hereinafter referred to as “the minister”) may, in accordance with the rules set forth in this act, once becoming aware of circumstances warranting such a procedure, ban any person whose residence in Hungary is contrary to Hungary’s national security interests or who poses a danger to the public interest, from the frontiers or from within an 8-kilometre zone of the frontier marks of the external borders, pursuant to Section 2 of Article 2 of Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders.

- (2) The Minister may not initiate the procedure pursuant to Section (1), if the recommended person
- a) is a member of the Parliament;
  - b) is a member of a council of a local government directly neighbouring an external border pursuant to Section 2 of Article 2 of Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders;
  - c) is a member of the European Parliament;
  - d) is a diplomat pursuant to the international convention on diplomatic relations of April 18, 1961 in Vienna;
  - e) is a person performing duties of the national preventive mechanism pursuant to Article 3 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, promulgated in Act CXLIII of 2011 on the promulgation of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment,.
- (3) In particularly justified cases, the Minister may also ban third-country nationals from staying on the entire territory of Hungary, despite Section (1).

## Section 2

An activity shall be deemed to be contrary to Hungary's national security interests or who poses a danger to the public interest, if the person specified in Section 1(1)

- a) supports the unlawful entry and residence of a third-country national in Hungary with his or her behaviour related to the migration situation, or
- b) provides a financial or property benefit for an activity pursuant to item a, and

thereby endangers the public security, public order or public health of Hungary.

## Section 3

An immigration restraining order may be ordered for six months, but not exceeding the period of the crisis situation caused by mass migration.

## Section 4

In the course of the procedure pursuant to Section 1(1), the Minister is obliged to enforce the content of Parliamentary Resolution no. 94/1998 (XII.29.) on the basic principles of the security and defence policy of the Hungarian Republic, with special regard to the protection of the independence and sovereign statehood of the country, to the enforcement of the principles set forth in the Basic Law, to ensuring respect for the rule of law and to the unhindered operations of the democratic institutions.

## Section 5

- (1) The minister's decision adopted on immigration restraining order shall contain:
  - a) the acts contrary to Hungary's national security interests or posing a danger to the public interest,
  - b) the duration of the immigration restraining order, and
  - c) a simplified reasoning.
- (2) The person concerned shall be notified of the decision in writing. If the person concerned is staying at an unknown place, the Minister shall publish the decision on the website of the aliens police authority.
- (3) An immigration restraining order may be challenged on account of a breach of the essential rules of the procedure in a public administrative lawsuit within eight days. Provisional measures of legal protection are not available in the lawsuit.
- (4) The court shall decide on the petition in a simplified procedure. If the court finds a

violation, it shall annul the decision and requires the Minister to conduct a new procedure.

(5) If the Government decides on prolonging the crisis situation caused by the mass immigration, the person concerned by the immigration restraining order may request the review of the immigration restraining order.

## Section 6

The Government is authorised to adopt a decree on the detailed rules of the procedure and the deadline of immigration restraining orders on persons contrary to Hungary's national security interests or posing a danger to the public interest of Hungary as regulated in this Act.

## Section 7

Section 86/A of Act II of 2007 on the admission and right of residence of third-country nationals is replaced with the following provision:

“Section 86/A(1) For the purposes of this Act

*a) aliens policing affairs include:*

*aa)* all procedures related to the entry and residence of foreigners, during which in its decision the aliens police authority establishes rights, obligations and infringements of the client, certifies facts, conditions and data, or keeps records, and enforces its decisions related to the above,

*ab)* the procedure during which the aliens police authority performs an official control,

*ac)* the procedure initiated to determine statelessness,

*ad)* the procedure initiated to obtain an official endorsement for a letter of invitation,

*ae)* the procedure initiated to impose a public security protection fine,

*af)* in the interest of ensuring unhindered aliens policing procedures, a procedure related to an immigration restraining order;

*b) aliens police authority:* is a body, organisation or person, which (who) is authorised in a governmental decree to exercise the powers of the aliens police authority or is designated by law to exercise the powers of the aliens police authority. Cases belonging to its scope of competence may not be revoked from the aliens police authority.

