

P7_TA(2012)0053

Recent political developments in Hungary

European Parliament resolution of 16 February 2012 on the recent political developments in Hungary (2012/2511(RSP))

The European Parliament,

- having regard to Articles 2, 3, 4, 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), the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights (ECHR), which are concerned with respect for and the promotion and protection of fundamental rights,
- having regard to the Basic Law of Hungary, adopted on 18 April 2011 by the National Assembly of the Hungarian Republic, which entered into force on 1 January 2012 (hereinafter referred to as ‘the new Constitution’), and the Transitional Provisions of the Basic Law of Hungary, adopted on 30 December 2011 by the National Assembly (hereinafter referred to as the Transitional Provisions),
- having regard to Opinions Nos CDL(2011)016 and CDL(2011)001 of the European Commission for Democracy through Law (Venice Commission) on the new Hungarian Constitution and the three legal questions arising from the process of drafting the new Hungarian Constitution,
- having regard to its resolutions of 10 March 2011 on the media law in Hungary¹ and the European Parliament resolution of 5 July 2011 on the Revised Hungarian Constitution²,
- having regard to the Commission Communication on Article 7 of the Treaty on European Union entitled ‘Respect for and promotion of the values on which the Union is based’ (COM(2003)0606),
- having regard to the establishment of a high-level group on Media Freedom and Pluralism by European Commission Vice-President Neelie Kroes in October 2011,
- having regard to the Council and Commission statements in the plenary debate of the European Parliament on 18 January 2012 on the recent political developments in Hungary, as well as to the hearing held on 9 February 2012 by the Committee for Civil Liberties, Justice and Home Affairs,
- having regard to the decision of the European Commission of 17 January 2012 to launch accelerated infringement proceedings against Hungary over the independence of its central bank and data protection authorities as well as over measures affecting the judiciary,
- 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

¹ Texts adopted, P7_TA(2011)0094.

² Texts adopted, P7_TA(2011)0483.

stipulated in Article 2 TEU, on unequivocal respect for fundamental rights and freedoms, as enshrined in the Charter of Fundamental Rights of the European Union and in the ECHR, and on the recognition of the legal value of said rights, freedoms and principles, which is further demonstrated by the EU's forthcoming accession to the ECHR;

- B. whereas the Member States, current and acceding, and the EU have a duty to ensure that the contents and processes of Member States' legislation are in conformity with EU laws and values, as enshrined particularly in the Copenhagen Criteria, the Charter of Fundamental Rights and the ECHR, and that the letter and spirit of adopted legislation do not contradict these values and instruments;
- C. whereas Hungary adopted a new constitution on 18 April 2011, the adoption and certain provisions of which were criticised by the European Parliament in its resolution of 5 July 2011 which called on the Hungarian Government to address the issues and concerns raised by the Venice Commission and called on the European Commission to conduct a thorough review and analysis of the new Constitution and of the cardinal laws set out thereby in order to check that they are consistent with the letter and the spirit of the *acquis communautaire* and in particular with the Charter of Fundamental Rights of the European Union;
- D. whereas the adoption of the cardinal laws raised concerns in a number of fields, notably the independence of the judiciary, the independence of the central bank, the independence of the data protection authority, fair conditions of political competition and political alternation, as well as the so-called stability law subjecting the income tax system to a two-thirds majority and the cardinal laws giving exclusive right to the current majority to appoint officials for an unusually long term, thus affecting the ability of future governments to govern;
- E. whereas the new head of the National Judicial Authority and the Chief Prosecutor will have the right to assign cases to tribunals, thereby infringing the principle of the right to access to court and to a fair trial and of the independence of the judiciary;
- F. whereas, according to the new Constitution and its Transitional Provisions, the Supreme Court was renamed the 'Kúria', and the 6-year-long mandate of the former Chairman of the Supreme Court was ended prematurely after 2 years;
- G. whereas the new Constitution stipulates lowering the mandatory retirement age of judges and prosecutors from the previous 70 years to 62 years of age, except for the President of the Kúria and the Chief Prosecutor, which may be discriminatory and will lead to the retirement of approximately 300 judges, which is a serious intrusion into the independent functioning of the judiciary;
- H. whereas, according to the provisions of the new Constitution, the previous system of four parliamentary commissioners has been downgraded to one, terminating prematurely the 6-year-long mandate of the Commissioner for Data Protection and Freedom of Information and transferring its powers to a newly founded authority, which is a serious intrusion into his independence;
- I. whereas the Hungarian Parliament has adopted several retroactive laws, thereby contravening one of the basic principles of European law, namely that of not adopting retroactive laws;

