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Plenary sitting

4.3.2011

B7-0191/2011

MOTION FOR A RESOLUTION

to wind up the debate on the statement by the Commission

pursuant to Rule 110(2) of the Rules of Procedure

on media law in Hungary

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on behalf of the S&D Group

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on behalf of the ALDE Group

Daniel Cohn-Bendit, Rebecca Harms, Judith Sargentini, Helga Trüpel, Christian Engström, Hélène Flautre, Raúl Romeva i Rueda, Eva Lichtenberger

on behalf of the Verts/ALE Group

Lothar Bisky, Rui Tavares, Alf Svensson, Patrick Le Hyaric, Willy Meyer, Jürgen Klute, Marie-Christine Vergiat, Cornelia Ernst

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on behalf of the GUE/NGL Group

European Parliament resolution on media law in Hungary

The European Parliament,

- having regard to Articles 2, 3, 6 and 7 of the Treaty on European Union (TEU), Articles 49, 56, 114, 167 and 258 of the Treaty on the Functioning of the European Union (TFEU), Article 11 of the Charter of Fundamental Rights of the European Union and Article 10 of the European Convention on Human Rights (ECHR) relating to respect for and the promotion and protection of fundamental rights, in particular freedom of expression and information and the right to media pluralism,
- having regard to Directive 2010/13/EU of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive – AVMSD)¹,
- having regard to the European Charter on Freedom of the Press of 25 May 2009, to the Commission's working document on media pluralism in EU Member States (SEC(2007)0032), to the 'three-step approach to media pluralism' defined by the Commission, and to the independent study carried out on behalf of the Commission and finalised in 2009,
- having regard to its resolutions of 22 April 2004 on the risks of violation in the European Union and particularly in Italy of freedom of expression and information², of 25 September 2008 on concentration and pluralism in the media in the European Union³, and of 7 September 2010 on journalism and new media – creating a public sphere in Europe,
- having regard to the statements by the Commission, to the parliamentary questions tabled and debates held in the European Parliament on 8 October 2009, regarding freedom of information in Italy, and on 8 September 2010, and to the discussions held in the joint meeting of the Committee on Civil Liberties, Justice and Home Affairs (LIBE Committee) and the Committee on Culture and Education (CULT Committee) on 17 January 2011 regarding the Hungarian media law,
- having regard to the decision by the LIBE Committee to request the Fundamental Rights Agency to issue an annual comparative report on the situation with regard to media freedom, pluralism and independent governance in the EU Member States, including indicators,
- having regard to the UNESCO Convention on the Protection and Promotion of the

¹ Analysis and assessment of a package of Hungarian legislation and draft legislation on media and telecommunications, prepared by Dr Karol Jakubowicz for the OSCE.

² OJ C 104 E, 30.4.2004, p. 1026.

³ Texts adopted, P6_TA(2008)0459.

Diversity of Cultural Expressions, in particular Articles 5(2), 7, and 11 thereof,

- having regard to Rule 110(2) of its Rules of Procedure,
- A. whereas the European Union is founded on the values of democracy and the rule of law, as stipulated in Article 2 TEU, and consequently guarantees and promotes freedom of expression and of information, as enshrined in Article 11 of the Charter of Fundamental Rights and in Article 10 of the ECHR, and recognises the legal value of the rights, freedoms and principles as set out in the Charter of Fundamental Rights, which it has also demonstrated by acceding to the ECHR, for which media freedom and pluralism are essential prerequisites, and whereas these rights include freedom to express opinions and freedom to receive and communicate information without control, interference or pressure from public authorities,
- B. whereas media pluralism and freedom continue to be matters of grave concern in the EU and its Member States, notably in Italy, Bulgaria, Romania, the Czech Republic and Estonia, as highlighted by the recent criticism of the media law and constitutional changes enacted in Hungary between June and December 2010 which has been voiced by international organisations, such as the OSCE and the Council of Europe Commissioner for Human Rights, by a large number of international and national journalists' organisations, by editors and publishers, by NGOs active in the areas of human rights and civil liberties, and by Member States and the Commission,
- C. whereas the Commission raised concerns and requested information from the Hungarian Government regarding the conformity of the Hungarian media law with the AVMSD and the *acquis communautaire* in general, notably in relation to the obligation to offer balanced coverage applicable to all audiovisual media service providers, and also questioned whether that law complied with the principle of proportionality and respected the fundamental right to freedom of expression and information enshrined in Article 11 of the Charter of Fundamental Rights, the country-of-origin principle and registration requirements, and whereas the Hungarian Government responded by providing further information and by commencing the process of amending the law to address the points raised by the Commission,
- D. whereas the OSCE expressed serious reservations regarding the scope of the Hungarian laws (material and territorial scope), freedom of expression and the regulation of content, the appointment of one person to act as the national media and telecommunications authority, and compliance with the principles governing public-service broadcasting¹, indicating that the new legislation undermined media pluralism, abolished the political and financial independence of the public-service media and cemented the negative features for the free media in the long term, and that the Media Authority and Media Council were politically homogeneous² and exerted pervasive and centralised governmental and political control over all media; whereas further concerns included the disproportionate and extreme penalties imposed for debatable and undefined reasons, the

¹ Analysis and assessment of a package of Hungarian legislation and draft legislation on media and telecommunications, prepared by Dr Karol Jakubowicz for the OSCE.

