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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

HUNGARY

“STOP SOROS” DRAFT LEGISLATIVE PACKAGE:

BILL T/1976
ON THE LICENCING OF ORGANISATIONS SUPPORTING
MIGRATION

BILL T/19775
ON THE IMMIGRATION FINANCING DUTY

BILL T/19774
ON THE IMMIGRATION RESTRAINT ORDER

(Unofficial translation)



Prime Minister's Office

Document Number: **T/19776.**

Date of submission: **02.13.2018, 21:57**

Parlex ID: **10MLHU0N0001**

To: **László Kövér, Speaker of the Parliament**

Re: **Submission of a proposal**

Submitted by: **Dr. Zsolt Semjén, Deputy Prime Minister**

Referee: **Antal Rogán, Head of Cabinet of the Prime Minister**

Title of the proposal: **Licensing of organisations supporting migration**

On behalf of the Government, I submit a proposal on the licensing of organisations supporting migration.

Section 9 of the proposal is cardinal on the basis of Article 46(6) of the Basic Law; therefore a “yes” vote of the two-thirds of members of Parliament being present is necessary for its approval.

Act ... of 2018

on the licensing of organisations supporting migration

As part of the Stop Soros legislative package, to prevent efforts intended to support migration and to allow unhindered alien policing procedures, the Parliament adopts the following act:

Section 1

(1) For the purposes of this Act, any association or foundation having a seat and registered in Hungary which, in the interest of providing international protection, sponsors, organises or supports in any other way the entry, via a safe third country, or the stay of a third-country national in Hungary shall be qualified as a organisation supporting migration (hereinafter referred to as an organisation).

(2) Activities under Paragraph (1) that in the interest of providing international protection support or organise the entry, via a safe third country, or the stay of a third-country national in Hungary shall include, in particular, when with the aim referred to in Paragraph (1), the organisation engages in:

- a) advocacy activities, campaigning or the organising thereof,
- b) strives to influence the legal practices of authorities and courts,
- c) conducts or organises border monitoring at the boundary of Hungary at 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,
- d) produces or commissions information materials,
- e) establishes a network or recruits volunteers,
- f) uses financial or property benefits received directly or indirectly from abroad, or
- g) grants financial or property benefits.

(3) Activities under Paragraph (1) that, in the interest of providing international protection, sponsor the entry, via a safe third country, or the stay of a third-country national in Hungary shall also include activities when with the aim referred to in Paragraph (1) the organisation agrees to facilitate the entry and stay of a third-country national in a specific agreement.

Section 2

(1) The activity specified in Section 1 may be pursued on the basis of a licensing decision (hereinafter referred to as the license) issued by the Minister in charge of immigration and refugee affairs (hereinafter referred to as the Minister), if the operation of the organisation does not entail any risk to national security.

(2) The Minister declares the organisation to be a licensed organisation (hereinafter referred to as a licensed organisation) with his licensing decision.

- (3) During the procedure, the Minister examines if the organisation pursues its activity under Section 1 from financial or property benefits directly or indirectly deriving from abroad. To conduct the procedure, the Minister requests the national tax authority to audit the use of funds by the organisation. The national tax authority sends the audit report and the examined data to the Minister.
- (4) During the Minister's procedure, any activity pursued for scientific, awareness-raising, research or educational purposes as well as for primarily humanitarian purposes may not be assessed to the disadvantage of the organisation.
- (5) The person entitled to represent the organisation may initiate the recognition of the organisation as a licensed organisation. The application must be submitted to the Minister. The Minister will make a decision on the application within 180 days, which period may be extended in reasonable cases by a further 90 days. The compulsory content elements of and annexes to the application as well as the deadlines for the procedures shall be specified by the Government in a decree.
- (6) To examine the precondition pursuant to Section (1), the Minister shall obtain an opinion on the national security risk factors pursuant to Act CXXV of 1995 on the national security services.
- (7) The Minister shall manage the organisation's data for the purpose of the licensing procedure for two years following the submission of the application. The Minister may hand over the managed data to organisations involved in conducting the procedure.
- (8) The Minister's decision shall contain compliance or non-compliance with the precondition specified in Section (1), in view of the opinion pursuant to Section (6) as well as a simplified reasoning.
- (9) The organisation applying for the license shall be notified of the Minister's decision in writing.
- (10) The organisation may not submit a new application within one year after it has been notified of the refusal decision.
- (11) The Minister shall send his decision pursuant to Section (9), simultaneously with the notification, to the court that is competent according to the registered seat of the association or the foundation (hereinafter referred to the registration court). The registration court attaches the decision to the data of the association or foundation immediately on receipt thereof, and registers the association or foundation as a licensed organisation if the license has been granted.
- (12) The Minister's decision may be challenged in a public administrative litigious procedure on the ground of a grave breach of procedural rules within eight days. Provisional measures of legal protection are not available in the lawsuit.
- (13) The court shall decide the petition in a simplified procedure. If the court finds a violation, it

