



Plenary sitting

B8-1351/2015

9.12.2015

MOTION FOR A RESOLUTION

further to Question for Oral Answer B8-1110/2015

pursuant to Rule 128(5) of the Rules of Procedure

on the situation in Hungary
(2015/2935(RSP))

Birgit Sippel, Péter Niedermüller, Tanja Fajon, Sylvie Guillaume, Ana Gomes, Iliana Iotova, Sylvia-Yvonne Kaufmann, Juan Fernando López Aguilar, Soraya Post, Vilija Blinkevičiūtė, Hugues Bayet, Petra Kammerevert, Miltiadis Kyrkos, Andrejs Mamikins, Emilian Pavel, Christine Revault D'Allonnes Bonnefoy, Elly Schlein, Daniele Viotti, Evelyne Gebhardt, Sergio Gutiérrez Prieto, Nikos Androulakis, Nicola Danti, Patrizia Toia, Miroslav Poche, Nicola Caputo, Demetris Papadakis, Elena Valenciano, Viorica Dăncilă, Costas Mavrides, Momchil Nekov, Isabella De Monte, Flavio Zanonato, Marc Tarabella, Edouard Martin, Eric Andrieu, Victor Boștinaru, Inmaculada Rodríguez-Piñero Fernández, Maria Grapini, Tibor Szanyi, Brando Benifei, Miapetra Kumpula-Natri, Eva Kaili, Julie Ward

on behalf of the S&D Group

**European Parliament resolution on the situation in Hungary
(2015/2935(RSP))**

The European Parliament,

- having regard to the preamble to the Treaty on European Union (TEU), in particular the second and the fourth to seventh indents thereof,
- having regard, in particular, to Articles 2, 3(3), second indent, 6 and 7 of the TEU, and to the articles of the TEU and the Treaty on the Functioning of the European Union (TFEU) relating to respect for, and the promotion and protection of, fundamental rights in the EU,
- having regard to the Charter of Fundamental Rights of the European Union of 7 December 2000, which was proclaimed on 12 December 2007 in Strasbourg and entered into force with the Treaty of Lisbon in December 2009,
- having regard to its resolutions of 10 March 2011 on media law in Hungary¹ and of 5 July 2011 on the revised Hungarian Constitution²,
- having regard to the letter of 6 March 2013 sent by the Ministers of Foreign Affairs of Germany, the Netherlands, Denmark and Finland to the Commission President, José Manuel Barroso, calling for a mechanism to foster compliance with fundamental values in the Member States,
- having regard to its resolution of 3 July 2013 on the situation of fundamental rights: standards and practices in Hungary³,
- having regard to its plenary debate of 21 October 2014 on democracy, the rule of law and fundamental rights in Hungary,
- having regard to the conclusions of the Council and the Member States meeting within the Council of 16 December 2014 on ensuring respect for the rule of law,
- having regard to the hearing held by the Committee on Civil Liberties, Justice and Home Affairs on 22 January 2015 on the situation of human rights in Hungary,
- having regard to its resolution of 10 June 2015 on the situation in Hungary⁴,
- having regard to the Commission communication of 11 March 2014 entitled ‘A new EU Framework to strengthen the Rule of Law’ (COM(2014)0158),
- having regard to the statement of 27 November 2015 by the Council of Europe

¹ OJ C 199 E, 7.7.2012, p. 154.

² OJ C 33 E, 5.2.2013, p. 17.

³ Texts adopted, P7_TA(2013)0315.

⁴ Texts adopted, P8_TA(2015)0227.

