



Plenary sitting

B8-1358/2015

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: follow-up to the European Parliament resolution
of 10 June 2015
(2015/2935(RSP))

**Louis Michel, Sophia in 't Veld, Cecilia Wikström, Nathalie Griesbeck,
Filiz Hyusmenova, Ivan Jakovčić**
on behalf of the ALDE Group

**European Parliament resolution on the situation in Hungary: follow-up to the European Parliament resolution of 10 June 2015
(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 resolution of 10 June 2015 on the situation in Hungary¹,
- 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 Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the case law of the European Court of Human Rights, and the conventions, recommendations, resolutions and reports of the Parliamentary Assembly, Committee of Ministers, Human Rights Commissioner and Venice Commission of the Council of Europe,
- having regard to the statement of 27 November 2015 by the Council of Europe Commissioner for Human Rights, following his visit to Hungary,
- having regard to the Council’s first annual rule of law dialogue, held on 17 November 2015,
- 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 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,

¹ Texts adopted, P8_TA(2015)0227.

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 the Charter of Fundamental Rights of the European Union is part of EU primary law and prohibits discrimination based on any grounds 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;
- C. whereas by acceding to the Union, Member States have committed themselves to respecting the EU's founding values as enshrined in the Treaties and in the Charter; whereas the principle of subsidiarity cannot therefore be invoked by the Commission to justify the absence of a reaction towards breaches of these values by a Member State;
- D. 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;
- E. whereas recent initiatives and interference by the Hungarian Government, in particular over the past 12 months, have led to a serious and systemic deterioration of the rule of law as regards media freedom and pluralism, the fight against intolerance and discrimination, the rights of immigrants, asylum seekers and refugees, the freedom of assembly and association, the freedom of education and academic research, the equal treatment of religion and belief, restrictions on and obstacles to the activities of civil society organisations, the rights of people belonging to minorities, including Roma and LGBTI, the independence of the judiciary and many worrying allegations of corruption and conflicts of interest undermining the rule of law;
- F. whereas the Commission failed to respond to Parliament's request, as per its resolution of 10 June 2015 on the situation in Hungary, to initiate an in-depth monitoring process concerning the situation of democracy, the rule of law and fundamental rights in Hungary;
- G. whereas the instruments adopted by the Commission to closely monitor and reinforce Member States' budgetary and economic coherence contrast with its lack of willingness to genuinely and properly ensure full compliance by Member States with the EU's founding values; whereas this dual-compliance approach could severely endanger the trust of European citizens in the EU; whereas the EU's justifiable intransigence concerning the values of respect for democracy, the rule of law and fundamental rights is key to ensuring the credibility of the Union both internally and on the international stage;
- H. 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 highlighted a number of concerns and questions relating to the substance and implementation of those amendments; whereas on 6 October 2015 the Commission sent an administrative letter

to the Hungarian Government; whereas the Hungarian Government responded to that letter in November 2015;

- I. 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 required to activate the rule of law framework regarding Hungary or Article 7 TEU 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. Denounces the legal provisions hastily adopted in recent months that have rendered access to international protection extremely difficult and have unjustifiably criminalised refugees, migrants and asylum seekers; urges the Hungarian Government to return to normal procedures and repeal the crisis measures, as the exceptional influx of refugees has ceased; condemns the increasing recourse to detention of asylum seekers, migrants and refugees, including minors, and the use of xenophobic rhetoric linking migrants to social problems or terrorism, including through government-led communication campaigns and national consultations, thereby adding to the hostile and xenophobic environment and decreasing solidarity;
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 once again the absence of a reaction from the Council to the most recent 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 these developments have led to concerns regarding the principles of the rule of law, democracy and fundamental rights in Hungary over the past years, which, taken together, could represent an emerging systemic threat to the rule of law in this Member State; is of the opinion, contrary to the statement made by the Commission before Parliament on 2 December 2015, that the conditions for the activation of the rule of law framework and Article 7(1) are fully met; believes that Hungary presents 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; notes with concern that developments in some other Member States show worrying signs of an undermining of the rule of law similar to that in Hungary; regrets that the Commission’s continued lack of political willingness to address properly the situation in Hungary is creating a precedent with regard to other Member States that are adopting similar worrying trends concerning respect for the rule of law; believes that this raises serious concerns as to the ability of the Union to ensure continuing respect for the political Copenhagen criteria once a Member State has

acceded to the Union;

7. Regrets that the current approach taken by the Commission focuses mainly on marginal, technical aspects of the legislation while ignoring the trends, patterns and combined effect of the measures; believes that infringement proceedings, in particular, have failed in most cases to lead to real changes and to address the situation more broadly; reiterates its call on the Commission to activate the first stage of the EU framework to strengthen the rule of law, and therefore to initiate immediately 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 per Article 2 TEU, including the combined impact of a number of measures that undermine 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 which could develop into a clear risk of a serious breach within the meaning of Article 7 TEU;
8. Considers that the Commission has so far failed to act in accordance with its duties as guardian of the Treaties and the Union's common interests and values; deplores the fact that, by failing to consider or respond adequately to the concerns repeatedly expressed by the majority of Parliament's Members, the Commission is undermining the principle of mutual sincere cooperation among institutions as per Article 13 TEU;
9. Welcomes the registration of a European Citizens' Initiative inviting the Commission to propose the triggering of Article 7 TEU for alleged breaches by Hungary of the EU's fundamental values; instructs its Committee on Civil Liberties, Justice and Home Affairs to draft a specific report on Hungary in accordance with Rule 83 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;
10. Instructs its President to forward this resolution to the Council, the Commission, 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.