shall annul the decision and require the Minister to conduct a new procedure.

Section 3

(1) If the organisation pursues an activity specified in Section 1 without a license, the prosecutor on learning thereof shall immediately conduct an investigation to substantiate the procedure pursuant to this Section and shall request the national tax authority to audit the use of funds by the organisation. The national tax authority shall send the audit report and the figures examined by it to the prosecutor.

(2) If, following the investigation conducted by the prosecutor and the review of the data obtained from the national tax authority, the prosecutor finds that the organisation is pursuing an activity specified in Section 1 without a license, he shall call on the organisation to abandon the unlicensed activity within 15 days from receipt of the notice, and shall simultaneously initiate the deletion of the organisation's tax number at the national tax authority.

(3) If the organisation fails to meet its obligation set forth in the prosecutor's notice, the prosecutor initiates the imposition of a fine twice the highest amount of the fine pursuant to Section 37(2) of Act CLXXXI of 2011 on the court registration of civil society organisations and related rules of proceeding (hereinafter referred to as the Civil Society Registration Act) at the registration court.

(4) If the organisation fails to meet its obligations set forth in the prosecutor's notice even after having been fined under Paragraph (3), the prosecutor may initiate the dissolution of the association or foundation at the registration court by following the provisions 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) and of the Civil Society Registration Act.

(5) If, on the basis of the petition submitted by the prosecutor, the registration court dissolves the organisation, it shall launch a simplified deregistration procedure in accordance with Title 2/B of the Civil Act, and shall deregister the association or foundation from the records.

Section 4

The foundation or association covered by this Act is obliged to send a notification to the national tax authority with the data content pursuant to Annex 1 within 3 days, if it receives any financial or property benefits directly or indirectly from abroad.

Section 5

The Government shall be authorised to specify in a decree the compulsory content elements of and annexes to the application that shall be submitted for declaring an organisation to be a licensed organisation as well as the procedural deadlines.

Section 6

This Act shall come into effect on the sixteenth day following its promulgation.

Section 7

Any organisation pursuing an activity pursuant to Section 1 when this Act comes into effect must submit its application pursuant to Section 2(5) within 90 days after this Act coming into effect.

Section 8

Section 9 is cardinal on the basis of Article 46(6) of the Basic Act.

Section 9

(1) Section 4 of Act CXXV of 1995 on the national security services shall be supplemented with the following item (k):

(The Information Office)

2(k) conducts the investigation of national security risk factors pursuant to Section 2(1) of Act of 2018 on the licensing of organisations supporting migration.”

(2) Section 5 of Act CXXV of 1995 on the national security services is supplemented with the following item (q):

(The Constitution Protection Office)

“(q) conducts the investigation of national security risk factors pursuant to Section 2(1) of Act of 2018 on the licensing of organisations supporting migration.”

(3) Section 6 of Act CXXV of 1995 on the national security services is supplemented with the following item (t):

(The Military National Security Service)

“(t) conducts the investigation of national security risk factors pursuant to Section 2(1) of Act of 2018 on the licensing of organisations supporting migration.”

Section 10

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

“(7) The court takes a measure specified in a procedure initiated in accordance with Section 3(3) of Act of 2018 on the licensing of organisations supporting migration.”

(2) Section 84(1) of Act CLXXXI of 2011 on the court registration of civil society organisations and related rules of proceeding shall be supplemented with the following item (i):
(In the case of a foundation, the registration contains also the following details in addition to those specified in Section 91:)

“(i) the fact that it is qualified as a licensed organisation pursuant to Act ... of 2018 on the

licensing of organisations supporting migration.”

