Basic information

2012/2130(INI) INI - Own-initiative procedure	Procedure completed
Situation of fundamental rights: standards and practices in Hungary (pursuant to the European Parliament resolution of 16 February 2012) See also 2012/2511(RSP) **Subject** 1.10 Fundamental rights in the EU, Charter 8.30.10 Principles common to the Member States, EU values **Geographical area** Hungary	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	TAVARES Rui (Verts/ALE)	20/03/2012
	Shadow rapporteur ENGEL Frank (PPE) LÓPEZ AGUILAR Juan Fernando (S&D) WEBER Renate (ALDE) MCINTYRE Anthea (ECR) VERGIAT Marie-Christine (GUE/NGL)	

Committee for opinion	Rapporteur for opinion	Appointed
AFCO Constitutional Affairs	The committee decided not to give an opinion.	

European Commission

Commission DG	Commissioner
Justice and Consumers	REDING Viviane

Key events

Date	Event	Reference	Summary

05/07/2012	Committee referral announced in Parliament		
19/06/2013	Vote in committee		
25/06/2013	Committee report tabled for plenary	A7-0229/2013	Summary
02/07/2013	Debate in Parliament		
03/07/2013	Decision by Parliament	T7-0315/2013	Summary
03/07/2013	Results of vote in Parliament		
03/07/2013	End of procedure in Parliament		

Technical information	
Procedure reference	2012/2130(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Amendments and repeals	See also 2012/2511(RSP)
Legal basis	Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/7/09747

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE508.211	02/05/2013	
Amendments tabled in committee		PE510.840	29/05/2013	
Amendments tabled in committee		PE510.846	29/05/2013	
Committee report tabled for plenary, single reading		A7-0229/2013	25/06/2013	Summary
Text adopted by Parliament, single reading		T7-0315/2013	03/07/2013	Summary

European Commission

Document type	Reference	Date	Summary
Commission response to text adopted in plenary	SP(2013)627	28/11/2013	

Situation of fundamental rights: standards and practices in Hungary (pursuant to the European Parliament resolution of 16 February 2012)

2012/2130(INI) - 25/06/2013 - Committee report tabled for plenary, single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Rui TAVARES (Greens/EFA, PT) on the situation of fundamental rights: standards and practices in Hungary (pursuant to the European Parliament resolution of 16 February 2012 on the recent political developments

in Hungary). The report was prepared to assess whether and how the recommendations set out in that resolution have been implemented and to present the committee's findings.

The report reaffirms that **this resolution is not only about Hungary, but inseparably about the European Union as a whole**, and its democratic reconstruction and development after the fall of the 20th century totalitarianisms. It is about the **mutual help and mutual trust** that the Union, its citizens and its Member States need to have if these Treaties are to be not just words on paper, but the legal basis for a true, just and open Europe respecting fundamental rights. It also reaffirms that the **credibility and robustness of constitutional institutions play a pivotal role in underpinning economic, fiscal and social policies and social cohesion**.

Appeal to all Member States: the report calls on the Member States to comply without delay with their Treaty obligations to respect, guarantee, protect and promote the Union's common values, which is an indispensable condition for respecting democracy.

Appeal to the European Council: the committee notes with disappointment that the **European Council** is the **only EU political institution that has remained silent**, while the Commission, Parliament, the Council of Europe, the OSCE and even the US Administration have voiced concerns over the situation in Hungary. It reminds the European Council of its responsibilities within the framework of the area of freedom, liberty, security and justice.

Recommendation to the Commission: Members call on the Commission, as the guardian of the Treaties to ensure that Union law is correctly applied, under the supervision of the Court of Justice of the European Union.

Recommendations to the Hungarian authorities: the report urges the Hungarian authorities to implement as swiftly as possible all the measures the European Commission deems necessary in order to fully comply with EU law, fully comply with the decisions of the Hungarian Constitutional Court and implement as swiftly as possible Parliament's recommendations, in line with the recommendations of various international bodies for the **protection of the rule of law and fundamental rights**, with a view to fully complying with the rule of law and its key requirements on the constitutional setting, the system of **checks and balances and the independence of the judiciary**, as well as on **strong safeguards for fundamental rights**, including freedom of expression, the media and religion or belief, protection of minorities, action to combat discrimination, and the right to property.

Recommendations to the EU institutions on setting up a new mechanism to enforce Article 2 TEU effectively: lastly, Members reiterate the **urgent need to tackle the so-called 'Copenhagen dilemma'**, whereby the EU remains very strict with regard to compliance with the common values and standards on the part of candidate countries but lacks effective monitoring and sanctioning tools once they have joined the EU.

