



Plenary sitting

B9-0412/2021/REV

6.7.2021

MOTION FOR A RESOLUTION

to wind up the debate on the statements by the Council and the Commission
pursuant to Rule 132(2) of the Rules of Procedure

on breaches of EU law and of the rights of LGBTIQ citizens in Hungary as a
result of the legal changes adopted by the Hungarian Parliament
(2021/2780(RSP))

Isabel Wiseler-Lima, Jeroen Lenaers

on behalf of the PPE Group

**Iratxe García Pérez, Simona Bonafè, Cyrus Engerer, Juan Fernando
López Aguilar, Katarina Barley, Marc Angel**

on behalf of the S&D Group

**Liesje Schreinemacher, Anna Júlia Donáth, Katalin Cseh, Moritz Körner,
Sophia in 't Veld, Ramona Strugariu, Michal Šimečka, Pierre Karleskind**

on behalf of the Renew Group

**Terry Reintke, Gwendoline Delbos-Corfield, Alexandra Geese, Rosa
D'Amato, Rasmus Andresen, Yannick Jadot, Erik Marquardt, Sylwia
Spurek, Alice Kuhnke, Saskia Bricmont, Hannah Neumann, Ernest
Urtasun, Monika Vana, Eleonora Evi, Katrin Langensiepen, Piernicola
Pedicini, Jutta Paulus, Anna Cavazzini, Tineke Strik, Daniel Freund,
Sergey Lagodinsky**

on behalf of the Verts/ALE Group

Malin Björk

on behalf of The Left Group

B9-0412/2021

**European Parliament resolution on breaches of EU law and of the rights of LGBTIQ citizens in Hungary as a result of the legal changes adopted by the Hungarian Parliament
(2021/2780(RSP))**

The European Parliament,

- having regard to the Charter of Fundamental Rights of the European Union (hereinafter ‘the Charter’),
- having regard to Article 2 of the Treaty on European Union (TEU),
- having regard to the European Convention on Human Rights and the related case law of the European Court of Human Rights (ECtHR),
- having regard to the Universal Declaration of Human Rights,
- having regard to the case law of the Court of Justice of the European Union (CJEU) and the ECtHR,
- having regard to the Commission communication of 12 November 2020 entitled ‘Union of Equality: LGBTIQ Equality Strategy 2020-2025’ (COM(2020)0698),
- having regard to the Commission communication of 24 March 2021 entitled ‘EU Strategy on the rights of the child (2020-2025)’ (COM(2021)0142),
- having regard to the results of the EU LGBT Survey launched by the European Union Agency for Fundamental Rights (FRA) in 2019,
- having regard to Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget¹ (‘the Rule of Law Conditionality Regulation’),
- having regard to its resolution of 12 September 2018 on a proposal calling on the Council to determine, pursuant to Article 7(1) of the Treaty on European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded²,
- having regard to its resolution of 18 December 2019 on public discrimination and hate speech against LGBTI people, including LGBTI-free zones³,
- having regard to its resolution of 16 January 2020 on ongoing hearings under

¹ OJ L 433 I, 22.12.2020, p. 1.

² OJ C 433, 23.12.2019, p. 66.

³ OJ C 255, 29.6.2021, p. 7.