Commissioner for Human Rights, following his visit to Hungary,

- having regard to the statement made by the Commission at the plenary debate held in Parliament on 2 December 2015 on the situation in Hungary,
 - having regard to Hungarian Act CXL of 2015 on mass immigration,
 - having regard to the Hungarian Act CXLII of 2015 on the efficient protection of Hungary's borders and on mass immigration,
 - having regard to resolution 36/2015 of the Hungarian Parliament on a message to the leaders of the European Union, adopted on 22 September 2015,
 - having regard to the Commission's upcoming assessment of the Fourth Amendment to the Fundamental Law of Hungary,
 - having regard to Resolution 1941 (2013) of the Parliamentary Assembly of the Council of Europe on a request for the opening of a monitoring procedure in respect of Hungary, to its follow-up Resolution 2064 (2015) and to Resolution 2035 (2015) on the protection of the safety of journalists and of media freedom in Europe,
 - having regard to the question to the Commission on the situation in Hungary: follow-up to the European Parliament resolution of 10 June 2015 (O-000140/2015 – B8-1110/2015),
 - having regard to Rules 128(5) and 123(2) of its Rules of Procedure,
- A. whereas the European Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of people belonging to minorities, and whereas these values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail (Article 2 TEU);
- B. whereas sound public spending and the protection of the financial interests of the EU should be key elements of the EU's policy to increase the confidence of citizens by ensuring that their money is used properly, efficiently and effectively;
- C. whereas the manner in which the rule of law is implemented at national level plays a key role in ensuring mutual trust among Member States and their respective legal systems and is therefore of vital importance for establishing an area of freedom, security and justice, as described in Title V of the TFEU;
- D. whereas the EU Charter of Fundamental Rights prohibits any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation;
- E. whereas the right to asylum is guaranteed, with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol thereto of 31 January 1967 relating to the status of refugees, and in accordance with the TEU and the TFEU;

- F. whereas recent developments in Hungary have given rise to concerns about the situation of fundamental rights, democracy and the rule of law in the country, in particular as regards media freedom and pluralism, the fight against intolerance and discrimination, the human rights of immigrants, asylum seekers and refugees, freedom of assembly and association, freedom of education and academic research, equal treatment of religion and belief, restrictions and obstructions to the activities of civil society organisations, the rights of people belonging to minorities, including Roma and LGBTI people, the independence of the judiciary and many worrying allegations of corruption and conflicts of interest undermining the rule of law;
- G. whereas in July and September 2015 the Hungarian parliament adopted a number of amendments, relating in particular to the law on asylum, the penal code, the law on criminal procedure, the law on the border, the law on the police and the law on national defence; whereas the Commission's preliminary assessment revealed a number of serious concerns as to the compatibility of these amendments with EU law and their impact on respect for the fundamental rights of migrants, in particular for the principle of non-refoulement; whereas on 6 October 2015 the Commission sent an administrative letter to the Hungarian Government; whereas the Hungarian Government responded to that letter on 4 November 2015;
- H. whereas, in its statement presented at the plenary debate held in the European Parliament on 2 December 2015 on the situation in Hungary, the Commission declared that it was ready to use all the means at its disposal, including infringement proceedings, to ensure that Hungary – and any other Member State – complies with its obligations under EU law and respects the values of the Union as enshrined in Article 2 TEU; whereas the Commission considers that the conditions for activating the Rule of Law Framework as regards Hungary are not met at this stage;
1. Reiterates the position it expressed in its resolution of 10 June 2015 on the situation in Hungary;
 2. Recalls that a serious breach by a Member State of the values referred to in Article 2 TEU would trigger the 'Article 7' procedure;
 3. Voices serious concerns regarding the recently adopted legislative changes in the area of migration, asylum and border law; regrets the series of swift measures taken in recent months that have rendered access to international protection extremely difficult if not impossible and have unjustifiably criminalised migrants and asylum seekers; stresses its concerns regarding respect for the principle of non-refoulement; reiterates its concern at the increasing recourse to the detention of asylum seekers and the use of xenophobic rhetoric linking migrants to social problems or security risks, thereby making the integration of the few migrants staying in the country even more problematic;
 4. Believes that all Member States must comply fully with EU law in their legislative and administrative practice, and that all legislation, including the primary law of any Member State or candidate country, must reflect and be in accordance with basic European values, namely democratic principles, the rule of law and fundamental rights;
 5. Deplores the absence of a reaction from the Council to the developments in Hungary; urges the Council of the European Union and the European Council to hold a discussion

and adopt conclusions on the situation in Hungary;