Situation of fundamental rights: standards and practices in Hungary (pursuant to the European Parliament resolution of 16 February 2012)

2012/2130(INI) - 03/07/2013 - Text adopted by Parliament, single reading

The European Parliament adopted by 370 votes to 249, with 82 abstentions, a resolution on the situation of fundamental rights: standards and practices in Hungary (pursuant to the European Parliament's resolution of 16 February 2012).

European common values: the resolution recalls that the European 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 TEU and that Article 7(1) TEU,** by a defined procedure, grants the EU institutions the power to assess whether there is a clear risk of a serious breach of the common values referred to in Article 2 by a Member State, and to engage politically with the country concerned in order to prevent and redress violations; whereas before making such a determination, the Council shall hear the Member State in question, acting in accordance with the same procedure.

Reforms in Hungary: the resolution notes that, following the 2010 general elections in Hungary, the governing majority gained more than two thirds of the seats in its parliament, enabling it to rapidly initiate intense legislative activity to reshape the whole constitutional order of the country (the former Constitution has been amended twelve times and the Fundamental Law four times so far) and thus substantially to modify the institutional and legal framework, as well as a number of fundamental aspects of not only public but also private life.

Parliament points out that **reforming a constitution requires the utmost care and due consideration of procedures and guarantees aimed at preserving, among other things, the rule of law, the separation of powers and the hierarchy of legal norms** – the constitution being the supreme law of the land – and that the scale of the comprehensive and systematic constitutional and institutional reforms which the new Hungarian Government and Parliament have carried out in an exceptionally short time frame is unprecedented.

The Fundamental Law and its Transitional Provisions: Parliament notes the adoption of the Fundamental Law of Hungary – which was passed on 18 April 2011, exclusively with the votes of the members of the governing coalition and on the basis of a draft text prepared by the representatives of that governing coalition – was conducted in the short timeframe of 35 calendar days calculated from the presentation of proposal to the parliament, thus restricting the possibilities for a thorough and substantial debate with the opposition parties and civil society on the draft text.

It also highlights the fact that, following a constitutional petition by the Hungarian Commissioner for Fundamental Rights, the **Constitutional Court of Hungary**, in December 2012, **annulled more than two thirds of the Transitional Provisions** on the grounds that they were not of a transitional nature but that the Fourth Amendment to the Fundamental Law, adopted on 11 March 2013, integrates into the text of the Fundamental Law most of the Transitional Provisions annulled by the Constitutional Court, as well as other provisions **previously found unconstitutional**.

Extensive use of cardinal laws: the resolution points out that the Fundamental Law of Hungary refers to 26 subject matters to be defined by cardinal laws (i.e. laws the adoption of which requires a two-thirds majority), which cover a wide range of issues relating to Hungary's institutional system, the exercise of fundamental rights and important arrangements in society, and that within the space of one and a half years, the Hungarian parliament has enacted no fewer than 49 cardinal laws.

Weakening of checks and balances: Parliament also expresses concern at the general weakening of checks and balances in the Hungarian system, whether in the Constitutional Court, the Parliament or in the Data Protection Authority. It considers that, in light of the systematic amending of the Fundamental Law at political will, the Constitutional Court can no longer fulfil its role as the supreme body of constitutional protection, especially since the Fourth Amendment explicitly prohibits the Court from reviewing constitutional amendments that contradict other constitutional requirements and principles. Parliament regrets the fact that the numerous measures adopted – as well as some ongoing reforms – do not provide sufficient assurances of constitutional safeguards as to the independence of the judiciary and the independence of the Constitutional Court of Hungary.

Electoral reform: the resolution notes that the governing majority in parliament reformed the election system in a **unilateral manner without striving for consensus** with the opposition and the fact that the Constitutional Court established that the registration requirement represents an undue restriction on the voting rights of Hungarian residents, and is therefore unconstitutional.

Media legislation: Parliament acknowledges the efforts of the Hungarian authorities that led to legislative changes aimed at addressing a number of the shortcomings identified in order to improve media legislation and bring it into line with EU and Council of Europe standards. However, it expresses concern at the effects of the provision of the Fourth Amendment **banning political advertising** in the commercial media since, although the stated aim of this provision is to reduce political campaign costs and create equal opportunities for the parties, it jeopardises the provision of balanced information. It recalls that content regulations should be clear, allowing citizens and media companies to foresee in which cases they will be infringing the law and to determine the legal consequences of possible violations but notes with concern that, in spite of such detailed content regulations, recent public anti-Roma stances have so far gone unpunished by Hungary's Media Authority. It, therefore, calls for balanced application of the law.

Respect of the rights of persons belonging to minorities: Parliament considers that legislative measures, such as those enacted in Hungary in criminal and civil areas to combat racial incitement and hate speech, are an important starting point to achieve the goal of creating a society free from intolerance and discrimination throughout Europe. However, it points out, that this legislation needs to be actively implemented.

