

**Question for oral answer O-000079/2011  
to the Council**

Rule 115

**Daniel Cohn-Bendit, Rebecca Harms, Judith Sargentini**  
on behalf of the Verts/ALE Group

Subject: Revision of the Hungarian Constitution

The Hungarian authorities have submitted to Parliament a draft Constitution which: lacks a definition of social rights: social rights should be included in the new Constitution among fundamental rights, in line with Hungary's international commitments. The draft Constitution does not guarantee the right to state support for elderly citizens. It gives a restrictive, conservative definition of the family: the draft Constitution will supposedly protect marriage as a union between a man and a woman and will protect and support families based exclusively on this union. Thus, no single-parent families or cohabiting couples will enjoy the same protection, and they will therefore be discriminated against, whereas the Constitution should provide the same level of protection for all families, irrespective of the marital status or sex of the parents. There is no reference to the prohibition of legal retroactive effect: the draft Constitution does not prohibit the retroactive effect of legislation with negative consequences for the subjects. On the protection of embryonic life, the new Constitution may, through the protection of life from the moment of conception, lead to a ban on abortion, even if it does not openly prohibit it at this stage. On limiting fundamental rights in a state of emergency, there is no guarantee in the draft constitution that the most fundamental rights cannot be limited during a state of emergency. This is a major step back in comparison with the present Constitution. The rights of the Constitutional Court have not been restored: in response to a recent ruling of the Constitutional Court, the Fidesz majority has restricted the body's right to review any legislation. The reform of the Constitution is contested by opposition parties and NGOs, which have criticised the process for not being transparent, for the inadequate consultation and for the tight schedule, as well as, in terms of content, for the dismantling of democratic checks and balances. The European Commission for Democracy through Law (Venice Commission) called on the Hungarian authorities to increase flexibility, openness and the spirit of compromise and made recommendations, while PACE called on it on 25 March to issue a fully fledged opinion. The draft Constitution is scheduled to be adopted in the second half of April<sup>1</sup>.

Is the Council following the reform process of the Hungarian Constitution to check if the proposed reforms are in conformity with the EU Treaties and law and notably with Articles 2, 6 and 7 TEU, with common democratic constitutional principles and with voting rights rules for EP elections? What is its assessment and what actions will it take? Does it believe that these changes could create a risk of discrimination on the basis of nationality, ethnicity, sexual orientation, religion or belief and violate the principle of equal treatment? Will it call upon the Hungarian authorities to await the Venice Commission opinion and follow its recommendations before adopting the draft Constitution? Will it call on the Hungarian authorities to avoid the rigid time constraints and guarantee a wide and substantive debate involving the various political forces, civil society, academia and the media?

Tabled: 30.3.2011

Forwarded: 31.3.2011

Deadline for reply: 21.4.2011

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<sup>1</sup> By a 2/3 majority of the current Parliament after the abolition of the 4/5 majority vote rule in Parliament; no referendum will be held.