Existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded

2018/0902R(NLE) - 25/07/2022 - Committee report tabled for plenary, single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the interim report by Gwendoline DELBOS CORFIELD (Greens/EFA, FR) 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

The European Union (EU) is equipped with a set of tools to defend the common values enshrined in the Article 2 of the Treaty of the European Union (TEU) of human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. Among these tools, Article 7 TEU empowers the Council of the EU to determine that there is a clear risk of a serious breach by a Member States of the values referred in Article 2 TEU, based on a reasoned proposal by one third of the Member States, by the European Parliament or by the European Commission.

Clear risk of a serious breach of EU values

The European Parliament identified **12 areas** where it determines the existence of a clear risk of a serious breach by Hungary of the values referred in Article 2 TEU:

(1) the functioning of the constitutional and electoral system;

(2) the independence of the judiciary and of other institutions and the rights of judges;

(3) corruption and conflicts of interest;

(4) privacy and data protection;

(5) freedom of expression;

(6) academic freedom;

(7) freedom of religion;

(8) freedom of association;

(9) the right to equal treatment;

(10) the rights of persons belonging to minorities, including Roma and Jews, and protection against hateful statements against such minorities;

(11) the fundamental rights of migrants, asylum seekers and refugees;

(12) economic and social rights.

Since the adoption of the report 2017/2132(INL), the European Commission, international organisations such as the United Nations, Council of Europe and the Organization for Security and Cooperation in Europe (OSCE), as well as academics and civil society organisations, have shed light on worrying developments in these 12 areas.

The European Parliament has also reiterated its concerns regarding the rapid deterioration of the rule of law, democracy and fundamental rights in Hungary on several occasions, for instance in its 10 June 2021 resolution on the Rule of Law situation in the European Union and the application of the Conditionality Regulation (EU, Euratom) 2020/2092, and later in its resolution of 6 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.

The committee considers that the facts and trends highlighted across the report represent a **systemic threat to the values of Article 2 TEU** and constitute a clear risk of a serious breach thereof. It condemned the deliberate and systemic efforts of the Hungarian government to undermine these founding values. It expressed deep concern about the systematic and deliberate attempts of the Hungarian government to undermine the founding values of the Union enshrined in Article 2 TEU, stressing that these trends have worsened considerably since the procedure under Article 7(1) TEU was triggered.

Lack of EU action

Members consider that the Hungarian government is responsible for bringing Hungary back into line with EU law and the values enshrined in Article 2 of the EU Treaty, and regret that the lack of decisive action by the Union has contributed to the breakdown of democracy, the rule of law and fundamental rights in Hungary, turning the country into a hybrid regime of electoral autocracy.

Furthermore, Members deplored the **inability of the Council to make meaningful progress** in the ongoing Article 7(1) TEU procedure. They also emphasised 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. In this regard, the report stated that any further delay to such action would amount to a **breach of the rule of law principle by the Council itself**.

Use all available tools and avoid misuse of EU funds

Members called on the Commission to:

- take immediate action under the regulation as regards other breaches of the rule of law, particularly those relating to the independence of the judiciary;

- refrain from approving **Hungary's plan** until it has fully complied with all European Semester country-specific recommendations in the field of the rule of law and until it has implemented all of the relevant judgments of the Court of Justice of the EU and the European Court of Human Rights (ECtHR);

- exclude any risks of **programmes under cohesion policy** contributing to the misuse of EU funds or to breaches of the rule of law;

- apply the Common Provisions Regulation and the Financial Regulation more stringently to tackle any misuse of EU funds for political motives.

This report provides the Council with a clear basis to pursue the Article 7(1) TEU procedure, enter in a dialogue through regular and thorough hearings, and consider addressing recommendations to Hungary.