(3) Section 95 of Act CLXXXI of 2011 on the court registration of civil society organisations and related rules of proceeding shall be supplemented with the following item (f):

(In the case of an association, the registration contains also the following details in addition to those specified in Section 91:)

“(f) the fact that it is qualified as a licensed organisation pursuant to Act ... of 2018 on the licensing of organisations supporting migration.”

Section 11

(1) Section 246 of Act CL of 2017 on the taxation rules shall be supplemented with the following item (h):

(The national tax and customs authority deletes the tax number, if)

“(h) it is initiated by the prosecutor in accordance with Act ... of 2018 on the licensing of organisations supporting migration.”

(2) In Section 246(7)(c) of Act CL of 2017 on the taxation rules, text part “In Section (1)(f)” shall be replaced with text “In Section (1)(f) and (h)”.

Section 12

(1) Section 5(1)(d) of Act LXXX of 2007 on asylum shall be replaced with the following provision:

(The person applying for recognition is entitled)

“(d) to establish and maintain connections with the UN High Commissioner for Refugees and any other international organisation or -- unless otherwise provided by law -- with a civil organisation during the period of the asylum procedure.”

(2) Section 37(3) of Act LXXX of 2007 on asylum shall be replaced with the following provision:

“(3) The person applying for recognition must be allowed to benefit for legal assistance at his or her own expenses, or if he or she has insufficient means, then free of charge in accordance with the act on legal aid, or accept -- unless otherwise provided by law -- free legal assistance from a registered association engaged in legal protection.”

Section 13

(1) Section 86/A(1)(a) of Act II of 2007 on the entry and stay of third-country nationals shall be replaced with the following item (ag):

(For the purposes of this act, an aliens policing affair:)

“(ag)(ag) a procedure an organisation to be licensed;”

(2) Section 86/A of Act II of 2007 on the entry and stay of third-country nationals is replaced with the following Section (3):

“(3) The provisions of Act of 2018 on the licensing of migration supporting organisations shall apply to the procedure specified in Section (1)(a)(ag).”

Annex I to Act ... of 2018

Data content of the announcement of financial or property benefits deriving from abroad

I. Indication of the subject year:

II. Data related to the organisation

1. Name of the organisation:

2. Registered seat:

3. Registration number:

4. Tax number:

III. Data related to the supporter granting a financial or property benefit from abroad:

1. Name of the supporter granting a financial or property benefit from abroad, designation of the organisation:

2. Address or seat of the supporter granting a financial or property benefit from abroad:

3. Purpose of the support specified by the supporter granting a financial or property benefit from abroad:

IV. Financial or property benefit deriving from abroad

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

1. total of financial benefits:

2. other property benefits:

B) Planned purpose of the use of financial or property benefits deriving from abroad

General reasoning

According to the position of the Hungarian Government, mass immigration is a problem that poses a severe security risk. Hungary is particularly affected by the migration wave as it is an immigration front country.

During the national consultation related to the Soros Plan, an unmatched number of Hungarian citizens, more than 2.3 million expressed their opinion. Based on the results of the consultation, the Hungarians want strong border protection and decisive action against those organising and facilitating illegal immigration. Hungarian citizens unanimously reject all plans facilitating and encouraging immigration. Hungarians do not wish Hungary to become an immigration country.

The Government has prepared a comprehensive defense package that reflects this demand. The legislative packages also includes proposal on the immigration financing duty and on immigration restraining orders.

According to the proposal package, in the future pursuing a migration organising, supporting or financing activity will be subject to licensing. Organisation supporting migration must pay an immigration financing duties on their benefits received from abroad. Revenues resulting from this will serve the purposes of border protection. Based on the proposal package, not only persons organising immigration could be subjected to restraining orders but those who finance supporters of immigration as well.

For the government, the security of Hungary enjoys priority and the government finds it necessary to take action against illegal immigration and activities facilitating it with the above measures.

Detailed reasoning

Section 1

The act covers organisations registered as associations or foundations that are registered as associations or foundations under Act CLXXV of 2011 on the freedom of association, non-profit status and the operation and support of civil organisations (hereinafter referred to as organisations) that sponsor, organise or support in any other way the entry via a safe third country or the stay of a third-country national in Hungary in the interest of providing international protection.