Article 7(1) of the TEU regarding Poland and Hungary⁴,

- having regard to the CJEU’s decision of 3 June 2021 in case C-650/18 dismissing Hungary’s action against Parliament’s resolution of 12 September 2018 triggering the procedure for determining the existence of a clear risk of a serious breach by a Member State, of the values on which the European Union is founded⁵,
- having regard to its resolution of 7 October 2020 on the establishment of an EU Mechanism on Democracy, the Rule of Law and Fundamental Rights⁶,
- having regard to its resolution of 11 March 2021 on the declaration of the EU as an LGBTIQ Freedom Zone⁷,
- having regard to its resolution of 24 June 2021 on the situation of sexual and reproductive health and rights in the EU, in the frame of women’s health⁸,
- having regard to the Commission communication of 30 September 2020 entitled ‘2020 Rule of Law Report – The rule of law situation in the European Union’ (COM(2020)0580),
- having regard to its resolution of 24 June 2021 on the Commission’s 2020 Rule of Law Report⁹,
- having regard to the Hungarian Act LXXIX of 2021 on taking more severe action against paedophile offenders and amending certain Acts for the protection of children (the ‘Bill’ and, after promulgation, the ‘Law’),
- having regard to the inquiry launched by the European Commissioner for Equality on 16 June 2021 into the compliance of the Hungarian Law with Union law,
- having regard to the letter addressed by the Commissioners for Justice and for the Internal Market to the Hungarian Minister of Justice (Ares S(2021) 4587976) on the non-compliance of the draft law with several EU legal provisions, including Article 2 of the TEU on respect for human rights, freedom and non-discrimination,
- having regard to the letter signed by 17 heads of state or government during the European Council meeting of June 2021 which vowed to ‘continue fighting against discrimination towards the LGBTI community,’¹⁰
- having regard to the statement from the sidelines of the General Affairs Council meeting of 22 June 2021, co-signed by 18 Member States, regarding the adoption of the

⁴ Texts adopted, P9_TA(2020)0014.

⁵ Judgment of 3 June 2021, Hungary v Parliament, C-650/18, ECLI:EU:C:2021:426.

⁶ Texts adopted, P9_TA(2020)0251.

⁷ Texts adopted, P9_TA(2021)0089.

⁸ Texts adopted, P9_TA(2021)0314.

⁹ Texts adopted, P9_TA(2021)0313.

¹⁰ <https://twitter.com/alexanderdecroo/status/1407977290189971457/photo/1>

Hungarian Bill¹¹,

- having regard to the Recommendation CM/Rec(2010)5 of the Council of Europe’s Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity, and to the standards adopted by the Parliamentary Assembly of the Council of Europe,
 - having regard to the statement of the Commissioner for Human Rights of the Council of Europe concerning the Bill¹²,
 - having regard to the judgment of the ECtHR of 20 June 2017 in the case of Bayev and others v. Russia (applications nos. 67667/09 and 2 others)¹³,
 - having regard to the question to the Commission for oral answer of 22 June 2021 on breaches of EU law and of the rights of LGBTIQ citizens in Hungary as a result of the adopted legal changes in the Hungarian Parliament (O-000050/2021),
 - having regard to Rule 132(2) of its Rules of Procedure,
- A. whereas the Hungarian National Assembly adopted on 15 June 2021 a Bill which, at its origin, is intended to protect children against paedophile offenders, an objective which is shared and pursued by all institutions and Member States within the Union; whereas the Bill was promulgated on 23 June 2021 and will enter into force on 8 July 2021¹⁴; whereas the Law will restrict severely and intentionally the rights and freedoms of LGBTIQ persons, as well as children’s rights;
- B. whereas Hungary has made a number of statements in the Council recently, interpreting the concept of ‘gender’ in certain texts as a reference to sex and thus denying the existence of gender, in particular regarding the Crisis Management Concept (CMC) for a possible EU non-executive military common security and defence policy (CSDP) mission in Mozambique, the Just Transition Fund Regulation and the Common Provisions Regulation, as well as on other occasions;
- C. whereas the definitions of the Law are deliberately vague with the aim of causing a chilling effect; whereas the Law prohibits the ‘portrayal and promotion of gender identity different from sex assigned at birth, the change of sex and homosexuality’ in schools, in television programmes and in publicly available advertisements on any platforms for persons aged under 18, even for educational purposes; whereas the Law disqualifies such content from being considered as a public service announcement or social responsibility advertisement even if intended for adults; whereas the Law introduces amendments to the Child Protection Act, the Family Protection Act, the Act

