



**FRANS TIMMERMANS**  
First Vice-President

Brussels, 18. 01. 2018

*Dear Ana,*

I would like to thank you for your letter of 14 November 2017 concerning the case of Mr. Ahmed H., a Syrian refugee who was arrested in Hungary.

The question of whether someone is guilty or innocent of a criminal offence is a question for which only the courts of Member States, in this case in Hungary, are responsible. Accordingly, the European Commission has no general powers to intervene in the day-to-day running of the criminal justice system of any individual Member State.

At the same time, Member States are bound to respect the rights enshrined in the Charter of Fundamental Rights of the European Union when they implement EU legislation<sup>1</sup>. For instance, Member States will have to respect the Charter when they implement the Directive on combating terrorism, which provides for minimum rules on the definition of terrorist and terrorist-related offences.

Article 47, second paragraph, of the Charter enshrines the right to a fair trial. The Commission attaches great importance to the respect of the right to a fair trial. In order to ensure the right to a fair trial in criminal proceedings, six procedural rights directives have been adopted in the European Union to date<sup>2</sup>. These directives apply to all suspects or accused persons in criminal proceedings in the European Union, irrespective of their nationality. The European Commission uses all tools available, including infringement proceedings, when necessary, to ensure compliance with the Charter. I recall that on 10 December 2015 the European Commission opened an infringement procedure against Hungary concerning its asylum law for the violation, *inter alia*, of Article 47 of the Charter. I wish to inform you that on 7 December 2017 the European Commission decided to move forward on the infringement procedure by sending a reasoned opinion.

Ms Ana Gomes, MEP  
European Parliament

E-mail: [anamaria.gomes@europarl.europa.eu](mailto:anamaria.gomes@europarl.europa.eu)

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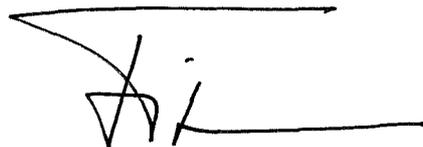
<sup>1</sup> Article 51 of the Charter

<sup>2</sup> Directive 2010/64/EU on the right to interpretation and translation, Directive 2012/13/EU on the right to information, Directive 2013/48/EU on the right of access to a lawyer, Directive (EU) 2016/343 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings, Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused in criminal proceedings and Directive (EU) 2016/1919 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings.

*As you note in your letter, the initial conviction of Ahmed H. was annulled in summer 2017 and a new trial will take place. The Commission is following the outcome of this case with interest and reserves its right to take appropriate action as guardian of the Treaties, including the Charter.*

*Please be assured that the European Commission remains strongly committed to upholding EU law and the values on which the EU is founded and will continue to follow the developments in Hungary in this respect.*

*Yours faithfully*

A handwritten signature in black ink, consisting of a large, stylized 'F' followed by 'Timmermans'.

Frans Timmermans