



## Hungary: Commission takes second step in infringement procedure on Higher Education Law

Brussels, 13 July 2017

**Today, the European Commission decided to send a reasoned opinion to Hungary as regards the compatibility of the Higher Education Law as amended on 4 April 2017 with EU law.**

First Vice-President Frans **Timmermans** said: “ *The Hungarian Higher Education Law disproportionately restricts EU and non-EU universities in their operations and needs to be brought back in line with EU law as soon as possible. We expect a reaction from the Hungarian authorities within a month. If the response is not satisfactory, the Commission can decide to go to the Court.*”

The Commission has decided to send Hungary a reasoned opinion – the second step in an infringement procedure – on the grounds that the law as amended is not compatible with the freedom for higher education institutions to provide services and establish themselves anywhere in the EU. In addition, the Commission also remains of the opinion that the new legislation runs counter to the right of academic freedom, the right to education and the freedom to conduct a business as provided by the Charter of Fundamental Rights of the European Union and the Union's legal obligations under international trade law.

After a thorough analysis of Hungary's response to the Commission's letter of formal notice of 27 April, the Commission maintains the conclusions of the in-depth legal assessment and discussions by the College on 12 April and 26 April 2017 that led to initiating the infringement procedure. Hungary now has one month to notify the Commission of measures taken to remedy the situation. Otherwise, the Commission may decide to refer the case to the Court of Justice of the EU.

### Background

On 4 April 2017, the Hungarian Parliament adopted a new act amending the Higher Education Act of 2011. The changes added new requirements as regards the name of foreign higher education institutions, the need for bilateral agreements between Hungary and a non-the European Economic Area (EEA) country of origin of the foreign higher education institution, the need to provide higher education services also in the country of origin as well as additional requirements for the registration and authorisation of higher education services in Hungary. Foreign higher education institutions must meet the new conditions by 1 January 2018.

On [26 April](#), the Commission followed up on its [12 April discussion](#) on legal and fundamental values issues related to Hungary. On the basis of an in-depth legal assessment of the Hungarian Higher Education Law, the Commission decided to take legal action and sent a [letter of formal notice](#) to the Hungarian Government on the Hungarian Higher Education Law. The Hungarian authorities responded on 25 May.

Having assessed the reply by the Hungarian authorities, the Commission maintains its legal assessment that the law as amended is not compatible with the fundamental internal market freedoms, notably the freedom to provide services (Article 56 [TFEU](#) and Article 16 of [Directive 2006/123/EC](#) on services in the internal market) and the freedom of establishment (Article 49 TFEU and Articles 9, 10, 13, 14 of [Directive 2006/123/EC](#)), but also not compatible with the right of academic freedom, the right to education and the freedom to conduct a business as provided by the Charter of Fundamental Rights of the European Union (Articles 13, 14, 16 respectively), as well as not compatible with the Union's legal obligations under international trade law (the General Agreement on Trade in Services – GATS – in the framework of the World Trade Organisation, WTO).

The Court of Justice of the EU has consistently held that courses offered by educational establishments essentially financed by private funds constitute economic activities in the meaning of the Treaty. Education activities and courses financed essentially out of private funds are also covered by [Directive 2006/123/EC](#), regardless of whether the establishments offering courses are profit-making or not and irrespective of whether the financing is provided principally by the pupils or their parents.

The Commission will continue to use all available means under the Treaties to uphold the EU's shared values and to engage in a broad political dialogue with the Hungarian authorities, the other Member States and the European Parliament. A first opportunity for a public dialogue was the Plenary debate of

the European Parliament on [26 April](#), with the participation of First Vice-President Frans **Timmermans** and Prime Minister of Hungary, Viktor Orbán.

**For More Information**

- On the key decisions in the July 2017 infringements package, see a full [MEMO/17/1935](#).
- On the July infringements package (on letters of formal notices only), see a full [MEMO/17/1936](#).
- On the general infringements procedure, see [MEMO/12/12](#).
- On the [EU infringements procedure](#).

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