¹¹ <https://wilmes.belgium.be/en/thirteen-countries-unite-belgiums-initiative-defend-lgbtqi-rights-europe>

¹² <https://www.coe.int/en/web/commissioner/-/commissioner-mijatovic-urges-hungary-s-parliamentarians-to-reject-draft-amendments-banning-discussion-about-sexual-and-gender-identity-and-diversity?inheritRedirect=true&redirect=%2Fen%2Fweb%2Fcommissioner%2Fthematic-work%2F-lgbti>

¹³ <http://hudoc.echr.coe.int/eng?i=001-174422>

¹⁴ Law published in the Gazette: <https://njt.hu/jogszabaly/2021-79-00-00;>

<https://magyarkozlony.hu/dokumentumok/ba643dee7b59c2a1901132e6e3320483d2245b56/megtekintes>

on Business Advertising Activity, the Media Act and the Public Education Act;

- D. whereas in 2018, Polish President Andrzej Duda stated that he would consider issuing a so-called ‘gay propaganda’ law, as adopted in Russia, which would ban LGBTIQ media, literature, and gatherings such as Pride; whereas in June 2021, Poland’s Deputy Justice Minister Michal Was announced that Poland is currently working on a bill which aims at banning ‘LGBT propaganda’;
- E. whereas in June 2021, the President of the Czech Republic Milos Zeman made degrading comments about the transgender community in a media interview relating to the new anti-LGBTIQ law in Hungary;
- F. whereas in 2013, Russia introduced a federal law ‘for the purpose of protecting children from information advocating for a denial of traditional family values’, which aimed at forbidding the normalisation of homosexuality in the media; whereas numerous human rights organisations across the world have stated that the Russian law imperils LGBTIQ young people;
- G. whereas as enshrined in Article 2 of the TEU, the 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 persons belonging to minorities;
- H. whereas the Commission’s LGBTIQ equality strategy establishes the common direction of the Union in protecting the rights of LGBTIQ persons in all Member States, and reiterates that equality and non-discrimination are core values and fundamental rights in the EU, enshrined in its Treaties and in the Charter of Fundamental Rights;
- I. whereas Commission President Ursula von der Leyen described the Law as a ‘shame’ and instructed the responsible Commissioners to address the Hungarian Government¹⁵; whereas the Commissioners for Justice and for the Internal Market addressed a letter to the Hungarian Minister of Justice in which they stated that the Law violates the following rights: the right to private and family life (Articles 7 and 9 of the Charter); the right to freedom of expression and information (Article 11 of the Charter); the freedom to conduct a business (Article 16 of the Charter); and non-discrimination (Article 21 of the Charter); whereas the Audiovisual Media Services Directive (AVMSD)¹⁶, the e-Commerce Directive¹⁷ and Article 56 of the Treaty on the Functioning of the European Union (TFEU) are applicable to at least some of the scenarios regulated, and Articles 34 and 36 of the TFEU may also be applicable and infringed by the contested provisions of the Law; whereas a reply to this letter was requested before 30 June 2021,¹⁸ whereas the Hungarian Minister for Justice responded on 1 July 2021;
- J. whereas 18 Member States¹⁹ co-signed a statement calling on the Commission to use all

¹⁵ https://ec.europa.eu/commission/presscorner/detail/en/statement_21_3164

¹⁶ OJ L 303, 28.11.2018, p. 69.

¹⁷ OJ L 178, 17.7.2000, p. 1.

