



**2018/0902R(NLE)**

26.4.2022

## **DRAFT INTERIM REPORT**

on the proposal for a Council decision determining, 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 founded  
(C9-0000/2022 – 2018/0902R(NLE))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Gwendoline Delbos-Corfield

## CONTENTS

### Page

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION .....	3
---	---

## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**on the proposal for a Council decision determining, 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 founded  
(C9-0000/2022 – 2018/0902R(NLE))**

*The European Parliament,*

- having regard to the Treaty on European Union (TEU), and in particular Articles 2 and 7(1) thereof,
  - having regard to the Charter of Fundamental Rights of the European Union,
  - having regard to the European Convention on Human Rights and the protocols thereto,
  - having regard to the Universal Declaration of Human Rights,
  - having regard to the international human rights treaties of the United Nations and the Council of Europe,
  - 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 founded<sup>1</sup>,
  - having regard to its resolution of 16 January 2020 on ongoing hearings under Article 7(1) of the TEU regarding Poland and Hungary<sup>2</sup>,
  - having regard to its resolution of 8 July 2021 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<sup>3</sup>,
  - having regard to Rule 105(5) of its Rules of Procedure,
  - having regard to the opinion of the Committee on Constitutional Affairs,
  - having regard to the interim report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0000/2022),
- A. whereas 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, as set out in Article 2 of the Treaty on European Union (TEU) and as reflected in the Charter of Fundamental Rights of the European Union and embedded in international human rights treaties, and whereas those values, which are common to the Member States and to which all Member States have freely subscribed, constitute the foundation of the rights enjoyed by those living in the Union;

---

<sup>1</sup> OJ C 433, 23.12.2019, p. 66.

<sup>2</sup> OJ C 270, 7.7.2021, p. 91.

<sup>3</sup> OJ C 99, 1.3.2022, p. 218.

- B. whereas any clear risk of a serious breach by a Member State of the values referred to in Article 2 TEU does not concern solely the individual Member State where the risk materialises but has an impact on the other Member States, on mutual trust between them and on the very nature of the Union and its citizens' fundamental rights under Union law;
- C. whereas the scope of Article 7 TEU is not confined to the obligations under the Treaties, as in Article 258 of the Treaty on the Functioning of the European Union, and whereas the Union can assess the existence of a clear risk of a serious breach of the common values in areas falling under Member States' competences;
- D. whereas for several years the situation in Hungary has not been addressed and many concerns remain, and in the meantime many new issues have arisen, which is having a negative impact on the image of the Union, as well as its effectiveness and credibility in the defence of fundamental rights, human rights and democracy globally, and revealing the need to address them through concerted Union action;
- E. whereas following the ad hoc delegation of its Committee on Civil Liberties, Justice and Home Affairs to Budapest, Hungary, from 29 September to 1 October 2021, the majority of the members of the delegation still have serious concerns about democracy, the rule of law and fundamental rights in the country; whereas the delegation has concluded that the situation has not improved since 2018, but has instead deteriorated;
- F. whereas on 20 July 2021, the Commission indicated in the country chapter on Hungary of the 2021 Rule of Law Report that the transparency and quality of the legislative process remain a source of concern, although an amendment to the constitution will limit the powers of government as regards the 'state of danger' regime after July 2023; whereas concerns have been expressed about newly established private trusts receiving significant public funding, managed by board members close to the current government;
- G. whereas in its resolution of 17 April 2020 on EU coordinated action to combat the COVID-19 pandemic and its consequences<sup>4</sup>, Parliament deemed totally incompatible with European values the Hungarian Government's decision to prolong the state of emergency indefinitely, to authorise itself to rule by decree without a time limit, and to weaken the emergency oversight of the Hungarian Parliament; whereas in its opinion on the 2020 Convergence Programme of Hungary of 20 July 2020, the Council recommended ensuring that any emergency measures be strictly proportionate, limited in time and in line with European and international standards, that they do not interfere with business activities and the stability of the regulatory environment, and the effective involvement of social partners and stakeholders in the policy-making process;
- H. whereas on 20 July 2021, the Commission indicated in the country chapter on Hungary of the 2021 Rule of Law Report that the Hungarian justice system performs well in terms of the length of proceedings and has a high level of digitalisation, and that the gradual increase in the salaries of judges and prosecutors continues; whereas, as regards judicial independence, the justice system has been subject to new developments adding to existing concerns: the new rules allowing for the appointment of members of the Constitutional Court to the Supreme Court (Kúria) outside the normal procedure have been put into practice and have enabled the election of the new Kúria President, whose position was also endowed with additional powers and who was elected despite an

---

<sup>4</sup> OJ C 316, 6.8.2021, p. 2.

unfavourable opinion from the National Judicial Council (NJC); whereas the recommendation to strengthen judicial independence, made in the context of the European Semester, remains unaddressed, including the need to formally reinforce the powers of the independent NJC to enable it to counterbalance the powers of the President of the National Office for the Judiciary;