- J. whereas the recently-adopted law on churches and religious denominations contains unusually restrictive rules on the registration of churches and makes registration subject to parliamentary approval with a two-thirds majority;
- K. whereas, under the provisions of the constitution, the powers of the Hungarian Constitutional Court to review budget-related laws have been substantially diminished;
- L. whereas the significant number of matters relegated, for detailed regulation, to cardinal laws requiring a two-thirds majority, including issues which should be left to the ordinary political process and which are usually decided by simple majority, raises concerns, as expressed by the Venice Commission report;
- M. whereas Viviane Reding, Vice-President of the European Commission, underlined the intention of the European Commission to verify whether the new organisation of the judicial system in Hungary affects the independence of the judiciary; whereas Vice-President of the European Commission Neelie Kroes and the leader of the High-Level Group on Media Freedom and Pluralism, Vaira Vīķe Freiberga, have repeatedly expressed their concerns over the freedom and pluralism of the media in Hungary;
- N. whereas the President of the European Commission, José Manuel Barroso, underlined on 18 January 2012 that, apart from the legal aspects, concerns have also been expressed regarding the quality of democracy in Hungary, and appealed to the Hungarian authorities to respect the principles of democracy and freedom and to implement them not only in principle but also in practice and in political and social life in Hungary;
- O. whereas on 17 January 2012 the European Commission started infringement procedures against Hungary on three subjects: the independence of the Hungarian Central Bank, the lowering of the mandatory retirement age of judges enshrined in the Basic Law of Hungary, and the independence of the data protection authority, and also asked the Hungarian authorities for further information on the issue of the independence of the judiciary;
- P. whereas the European Parliament, in its resolution of 15 December 2010 on the situation of fundamental rights in the European Union (2009) – effective implementation after the entry into force of the Treaty of Lisbon¹, called for a ‘follow-up to the 2003 Communication on Article 7 of the Treaty on European Union to define a transparent and coherent way to address possible violations of human rights and make relevant use of Article 7 TEU on the basis of the new fundamental-rights architecture’;
- Q. whereas the Hungarian Government, and notably the Hungarian Prime Minister in his letter to the Commission and addressing the European Parliament, signalled his readiness to address the problems that triggered the infringement procedures, amend the legislation in question and further cooperate with the European Institutions beyond the legal proceedings;
- R. whereas the European Parliament has a role in monitoring respect for fundamental rights, freedoms and principles in all the 27 Member States, as enshrined in the European acquis;
- 1. Expresses serious concern at the situation in Hungary in relation to the exercise of democracy, the rule of law, the respect and protection of human and social rights, the system of checks and balances, equality and non-discrimination;

¹ Texts adopted, P7_TA(2010)0483.

2. Calls, in the joint interest of Hungarian citizens and the European Union, on the Hungarian Government to comply with the recommendations, objections and demands of the European Commission, the Council of Europe and the Venice Commission regarding the aforementioned issues and amend the laws concerned correspondingly, respecting the basic values and standards of the European Union;
3. Takes note of the commitment of the European Commission, the Council of Europe and the Venice Commission thoroughly to examine the compliance of Hungarian legislation with not only the letter but also the spirit of European law;
4. Calls on the European Commission as guardian of the Treaties to monitor closely the possible amendments and the implementation of the said laws and their compliance with the letter and spirit of the European Treaties and to conduct a thorough study to ensure:
 - (a) the full independence of the judiciary, in particular ensuring that the National Judicial Authority, the Prosecutor's Office and the courts in general are governed free from political influence, and that the mandate of independently-appointed judges cannot be arbitrarily shortened;
 - (b) that the regulation of the Hungarian National Bank abides by European legislation;
 - (c) that the institutional independence of data protection and freedom of information is restored and guaranteed by the letter and the implementation of the relevant law;
 - (d) that the right of the Constitutional Court to review any legislation is fully restored, including the right to review budgetary and tax laws;
 - (e) that the freedom and pluralism of the media is guaranteed by the letter and the implementation of the Hungarian Media Law, especially with regard to the participation of civil and opposition representatives in the Media Council;
 - (f) that the new electoral law meets European democratic standards and respects the principle of political alternation;
 - (g) that the right to exercise political opposition in a democratic way is ensured both within and outside institutions;
 - (h) that the law on churches and religious denominations will respect the basic principles of the freedom of conscience and refrain from subjecting the registration of churches to the approval of a two-thirds majority in the Hungarian Parliament;
5. Calls on the European Commission to request the opinion of the Venice Commission on the legislative package consisting of the new Constitution, the Transitional Provisions and the cardinal laws as a whole and continue working together on these matters with the Council of Europe;
6. Instructs the Committee on Civil Liberties, Justice and Home Affairs, in cooperation with the European Commission, the Council of Europe and the Venice Commission, to follow up the issue of whether and how the recommendations of the Commission and the European Parliament set out in point 4 of this resolution have been implemented and to present its findings in a report;

7. Instructs the Conference of Presidents, in the light of the report described in point 6, to consider whether to activate necessary measures, including measures pursuant to Article 74e of the Rules of Procedure and Article 7(1) TEU;
8. Instructs its President to forward this resolution to the Council, the Commission, the Council of Europe, the governments and parliaments of the Member States, the Fundamental Rights Agency, the OSCE and the UN Secretary General.