

**Question for oral answer O-00080/2011
to the Commission**

Rule 115

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on behalf of the Verts/ALE Group

Subject: Revision of the Hungarian Constitution

The Hungarian authorities have submitted to Parliament a draft Constitution¹ which refers to Hungary's being motivated by 'the ideal of a unified Hungarian nation' in relation to Hungarians living abroad²; the Constitutional Court's powers are limited³; the terms of office of the Constitutional Court members, President of the Court of Auditors and Central Bank Governor are modified; marriage and the family are defined as excluding single-parent families and cohabiting and same-sex couples⁴; discrimination is prohibited except on grounds of sexual orientation, age and genetic features⁵; human rights bodies are abolished and merged⁶; 'the life of the foetus' is 'protected from the time of conception'⁷; religious references are made to Christianity and its role in preserving Hungary's nationhood⁸; the possibility to give additional votes to minors or their mothers is foreseen⁹, as well as voting rights for Hungarians residing abroad¹⁰. The reform of the Constitution is contested by opposition parties and NGOs¹¹ that 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 balances¹². The European Commission for Democracy through Law (Venice Commission) has called on the Hungarian authorities to increase flexibility, openness and the spirit of compromise and made recommendations, while PACE¹³ 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 April¹⁴.

Is the Commission following the reform process of the Hungarian Constitution to check if the proposed

¹ The English version of the text provided by the Hungarian authorities is available at http://www.euractiv.com/sites/all/euractiv/files/CONSTITUTION_in_English__DRAFT.pdf; the preamble of the Constitution was not circulated by the HU authorities but is available at: http://www.euractiv.com/sites/all/euractiv/files/BRNEDA224_004970.pdf. NGOs have provided another translation of these documents and have highlighted mistakes and omissions in the HU authorities' translations.

² Article D.

³ In relation to budgetary issues, taxes, duties and customs: Article 24 par. 4, the English versions of the HU authorities and NGOs differ; *actio popularis* is abolished.

⁴ Article M and Preamble: 'The most important frameworks for our coexistence are the family and the nation, whose fundamental values binding us together are loyalty, faith and love' (HU authorities' translation); the family is 'the basis for the survival of the nation'.

⁵ Article XIV (2): 'Hungary ensures fundamental rights to all, without discrimination based on sex, race, colour, ethnic or social origin, national origin, handicap, language, religion, political or any other opinion, property, birth or other condition without discrimination' (HU authorities' version).

⁶ For instance the Minority Ombudsman and the Parliamentary Commissioner for Data Protection and Freedom of Information.

⁷ Article II: '... the life of the foetus will be protected from conception' (HU authorities' version).

⁸ Preamble: 'We acknowledge the role of Christianity in preserving our nationhood'...'King St Stephen...made our country a part of Christian Europe' (HU authorities' translation); the Constitution states that it shall be interpreted on the basis of such preamble: Article Q (3).

⁹ Or to another person or other legal representative: Article XXI (2), HU authorities' and NGOs' translations differ.

¹⁰ Article XXI (1), HU authorities' and NGOs' translations differ. Furthermore, extensive state of emergency provisions and the suspension of fundamental rights are foreseen; no reference to the prohibition of legal retroactive effect is included in the Constitution; life imprisonment is introduced: Article IV (1), the original version of the Constitution as translated by NGOs; the current Constitution is declared null and void;

¹¹ And decided to boycott discussions on the issue when the government curtailed the powers of the Constitutional Court after it gave a judgment it disliked.

¹² See for instance the papers by HCLU, Eotvos Karoly Policy Institute and the Hungarian Helsinki Committee: http://helsinki.hu/Friss_anyagok/htmls/820.

¹³ Parliamentary Assembly of the Council of Europe.

¹⁴ 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.

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 action 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 result in violation of the principle of equal treatment? Will it call on 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?

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