6. Notes that the constitutional, legal and political developments have given rise to concerns regarding the principles of the rule of law, democracy and fundamental rights in Hungary in recent years, and that these developments, taken together, clearly represent an emerging systemic threat to the rule of law in this Member State; believes that Hungary is a test for the EU to prove its capacity and willingness to react to threats to and breaches of its own founding values by a Member State; regrets that the inaction of the EU may have contributed to similar developments in some other Member States, such as Poland, where there are worrying signs, similar to those in Hungary, of the rule of law being undermined;
7. Regrets that, in the face of these developments in Hungary, the Commission, as guardian of the Treaties, still does not consider the conditions for activating the Rule of Law Framework to be met;
8. Notes that the infringement procedures launched by the Commission against the Hungarian Government are steps in the right direction; recalls, however, that although infringement procedures are an important instrument in addressing a few rule of law concerns, they have achieved limited results since the Commission can only launch such procedures where the infringements constitute a breach of a specific provision of EU law, and they cannot therefore always effectively remedy systematic breaches of fundamental values, as the Commission pointed out in its communication on the EU framework to strengthen the rule of law;
9. Reiterates its call on the Commission to activate the first stage of the EU framework to strengthen the rule of law, and therefore immediately to initiate an in-depth monitoring process concerning the situation of democracy, the rule of law and fundamental rights in Hungary, assessing a potential systemic serious breach of the values on which the Union is founded, as set out in Article 2 TEU, including the combined impact of a number of measures that undermine the state of democracy, the rule of law and fundamental rights, and evaluating the emergence of a systemic threat to the rule of law in that Member State that could develop into a clear risk of a serious breach within the meaning of Article 7 TEU;
10. Reiterates its call on the Commission to put forward a proposal for the establishment of an EU mechanism on democracy, the rule of law and fundamental rights, as a tool for compliance with and enforcement of the Charter and the Treaties as signed by all Member States, relying on common and objective indicators, and to carry out an impartial yearly assessment of the situation of fundamental rights, democracy and the rule of law in all Member States, indiscriminately and on an equal basis, involving an evaluation by the EU Agency for Fundamental Rights, together with appropriate binding and corrective mechanisms, in order to fill existing gaps and to allow for an automatic and gradual response to breaches of the rule of law and fundamental rights at Member State level;
11. Calls for the establishment of a strong and independent European Public Prosecutor's Officer (EPPO) to fight fraud against the European budget and misuse of European funds, including in Hungary; notes the Commission's decision of 14 July 2015 to suspend several contracts across eight EU funding programmes due to the use of an

excessively restrictive selection criterion in public procurement procedures in Hungary; calls on the Commission to continue all investigations and the use of all existing legislative tools to their full extent, in order to ensure the transparent and proper use of EU funds in Hungary on the basis of EU law;

12. Welcomes the registration of a European Citizens' by the Commission on 30 November 2015, calling on the Commission to trigger Article 7 TEU and bring the Hungarian issue before the Council; instructs its Committee on Civil Liberties, Justice and Home Affairs to draft a specific report on Hungary in accordance with Rule 83(1)(a) of its Rules of Procedure, with the aim of adopting a reasoned proposal calling on the Council to act pursuant to Article 7(1) TEU and determine the existence of a clear risk of a serious breach by a Member State of the values referred to in Article 2 TEU;
13. Instructs its President to forward this resolution to the Commission, the Council, the President, Government and Parliament of Hungary, the governments and parliaments of the Member States and the candidate countries, the EU Agency for Fundamental Rights, the Council of Europe and the Organisation for Security and Cooperation in Europe.