The proposal gives examples of activities by means of which an organisation sponsors, organises or supports in any other way, in the interest of providing international protection, the entry via a

safe third country or the stay of a third-country national in Hungary.

Sections 2, 9, 13

The proposal lays down that any migration supporting activity may be pursued only on the basis of a license granted by the Minister in charge of immigration and refugee affairs (hereinafter referred to as the Minister). According to the provision, the Minister must obtain an opinion on the assessment of national security risk factors during the licensing procedure. The Constitution Protection Office, the Information Office and the Military National Security Service are charged with investigating the national security risk factors.

In addition, during the licensing procedure the Minister examines if the organisation pursues its activity from financial or property benefits deriving directly or indirectly from abroad, and may ask the national tax authority to audit the use of funds by the organisation. In addition, the Minister may not evaluate any research, awareness-raising, educational, scientific and humanitarian activities to the disadvantage of the organisation during the licensing procedure.

The Minister sends his decision to the court competent according to the registered seat of the association or foundation, which attaches it to the data of the association or foundation, and if the license is granted it registers the association or foundation as a licensed organisation.

The Minister's decision may be challenged at court; provisional measures of legal protection are not available in the lawsuit.

Sections 3, 11

If the organisation pursues its activity without a license, the prosecutor will carry out an investigation.

If the prosecutor notices that the organisation supports migration without a license, it calls on the organisation to abandon the unlicensed activity, and simultaneously initiates that the tax number of the foundation or association is deleted by the National Tax and Customs Office.

If the organisation continues its activity despite the prosecutor's call, the prosecutor may initiate that a fine be imposed on the organisation. If the organisation does not comply with the prosecutor's call even after imposition of a fine, the prosecutor initiates the dissolution of the civil organisation at the registration court.

Section 4

An association or foundation falling under the scope of the act is obliged to regularly declare its revenues from abroad to the National Tax and Customs Office.

Section 5

Provision on authorisation.

Section 6

Provision on entry into effect.

Provision 7

Temporary provision.

Provision 8

Clause on cardinal laws.

Section 10

The modification lays down that the registration court registers the licensed civil organisation as a licensed organisation pursuant to the act on the licensing of organisations supporting migration.

Section 12

The proposal establishes coherence between the Act on Asylum and the present act.



Prime Minister's Office

Document Number: **T/19775.**

Date of submission: **02.13.2018, 21:55**

Parlex ID: **16A1PNSL0001**

To: **László Kövér, Speaker of the Parliament**

Re: **Submission of a proposal**

Submitted by: **Dr. Zsolt Semjén, Deputy Prime Minister**

Referee: **Antal Rogán, Head of Cabinet of the Prime Minister**

Title of the proposal: **On the Immigration Financing Duty**

On behalf of the Government, I submit a proposal on the immigration financing duty.

Act ... of 2018

on the immigration financing duty

As part of the Stop Soros legislative package, in order to create common social responsibility, the Parliament adopts the following act:

Section 1

This Act covers organisations supporting migration pursuant to the Act on the licensing of organisations supporting migration (hereafter organisation).

Section 2

The organisation is obliged to pay an immigration financing duty if it receives any financial or property benefit either directly or indirectly from abroad.

Section 3

The obligation to pay the immigration financing duty is due on the day when the organisation submits its report to the state tax authority.

Section 4

(1) The immigration financing duty is based on the financial or property benefit given to the organisation 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, 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 is exempt from paying the part of the duty about which it can creditably certify to the tax authority that it did not, in the interest of providing international protection, sponsor or support in any other way the entry, via a safe third country, or the stay of a third-country national in Hungary, from a financial or property benefit given either directly or indirectly and deriving from abroad.

(3) The organisation is also exempt from paying the part of the duty about which it can creditably certify to the tax authority that it carries out humanitarian assistance from the financial or property benefit given either directly or indirectly and deriving from abroad.

Section 5

If the organisation 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.

Section 9

Section 36(2) 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:

“(2) Civil society organizations and public-benefit organizations, and the benefactors of such organizations – in the exemption of derogation based on an act – shall be entitled to tax and duty exemption or to tax and duty allowance.

General reasoning

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

Detailed reasoning

To Sections 1 and 2

The Act covers an organisation pursuant to the Act on the licensing of organisations supporting migration; such an organisation is obliged to pay an immigration financing duty if it receives any financial or property benefit either directly or indirectly from abroad.