¹⁸ <https://ec.europa.eu/commission/presscorner/api/files/attachment/869254/Letter%20by%20Commissioners%20Reynders%20and%20Breton.pdf>

¹⁹ Belgium, Denmark, Estonia, Finland, France, Germany, Ireland, Lithuania, Luxembourg, Netherlands, Spain, Sweden, Latvia, Italy, Greece, Austria, Cyprus and Portugal,

the tools at its disposal to ensure full respect for EU law, including by referring the matter to the CJEU;

- K. whereas 17 heads of state or government adopted a joint statement on 24 June 2021 declaring that they will continue fighting against discrimination towards the LGBTIQ community, reaffirming their defence of LGBTIQ persons' fundamental rights²⁰;
- L. whereas the Commissioner for Human Rights of the Council of Europe urged members of the Hungarian Parliament to reject the Bill; whereas she claimed that the Bill was affront against the rights and identities of LGBTIQ persons and that it also curtails the freedom of expression and education of all Hungarians²¹;
- M. whereas according to Recommendation CM/Rec(2010)5 of the Council of Europe's Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity, the leaders of Council of Europe member states have the responsibility to educate, to combat prejudices and discrimination and to work for the acceptance of LGBTIQ people;
- N. whereas the ECtHR ruled in the case of *Bayev and others v. Russia* that legislation banning the promotion of homosexuality, also known as the 'gay propaganda law' was in violation of Article 10 (freedom of expression) and Article 14 (prohibition of discrimination) of the European Convention on Human Rights, and was therefore discriminatory, and that it reinforced prejudice against LGBTIQ people, which is incompatible with the values of a democratic society;
- O. whereas Parliament has encouraged the Member States on several occasions to guarantee the right to comprehensive sexuality, sex and relationship education which is scientifically accurate, evidence-based, age-appropriate and non-judgemental; whereas international human rights bodies²² such as the Council of Europe have established that children and young people have the right to receive comprehensive sexuality education;
- P. whereas the LGBT Survey of the FRA highlights that more than half of respondents always or often heard or saw negative comments or conduct during their time at school because a schoolmate/peer was perceived to be LGBTI; whereas this number increases to 70 % for respondents aged 15-17, which highlights the need for acceptance and tolerance to be addressed in educational contexts;

The Law, its provisions and the violation of EU law

1. Condemns in the strongest possible terms the Law adopted by the Hungarian Parliament, which constitutes a clear breach of the EU's values, principles and law; recalls that the Law will introduce into different Hungarian acts provisions that violate fundamental rights under the Charter and the Treaties and EU internal market legislation (the AVMSD and the e-Commerce Directive); considers the Law to be in

²⁰ <https://twitter.com/alexanderdecroo/status/1407977290189971457?s=20>

²¹ <https://www.coe.int/be/web/commissioner/-/commissioner-mijatovic-urges-hungary-s-parliamentarians-to-reject-draft-amendments-banning-discussion-about-sexual-and-gender-identity-and-diversity>

²² [Convention on the Rights of the Child, Convention on the Elimination of All Forms of Discrimination Against Women, Report of the UN Special Rapporteur on the Right to Education.](#)

violation of the established EU *acquis*;

2. Welcomes the statement signed by 18 of the Member States calling on the Commission to take legal action and the condemnation of the Bill by the Commission President and individual commissioners; takes note of the letter sent to the Hungarian Minister of Justice requesting clarification of and information on the points raised by 30 June 2021; calls on the Commission to make this response public;
3. Takes note of the Commission's call for a constructive and loyal debate with Hungary; regrets that the Law was, however, promulgated on 23 June 2021, despite the outcry from international organisations; calls on the Commission to immediately take legal action, namely by launching an accelerated infringement procedure against Hungary under Article 258 of the TFEU concerning the Law; calls on the Commission to use all Court of Justice procedural tools if necessary, including requests for an expedited procedure and interim measures, including penalties for non-compliance with the latter;
4. Recalls that in accordance with Article 259 of the TFEU, a Member State which considers that another Member State has failed to fulfil an obligation under the Treaties may bring the matter before the CJEU; invites Member States to trigger this article in relation to the Law should the Commission fail to act; invites the Member States to submit an inter-state application to the European Court of Human Rights regarding the aspects not covered by EU law;