² Letter of 14 January 2010 from the OSCE Representative on Freedom of the Media to the Chair of the Committee on Civil Liberties, Justice and Home Affairs.

lack of an automatic procedure for suspending penalties in the event of an appeal to the courts against a Media Authority ruling, the violation of the principle of the confidentiality of journalistic sources and the protection of family values,

- E. sharing the serious reservations expressed by the OSCE in relation to the politically homogeneous composition of the Media Authority and Media Council, the timeframe, the exertion of a pervasive and centralised governmental, judicial and political control over all media, the fact that the most problematic features of the legislation contravene OSCE and international standards on freedom of expression, for example by doing away with the political and financial independence of public-service media, the scope of the regulation (material and territorial), and the decision not to define key terms, making it impossible for journalists to know when they may be breaking the law,
- F. whereas the Council of Europe Commissioner for Human Rights called on the Hungarian authorities, when reviewing the media law, to take account of Council of Europe standards on freedom of expression and media pluralism, the relevant recommendations of the Committee of Ministers and the Parliamentary Assembly of the Council of Europe, and, in particular, the binding standards set out in the ECHR and the case law of the European Court of Human Rights; whereas he referred to the use of unclear definitions which are open to misinterpretation, the establishment of politically unbalanced regulatory machinery with disproportionate powers which is not subject to full judicial supervision, threats to the independence of public-service broadcast media, and erosion of the protection of journalists' sources; whereas he also stressed the need for all relevant stakeholders, including opposition parties and civil society, to be able to participate in a meaningful manner in the review of this legislation, which regulates such a fundamental aspect of the functioning of a democratic society¹,
- G. whereas, in a second opinion issued on 25 February 2011, the Commissioner for Human Rights recommends a 'wholesale review' of the Hungarian media law package, with the objectives, inter alia, of reinstating precise legislation promoting a pluralistic and independent media, and strengthening the guarantees that media regulatory mechanisms will be immune from political influence²; whereas he further states that the media in Hungary must be able to perform their role as watchdog in a pluralistic democratic society and that in order to achieve this, Hungary should abide by its commitments as a member state of the Council of Europe and make the most of that organisation's expertise in the fields of freedom of expression and media independence and pluralism,
- H. whereas the Hungarian media law should consequently be suspended as a matter of urgency and reviewed on the basis of the Commission's, OSCE's and Council of Europe's comments and proposals, in order to ensure that it is fully in conformity with EU law and European values and standards on media freedom, pluralism and independent media governance,
- I. whereas, despite repeated calls by Parliament for a directive on media freedom, pluralism and independent governance, the Commission has up to now delayed this proposal, which has become increasingly necessary and urgent,

¹ http://www.coe.int/t/commissioner/News/2011/110201Hungary_en.asp.

² <https://wcd.coe.int/wcd/ViewDoc.jsp?id=1751289>.

- J. whereas the Copenhagen criteria for EU membership, as established in June 1993 at the Copenhagen European Council, relating to freedom of the press and freedom of expression should be upheld by all EU Member States and enforced through relevant EU legislation,
- K. whereas, in paragraphs 45 and 46 of its judgment in joined Cases C-39/05 P and C-52/05 P, the Court of Justice has held that access to information enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater legitimacy and is more effective and more accountable to the citizen in a democratic system and that it ‘is a precondition for the effective exercise of citizens’ democratic rights’,
1. Calls on the Hungarian authorities to restore the independence of media governance and halt state interference with freedom of expression and ‘balanced coverage’, and believes that over-regulation of the media is counterproductive, jeopardising effective pluralism in the public sphere;
 2. Welcomes the Commission’s cooperation with the Hungarian authorities to bring Hungarian media law into conformity with EU Treaties and law, and the commencement of the amending process at national level;
 3. Deplores the Commission’s decision to target only three points in connection with the implementation of the *acquis communautaire* by Hungary and the lack of any reference to Article 30 of the AVMSD, which has the effect of limiting the Commission’s own competence to scrutinise Hungary’s compliance with the Charter of Fundamental Rights when implementing EU law; urges the Commission to examine Hungary’s compliance with the liability arrangements laid down in Directive 2000/31/EC on electronic commerce and Hungary’s transposition of the EU framework decisions on combating certain forms and expressions of racism and xenophobia by means of criminal law (2008/913/JHA) and on combating terrorism (2008/919/JHA), which include references to freedom of expression and circumventions of the rules on media freedom;
 4. Calls on the Commission to continue the close monitoring and assessment of the conformity of Hungarian media law as amended in accordance with European legislation, particularly with the Charter on Fundamental Rights;
 5. Calls on the Hungarian authorities to involve all stakeholders in the revision of the media law and of the Constitution, which is the basis for a democratic society founded on the rule of law, with appropriate checks and balances to safeguard the fundamental rights of the minority against the risk of the tyranny of the majority;
 6. Calls on the Commission to act, on the basis of Article 265 TFEU, by proposing a legislative initiative pursuant to Article 225 TFEU on media freedom, pluralism and independent governance before the end of the year, thereby overcoming the inadequacies of the EU’s legislative framework on the media, making use of its competences in the fields of the internal market, audiovisual policy, competition, telecommunications, State subsidies, the public-service obligation and the fundamental rights of every person resident on EU territory, with a view to defining at least the minimum essential standards that all Member States must meet and respect in national legislation in order to ensure,

guarantee and promote freedom of information and an adequate level of media pluralism and independent media governance;

7. Calls on the Hungarian authorities to review the media law further on the basis of the comments and proposals made by the European Parliament, the Commission, the OSCE and the Council of Europe Commissioner for Human Rights, the recommendations of the Committee of Ministers and Parliamentary Assembly of the Council of Europe, and the case law of the European Court of Justice and the European Court of Human Rights and, in the event that it is found to be incompatible with the letter or spirit of the Treaties or EU law, the Charter of Fundamental Rights or the ECHR, to repeal and not to apply the law or those elements thereof that are found to be incompatible;
8. Instructs its President to forward this resolution to the Council, the Commission, the Council of Europe, the governments and parliaments of Member States, the Fundamental Rights Agency, the OSCE and the Council of Europe.