To Section 3

The obligation to pay the immigration financing duty is due on the day when the organisation submits its report to the state tax authority.

To Section 4

The rate of the immigration financing duty is 25 % of the benefit that is the basis of the duty that the organisation must pay by June 30 each year in a way specified by the governmental decree issued on the execution of this Act.

The organisation is exempt from paying the part of the duty about which it can creditably certify that the financial or property benefit it received directly or indirectly from abroad was not used for activities that support migration. The organisation is also exempt from paying the part of the duty about which it can creditably certify that the financial or property benefit it received directly or indirectly from abroad was used to carry out humanitarian assistance.

To Section 5

If the organisation fails to meet its duty payment obligation, a fine double the amount of the unpaid duty may be imposed on it.

To Section 6

The proposed act lays down that the tasks of the tax authority in relation to the immigration

financing duty 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.

To Section 9

It is formulated through the amendment of Section 36(2) of Act CLXXV of 2011 on the freedom of association, non-profit status and the operation and support of civil organisations that in case of a derogation based on an act, civil society organisations and public-benefit organisations are not entitled to tax and duty exemption or to tax and duty allowance.



Prime Minister's Office

Document Number: **T/19774.**

Date of submission: **02.13.2018, 21:49**

Parlex ID: **10OFK7KM0001**

To: **László Kövér, Speaker of the Parliament**

Re: **Submission of a proposal**

Submitted by: **Dr. Zsolt Semjén, Deputy Prime Minister**

Referee: **Antal Rogán, Head of Cabinet of the Prime Minister**

Title of the proposal: **On the Immigration Restraining Orders**

On behalf of the Government, I submit a proposal on the immigration restraining orders.

Act ... of 2018

on immigration restraining orders

As part of the Stop Soros legislative package, for the safety of the Hungarian citizens and for the protection of their full and inviolable rights, the Parliament adopts 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”) conducts an immigration restraining procedure. The minister conducts this procedure once becoming aware of circumstances warranting such procedure. The minister orders the ban any person whose residence or activities in Hungary or in particular areas of 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) In particularly justified cases, the Minister may also ban third-country nationals from staying on the entire territory of Hungary, despite Section (1).

(3) The Minister may not initiate the procedure pursuant to Section (1) against a person who

- 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;
- f)* is a person providing legal representation in procedures regulated by the Act LXXX of 2007 on Asylum.

(4) 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 to pose a danger to the public interest, if the person specified in Section 1

- a) supports with his or her behaviour related to the migration situation, in the interest of providing international protection, supports the entry, via a safe third country, or the stay of a third-country national in Hungary, 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 while a state of crisis due to mass migration is in place, for six months, but not exceeding the period of the state of crisis due to mass migration.

Section 4

(1) The minister's decision adopted on immigration restraining order contains:

- 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 state of crisis due to mass immigration, the person concerned by the immigration restraining order may request the review of the immigration restraining order.

(6) The details of the ministerial procedure and the deadline of this procedure is specified by a

Government decree.

Section 5

The Government is authorised to adopt a decree on the detailed rules of the procedure and the deadline of immigration restraining orders.

Section 6

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

Section 7.

(1) Section 86/A. a) of Act II of 2007 on the admission and right of residence of third-country nationals is supplemented with the following af) provision:

(For the purposes of this Act)

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

(7) Section 86/A of Act II of 2007 on the admission and right of residence of third-country nationals is amended with the following (2) provision:

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

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 Bill, the Minister in charge of immigration and refugee affairs may ban citizens violating the national security interests or posing a danger to the public interest of Hungary, such as facilitating or financially supporting the entry, via a safe third country, or the stay of a third country national in Hungary, in the interest of providing international protection, 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.

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 any persons violating the national security interests or posing a danger to the public interest of Hungary 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, 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, or any person conducting legal representation in procedures regulated by the act on asylum.

To Section 2

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

To Section 3

The proposed act provides that an immigration restraining order may be ordered while a state of crisis due to mass migration is in place, for six months, but not exceeding the period of the state of crisis due to mass migration.

To Section 4

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 state of crisis due to the mass immigration, then the person concerned by the immigration restraining order may request the review of the restraining order.

To Section 5

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

To Section 6

Provision on entry into force.

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.

Provision on entry into force.