- I. whereas on 20 July 2021, the Commission indicated in the country chapter on Hungary of the 2021 Rule of Law Report that the implementation of the anti-corruption strategy is ongoing, but its scope remains limited, and shortcomings persist as regards political party financing, lobbying and ‘revolving doors’; whereas risks of clientelism, favouritism and nepotism in high-level public administration, as well as risks arising from the link between businesses and political actors, remain unaddressed, independent control mechanisms remain insufficient for detecting corruption, and concerns remain regarding the lack of systematic checks and insufficient oversight of asset and interest declarations; whereas new criminal law provisions aim to address foreign bribery and informal payments in healthcare; whereas while the indictment rate for corruption cases is high, and some new high-level corruption cases have been opened since 2020, the track record for the investigation of allegations concerning high-level officials and their immediate circle remains limited;
  - J. whereas on 10 June 2021, the European Anti-Fraud Office (OLAF) stated in its 2020 Activity Report that it had recommended that the Commission recover 2.2 % of the payments made under the European Structural and Investment Funds and the European Agricultural Fund for Rural Development for the period 2016-2020; whereas this is the highest percentage of payments to be recovered among all the Member States and is far above the average of 0.29 %;
  - K. whereas on 5 April 2022, the Commission President announced that Commissioner for Budget Johannes Hahn had informed the Hungarian authorities about the Commission’s plans to move on to the next step and formally trigger the Rule of Law Conditionality Regulation<sup>5</sup>, mainly over corruption concerns;
  - L. whereas on 20 July 2021, the Commission indicated in the country chapter on Hungary of the 2021 Rule of Law Report that media pluralism remains at risk and that concerns persist with regard to the independence and effectiveness of the Media Authority, also in the light of the Media Council’s decisions leading to independent radio station Klubrádió being taken off air; whereas while no media support schemes were established to counter the impact of the COVID-19 pandemic on news media outlets, significant amounts of state advertising have continued to permit the government to exert indirect political influence over the media; whereas access to public information was tightened through emergency measures introduced during the pandemic, making timely access to such information harder for independent media outlets; whereas independent media outlets and journalists continue to face obstruction and intimidation;
1. Reiterates that the concerns of Parliament relate to the following issues in Hungary:
- the functioning of the constitutional and electoral system;

---

<sup>5</sup> Regulation (EU, Euratom) 2020/2092 of 16 December 2020 on a general regime of conditionality for the protection of the Union budget, OJ L 433 I, 22.12.2020, p. 1.

- the independence of the judiciary and of other institutions and the rights of judges;
  - corruption and conflicts of interest;
  - privacy and data protection;
  - freedom of expression;
  - academic freedom;
  - freedom of religion;
  - freedom of association;
  - the right to equal treatment;
  - the rights of persons belonging to minorities, including Roma and Jews, and protection against hateful statements against such minorities;
  - the fundamental rights of migrants, asylum seekers and refugees;
  - economic and social rights;
2. Believes that, taken together, the facts and trends mentioned in Parliament’s resolutions represent a systemic threat to the values of Article 2 TEU and constitute a clear risk of a serious breach thereof; expresses regret that the lack of decisive EU action has contributed to turning Hungary into hybrid regime of electoral autocracy, according to the relevant indices;
  3. Strongly regrets the inability of the Council to make meaningful progress in the ongoing Article 7(1) TEU procedure; urges the Council to ensure that hearings take place at a minimum once per Presidency during ongoing Article 7 TEU procedures and also address new developments affecting the rule of law, democracy and fundamental rights; calls on the Council to publish comprehensive minutes after each hearing; emphasises that there is no need for unanimity in the Council either to identify a clear risk of a serious breach of Union values under Article 7(1), or to address concrete recommendations to the Member States in question and provide deadlines for the implementation of those recommendations; reiterates its call for the Council to do so, underlining that any further delay to such action would amount to a breach of the rule of law principle by the Council itself; calls on the Council to issue recommendations to Hungary as soon as possible in order to remedy the issues mentioned in its resolution of 12 September 2018 and in the present resolution, asking it to implement all the judgments and recommendations mentioned; insists that Parliament’s role and competences be duly respected;
  4. Calls on the Commission to make full use of the tools available to address the clear risk of a serious breach by Hungary of the values on which the Union is founded, in particular expedited infringement procedures, applications for interim measures before the Court of Justice and actions regarding non-implementation of the Court’s judgments; recalls the importance of the Rule of Law Conditionality Regulation and welcomes the decision to trigger it in the case of Hungary, albeit after a long delay and with a limited scope; calls on the Commission to take immediate action under the regulation as regards other

breaches of the rule of law; notes the risk of misuse of funds under the Recovery and Resilience Facility and reiterates its call for the Commission to refrain from approval of the Hungarian plan;

5. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the Council of Europe, the Organization for Security and Co-operation in Europe and the United Nations.