Please cite as: EUAA, '2.4.1. Effective access to the asylum procedure' in *Asylum Report 2022*, May 2022.

2.4.1. Effective access to the asylum procedure

2.4.1. Effective access to the asylum procedure

icon case law effective access to the asylum procedure

In *European Commission* v *Hungary* (C-821/19), the Grand Chamber of the CJEU held that Hungary failed to fulfil its obligations under the recast Asylum Procedures Directive, Articles 8(2), 12(1)(c), 22(1) and 33(2) and the recast Reception Conditions Directive, Article 10(4). In 2018, Hungary had introduced a new ground of inadmissibility for an application for international protection for people who arrived in Hungary after transiting a state in which they were not exposed to persecution or to a risk of serious harm, or in which a sufficient degree of protection was guaranteed.

In its deliberations, the CJEU confirmed its 2020 judgment, *LH* v *Bevándorlási és Menekültügyi Hivatal* (C 564/18), that transiting through a third country cannot alone be a valid reason to consider that the applicant could reasonably return to that country. Moreover, Hungary had criminalised activities that facilitated the lodging of an asylum application by people who were not entitled to asylum under Hungarian law and restricted their freedom of movement. The CJEU considered that Hungary limited access to the asylum procedure through these legislative provisions and the restrictions could not be justified by aiming to prevent the misuse of the asylum procedure or the fight against illegal immigration. The Hungarian Helsinki Committee welcomed the judgment, as the NGO’s activities could otherwise potentially be criminalised under the Hungarian law.269

- 269The Hungarian Helsinki Committee. EU Court: criminalising helping asylum-seekers breaches EU law. 16 November 2021. https://helsinki.hu/en/cjeu-stop-soros-law-judgment/

© European Union Agency for Asylum 2026 | Email: info@euaa.europa.eu