Ongoing Article 7(1) procedures

5. Stresses that the Law is not an isolated example, but rather constitutes another intentional and premeditated example of the gradual dismantling of fundamental rights in Hungary; stresses that organised state-sponsored LGBTIQ phobia and disinformation campaigns have become tools for political censorship by the Hungarian Government and considers that this violates Article 2 of the TEU; recalls that the European Union has been declared an LGBTIQ Freedom Zone²³;
6. Recalls that violations of the human rights of LGBTIQ persons are part of a larger political agenda which is leading to the dismantling of democracy and the rule of law, including media freedom, and should be considered as systemic violations of Article 2 of the TEU; recalls that Parliament's resolution of 12 September 2018²⁴ already expressed concerns about the right to equal treatment and freedom of expression;
7. Expresses strong concerns that since Parliament triggered Article 7(1), the rule of law and fundamental rights situation has continued to deteriorate in Hungary; stresses the lack of action and responsibility from the Council in this regard over the years;
8. Welcomes the fact that the Portuguese Presidency has held the first Article 7(1) hearing on the rule of law in Hungary since 2019, as well as the statements from 18 Member States condemning the Law; stresses, however, that dialogue must produce tangible output in terms of actions in order to actively address the examples of deterioration of fundamental rights in Hungary; reiterates its call on the Council to issue concrete

²³ European Parliament resolution of 11 March 2021 on the declaration of the EU as an LGBTIQ Freedom Zone.

²⁴ [Texts adopted, P8_TA\(2018\)0340](#).

recommendations to Hungary, as stipulated in Article 7(1) of the TEU, including a recommendation to repeal the Law, and to provide deadlines for the implementation of those recommendations; calls on the Slovenian Presidency to hold a hearing on Hungary in September 2021 and to schedule a vote on the recommendations as soon as possible; notes that the human rights of LGBTIQ persons have been gradually dismantled over the past few years;

9. Recalls that on 2 March 2021, the Hungarian Media Council announced legal proceedings against the RTL Hungary media group following the airing of the ‘Family is Family’ campaign; considers that these actions constitute censorship of media content and advertising and are therefore in violation of the AVMSD; stresses that a number of broadcasters across the EU have called on the Commission to start infringement procedures²⁵, alongside civil society organisations; calls on the Commission to use all legal tools at its disposal to address the censorship of material that is compliant with the AVMSD, taken in conjunction with the Charter;
10. Expresses deep concern that the deterioration of media freedom is leading to an increase in the scapegoating and targeting of minorities, including LGBTIQ people;
11. Recalls that the Fundamental Law (Constitution) of Hungary was amended in December 2020 to specify that the mother is a female and the father is a male and that Hungary protects the right of children to establish their identity in line with their birth sex, and their right to education according to the country’s constitutional identity and system of values based on Christian culture; notes that despite family law being a national competence, amending the constitution in this way, in combination with the follow-up legislation, including the Law, results in a direct reduction in the protection of the values stipulated in Article 2 of the TEU; notes that the Venice Commission has adopted an opinion on the constitutional amendments adopted by the Hungarian Parliament in December 2020²⁶;
12. Recalls that on 18 June 2013, the Venice Commission adopted opinion CDL-AD (2013)022-e on the issue of the prohibition of so-called ‘propaganda of homosexuality’ in light of recent legislation in some member states of the Council of Europe;
13. Recalls that legislation has been adopted by the Hungarian Parliament that has the effect of restricting adoption to married couples, de facto banning adoption for persons living in same-sex partnerships and single and non-married individuals, unless special permission is granted by the Minister for Family Policy; stresses that the latter requirement grants a member of the government the capacity to take unilateral decisions in this regard;
14. Recalls that the adoption of Article 33 of the Omnibus Bill of 2020 de facto banned legal gender recognition for transgender and intersex persons in Hungary, infringing their right to privacy and exposing them to discrimination, which can have severe

²⁵ ACT, *Hungary: Broadcasting associations across Europe express dismay at anti-LGBTIQ bill & urge European Commission to open infringement proceedings*, Brussels, 29 June 2021.