Parliament notes with concern **repeated changes to the legal order** restricting the rights of lesbian, gay, bisexual and transgender (LGBT) people, for instance by seeking to exclude same-sex couples and their children, as well as other varied family structures, from the definition of 'family' in the Fundamental Law. It stresses that this runs counter to recent European Court of Human Rights jurisprudence and fuels a climate of intolerance *vis-à-vis* LGBT people.

Recommendations:

Parliament, in its resolution, reaffirms that it is not only about Hungary, but inseparably about the European Union as a whole, and its democratic reconstruction and development after the fall of the 20th century totalitarianisms. It is about the **mutual help and mutual trust** that the Union, its citizens and its Member States need to have if these Treaties are to be not just words on paper, but the legal basis for a true, just and open Europe respecting fundamental rights. It also reaffirms that **the credibility and robustness of constitutional institutions plays a pivotal role in underpinning economic, fiscal and social policies and social cohesion**.

Appeal to all Member States: the resolution calls on the Member States to comply without delay with their Treaty obligations to respect, guarantee, protect and promote the Union's common values, which is an indispensable condition for respecting democracy.

Appeal to the European Council: the resolution notes with disappointment that the European Council is the only EU political institution that has remained silent, while the Commission, Parliament, the Council of Europe, the OSCE and even the US Administration have voiced concerns over the situation in Hungary. It reminds the European Council of its responsibilities within the framework of the area of freedom, liberty, security and justice.

Parliament considers that the **European Council cannot remain inactive** in cases where one of the Member States breaches fundamental rights or implements changes that may negatively affect the rule of law in that country, and therefore the rule of law in the European Union at large, in particular when **mutual trust in the legal system and judicial cooperation may be put at risk,** as this has a negative impact on the Union itself. It invites the President of the European Council to inform Parliament of his assessment of the situation.

Recommendations to the Commission: the resolution calls on the Commission, as the guardian of the Treaties to ensure that Union law is correctly applied, under the supervision of the Court of Justice of the European Union. It calls on it, among other things, to:

- inform Parliament of its assessment of the Fourth Amendment to the Fundamental Law and its impact on cooperation within the EU;
- launch objective investigation and start infringement proceedings whenever it considers that a Member State has failed to fulfil an obligation under the Treaties and, in particular, is violating the rights enshrined in the Charter of Fundamental Rights of the EU;
- avoid any double standards in the treatment of Member States, making sure that, in similar situations, all Member States are treated in a similar manner;
- focus not only on specific infringements of EU law, but respond appropriately to a systemic change in the constitutional and legal system and practice of a Member State where multiple and recurrent infringements unfortunately result in a state of legal uncertainty;
- adopt a more comprehensive approach to addressing any potential risks of serious breaching of fundamental values in a given Member State at an early stage and immediately to engage in a structured political dialogue with the relevant Member State and the other EU institutions.

Recommendations to the Hungarian authorities: the report urges the Hungarian authorities to implement as swiftly as possible all the measures the European Commission deems necessary in order to fully comply with EU law, fully comply with the decisions of the Hungarian Constitutional Court and implement as swiftly as possible Parliament's recommendations, in line with the recommendations of various international bodies for the protection of the rule of law and fundamental rights. This is with a view to fully complying with the **rule of law and its key requirements on the constitutional setting, the system of checks and balances and the independence of the judiciary**, as well as on strong safeguards for fundamental rights, including freedom of expression, the media and religion or belief, protection of minorities, action to combat discrimination, and the right to property.

Recommendations to the EU institutions on setting up a new mechanism to enforce Article 2 TEU effectively: lastly, Members reiterate the urgent need to tackle the so-called 'Copenhagen dilemma', whereby the EU remains very strict with regard to compliance with the common values and standards

on the part of candidate countries but lacks effective monitoring and sanctioning tools once they have joined the EU. Given the current institutional mechanism laid down in Article 7 TEU, Parliament reiterates the calls it made, in its resolution of 12 December 2012, for the **establishment of a new mechanism to ensure compliance by all Member States with the common values enshrined in Article 2 TEU, and the continuity of the 'Copenhagen criteria'**. This mechanism could assume the form of a 'Copenhagen Commission' or high-level group, a 'group of wise men' or an Article 70 TFEU evaluation, and build up on the reforming and strengthening of the mandate of the European Union Agency for Fundamental Rights, and on the framework of a strengthened Commission-Council-European Parliament-Member States dialogue on measures to be taken.

It should be noted that an alternative motion for resolution, tabled by the ADLE group, was rejected by plenary.