(2) The provisions of Act ... of 2018 on the immigration restraining order shall be applicable to the procedure specified in Section (1)*af*.”

## Section 8

This Act comes into effect on the day following its promulgation.

## **General reasoning**

The Hungarian State has the fundamental responsibility and at the same time, the right to guarantee the safety of its citizens.

In accordance with the provisions of this Act, the Minister in charge of immigration and refugee affairs may ban citizens violating the national security interests of Hungary, such as facilitating the unlawful entry and residence of third-country nationals in Hungary or financially supporting such an activity, from the territory of Hungary and the external borders pursuant to the rules governing the movement of persons across borders, i.e. from a 8-kilometre zone of the border. In particularly justifiable cases, the Minister may also ban third-country nationals from staying on the entire territory of Hungary.

The Minister is obliged to enforce the content of Parliamentary Resolution no. 94/1998 (XII.29.) on the basic principles of the security and defence policy of the Hungarian Republic during his procedure, with special regard to the protection of the independence and sovereign statehood of the country, to the enforcement of the principles laid down in the Basic Law, to respect for the rule of law and to ensuring the unhindered operations of the democratic institutions.

## **Detailed reasoning**

### *To Section 1*

In accordance with the proposed act, in order to allow the aliens police authority to conduct unhindered procedures, if the Minister becomes aware of any circumstance giving reasons to initiate the procedure, he may ban citizens violating the national security interests of Hungary, that is, helping the unlawful entry and residence of third-country nationals in Hungary or financially supporting such an activity from the area of Hungary and the external borders pursuant to the rules governing the movement of persons across borders, i.e. from a 8-kilometre zone from the border.

In particularly justified cases, the Minister may ban third-country nationals from the whole territory of Hungary.

The above procedure may not be applied to any member of the Parliament, any member of the European Parliament, any member of a council of a local government directly neighbouring the external border of the EU, any diplomat, or any person performing duties of the national preventive mechanism pursuant to Article 3 of the optional protocol to the convention against torture and other cruel, inhuman or degrading treatment or punishment, announced in Act CXLIII of 2011 on the announcement of the optional protocol to the convention against torture and other cruel, inhuman or degrading treatment or punishment.

*To Section 2*

The proposed act specifies the activities that are contrary to the national security interests of Hungary or endangering the public interest.

Activities contrary to the national security interests of Hungary or endangering public interest are behaviour related to the migration situation and supporting the unlawful entry and residence of a third-country national in Hungary or providing financial support for such activities.

*To Section 3*

The proposed act provides that an immigration restraining order may be ordered for six months and shall not exceed the duration of the crisis situation caused by mass migration.

*To Section 4*

The proposed act provides that in the procedure, the Minister is obliged to enforce the content of Parliamentary Resolution no. 94/1998 (XII.29.) on the basic principles of the security and defence policy of the Hungarian Republic, with special regard to the protection of the independence and sovereign statehood of the country, to the enforcement of the principles laid down in the Basic Law, to respect for the rule of law and to ensuring unhindered operations of the democratic institutions.

*To Section 5*

The proposed act lays down the framework of the procedure regulated in the act. It specifies the content elements of the ministerial decision and provides that the decision on an immigration restraining order may be challenged on account of the breach of the essential rules of the procedure within eight days.

Provisional measures of legal protection are not available in the lawsuit.

In addition, the proposed act provides that if the Government decides on the prolongation of the crisis situation caused by the mass immigration, then the person concerned by the immigration restraining order may request the review of the restraining order.

*To Section 6*

The Act authorises the Government to specify the detailed rules related to the ministerial procedure in a decree.

*To Section 7*

The proposed act provides that an immigration restraining order is a procedure carried out by the alien policing authority to which the provisions of this Act are applicable.

*To Section 8*

Provision on entry into force.