²⁶ [Hungary - Opinion on the constitutional amendments adopted by the Hungarian parliament in December 2020, adopted by the Venice Commission at its 127th Plenary Session, Venice and online, 2-3 July 2021 \(CDL-AD\(2021\)029-e\)](#).

psychological effects and may limit their right to participate actively in civil society; notes that the National Authority for Data Protection and Freedom of Information has issued an opinion on Article 33, arguing that it violates Article 5(1)(d) of the General Data Protection Regulation²⁷; recalls that the Commission has so far taken no action to address this issue; calls on the Commission to investigate the matter and take legal action if necessary; notes that although the Constitutional Court of Hungary²⁸ found parts of the Law unconstitutional, the public authorities have still failed to implement its decision and continue to reject applications even if they were submitted prior to the entry into force of the Law; notes that this constitutes a breach of the rule of law;

15. Condemns the decision of a consumer protection authority in Budapest²⁹ to order book publishers to print disclaimers on children's books which feature rainbow families, as containing 'behaviour inconsistent with traditional gender roles';
16. Expresses strong concerns about the shrinking space for non-governmental organisations (NGOs) in Hungary, including LGBTIQ NGOs; welcomes the CJEU judgment in Case C-78/18³⁰ declaring that Law No LXXVI of 2017 on the Transparency of Organisations which receive Support from Abroad introduced discriminatory and unjustified restrictions on foreign donations to civil society organisations, in breach of its obligations regarding the free movement of capital, respect for private life, protection of personal data and the freedom of association; notes the repeal of that law, but raises concerns about new limitations for civil society funding in Hungary, such as selective audits by the State Audit Office and the obligation to indicate all donors in public benefit reports that are publicly available; believes that such limitations are neither necessary nor proportionate, and do not comply with either CJEU case law or the conclusions of the report on funding of associations adopted by the Venice Commission at its 118th plenary session of 15-16 March 2019;
17. States its unwavering commitment to defending children's rights in the EU and abroad; takes the position that the promotion of tolerance, acceptance and diversity, rather than the promotion of LGBTIQ phobia and hatred, should serve as guiding principles for ensuring respect for the best interests of the child; considers in that regard that the conflation of sexual orientation and gender identity with paedophilia or attacks on children's rights displays a clear attempt to instrumentalise human rights language in order to enact discriminatory policies; considers this to be contrary to international human rights principles and norms;

²⁷ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1.

²⁸ <http://public.mkab.hu/dev/dontesek.nsf/0/CB4CA4E8F72D33DFC125863A00604976?OpenDocument>.

English summary available at

<http://public.mkab.hu/dev/dontesek.nsf/0/CB4CA4E8F72D33DFC125863A00604976?OpenDocument&english>
&english

²⁹ <https://www.kormanyhivatal.hu/hu/budapest/hirek/tiztesssegtelen-kereskedelmi-gyakorlatot-folytat-a-labrisz-egyesulet-a-meseorszag-mindenkie-cimu-konyv-ertesitesekor>.

³⁰ Judgment of the Court of Justice of 18 June 2020, *European Commission v Hungary*, C-78/18, ECLI:EU:C:2020:476.

18. Expresses concern about the fact that the Law resembles the so-called 2013 Russian LGBT propaganda law, which resulted in serious harm to the LGBTIQ community in Russia; calls on the Commission to further investigate the financing of anti-LGBTIQ campaigns in the EU, which clearly constitute a threat to democracy and national security in the EU;

Action the Commission must take

19. Reiterates its calls on the Commission and the Council to finally recognise the urgent need for action to defend the values enshrined in Article 2 of the TEU and to admit that a Member State cannot amend its legislation, including constitutional provisions, in such a way as to bring about a reduction in the protection of these values³¹; points out that this is prohibited under the Treaties, as recently interpreted by the CJEU in Case C-896/19³²;
20. Is of the opinion that the Law directly contradicts the Commission's LGBTIQ equality strategy; urges the Commission to make sure that the strategy is implemented equally in every Member State in the EU;
21. Calls on the Council and the Commission to urgently unblock the Horizontal Discrimination Directive, which has been blocked in the Council for over 10 years³³;
22. Recalls that no proper response has yet been given to Parliament's initiative on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights to be governed by an interinstitutional agreement between Parliament, the Commission and the Council; calls on the Commission and the Council to immediately enter into negotiations with Parliament on an interinstitutional agreement pursuant to Article 295 of the TFEU;
23. Reiterates its position on the Rule of Law Conditionality Regulation, which entered into force on 1 January 2021 and is directly applicable in its entirety in the European Union and all its Member States for all funds of the EU budget, including resources allocated through the EU Recovery Instrument since then;
24. Recalls that the Rule of Law Conditionality Regulation provides a clear definition of the rule of law, which must be understood in relation to the other values of the Union, including fundamental rights and non-discrimination; is of the opinion that state-sponsored discrimination against minorities has a direct impact on which projects the Member States decide to spend EU money on, and therefore directly affects the protection of the financial interests of the Union; calls on the Commission to immediately trigger the procedure provided for in Article 6(1) of the Rule of Law Conditionality Regulation;

³¹ European Parliament resolution of 10 June 2021 on the rule of law situation in the European Union and the application of the Conditionality Regulation (EU, Euratom) 2020/2092.

³² Judgment of the Court of Justice of 20 April 2021, *Repubblica v Il-Prim Ministru*, C-896/19, ECLI:EU:C:2021:311.

³³ Proposal of 2 July 2008 for a Council directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation (COM(2008)0426).

25. Believes that the Hungarian authorities' capacity to manage EU funds in a non-discriminatory way and in compliance with the Charter is in serious doubt; calls on the Commission to assess the adoption of the Law in relation to the horizontal enabling condition to ensure the compliance with the Charter of Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy³⁴ (the Common Provisions Regulation); calls on the Commission to take the steps provided for in the Common Provisions Regulation regarding expenditure related to relevant funds and to ensure that the 2021-2027 partnership agreement and programmes for Hungary are not approved until full compliance with the horizontal enabling condition related to the respect of the Charter is ensured, as provided for in the Articles of the Common Provisions Regulation; recalls that any Commission act that does not comply with EU law can be challenged in the CJEU;
26. Expresses serious concerns regarding the compliance of the draft Hungarian Recovery and Resilience Plan with Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility³⁵ and with the Charter; calls on the Commission and the Council to carefully analyse every measure outlined in the draft Hungarian Recovery and Resilience Plan and to only approve the plan if it is established that it would not contribute to implementing the Law, and subsequently lead to the EU budget actively contributing to breaches of fundamental rights in Hungary;
27. Recalls that LGBTIQ rights are human rights; reiterates its call on encouraging Member States, particularly Hungary, to ensure that existing legislation on education and information available to minors fully complies with the fundamental rights enshrined in EU and international law and to ensure access to comprehensive sexuality and relationship education that is scientifically accurate, evidence-based, age-appropriate and non-judgmental; recalls that published information should reflect the diversity of sexual orientations, gender identities, expressions and sex characteristics, so as to counter misinformation based on stereotypes or biases; calls on the Commission to take all the necessary steps to ensure compliance with fundamental rights in Hungary; calls on the EU institutions and Member States to speak out against LGBTIQ-phobic hate speech, especially from governments and politicians;
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28. Instructs its President to forward this resolution to the governments and parliaments of the Member States, the Council, the Commission and the Committee of Regions.

³⁴ OJ L 231, 30.6.2021, p. 159.

³⁵ OJ L 57, 18.2.2021, p. 17.

