



Plenary sitting

[xx.05.2022]

MOTION FOR A RESOLUTION

to wind up the debate on the statement by the Commission
pursuant to Rule 132(2) of the Rules of Procedure

on Ongoing hearings under Article 7(1) TEU regarding Poland and Hungary

Jeroen Lenaers

on behalf of the EPP Group

Katarina Barley

on behalf of the S&D Group

Michal Šimečka

on behalf of the Renew Group

Gwendoline Delbos-Corfield

on behalf of the Verts/ALE Group

Malin Björk, Kostas Arvanitis

on behalf of The Left Group

The European Parliament,

- having regard to Article 2 and Article 7(1) of the Treaty on European Union (TEU),
- having regard to the Charter of Fundamental Rights of the European Union,
- 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 TEU, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded,
- having regard to the Commission reasoned proposal of 20 December 2017 in accordance with Article 7(1) of the TEU regarding the rule of law in Poland: proposal for a Council decision on the determination of a clear risk of a serious breach by the Republic of Poland of the rule of law (COM(2017)0835),
- having regard to its resolution of 1 March 2018 on the Commission’s decision to activate Article 7(1) of the TEU as regards the situation in Poland,
- having regard to its resolution of 16 January 2020 on ongoing hearings under Article 7(1) of the TEU regarding Poland and Hungary,
- having regard to its resolution of 17 September 2020 on the proposal for a Council decision on the determination of a clear risk of a serious breach by the Republic of Poland of the rule of law,
- having regard to its resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights,
- having regard to its resolution of 7 October 2020 on the establishment of an EU Mechanism on Democracy, the Rule of Law and Fundamental Rights,
- having regard to its resolution of 26 November 2020 on the situation of Fundamental Rights in the European Union – Annual Report for the years 2018 – 2019,
- having regard to its resolution of 24 June 2021 on the Commission’s 2020 Rule of Law Report,
- 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,
- having regard to its resolution of 16 September 2021 on media freedom and further deterioration of the rule of law in Poland,
- having regard to its resolution of 21 October 2021 on the rule of law crisis in Poland and the primacy of EU law,
- having regard to its resolution of 11 November 2021 on the first anniversary of the de facto abortion ban in Poland,

- having regard to the case-law of the Court of Justice of the European Union,
 - having regard to the standard modalities for hearings referred to in Article 7(1) of the TEU approved by the Council on 18 July 2019,
 - having regard to the decision of the College of Commissioners of 27 April 2022 to commence the proceedings under the Conditionality Regulation against Hungary,
 - having regard to Rule 132(2) of its Rules of Procedure,
- 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; 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;
 - B. whereas any clear risk of a serious breach by a Member State of the values enshrined in Article 2 of the TEU does not concern solely the individual Member State where the risk materialises, but also has an impact on the other Member States, on the mutual trust between them and on the very nature of the Union and its citizens' fundamental rights under Union law;
 - C. whereas Article 7(1) of the TEU constitutes a preventive phase endowing the Union with the capacity to intervene in the event of a clear risk of a serious breach of the common values; whereas such preventive action provides for a dialogue with the Member State concerned and is intended to avoid possible suspension of certain rights deriving from the application of the Treaties;
 - D. whereas Article 7(1) of the TEU was triggered by the Commission and Parliament in relation to Poland and Hungary, respectively, following the determination of a clear risk of a serious breach of the values on which the Union is founded;
 - E. whereas the practice of organising hearings has varied widely from one Presidency to another and the Council has so far organised five hearings on Poland and three hearings on Hungary within the framework of the General Affairs Council (GAC);
1. Takes note of the hearings organised by the Council under Article 7(1) of the TEU in response to threats to the values set out in Article 2 of the TEU in Poland and Hungary; Regrets that the hearings have not led to the improvement of the rule of law, democracy and fundamental rights in Poland and Hungary, and that the situation in both countries has continued to deteriorate since the procedure under Article 7(1) was triggered, as documented in numerous reports and statements of the Commission and international bodies, such as the UN, OSCE and the Council of Europe, as well as confirmed by numerous rulings of the Court of Justice of the European Union and the European Court of Human Rights;
 2. Calls on the Council to show genuine commitment to make meaningful progress in the

ongoing Article 7(1) TEU procedures in line with its obligations under the Treaties to protect the values set out in Article 2 TEU;

3. Considers that adequate frequency and appropriate organisation of the hearings are a precondition for the effective use of the Article 7(1) procedure; Welcomes in this regard, the resumption of the hearings on both procedures by the French Presidency; Notes however with concern that, despite the repeated demands by the Parliament, the hearings are not organised in a regular, structured and open manner; Urges future Presidencies to organise the hearings regularly and at a minimum once per Presidency; Calls on the Council to ensure that hearings under Article 7(1) of the TEU also address new developments, including those related to violations of fundamental rights;
4. Reiterates the intrinsic link between the rule of law, democracy and fundamental rights and reminds the Council and the Commission of Parliament's long-standing call to include the persistent violations of democracy and fundamental rights everywhere in the Union, including attacks against media freedom and journalists, minorities, migrants, women's rights, LGBTIQ+ people's rights, and freedom of association and assembly, when assessing the situation of the rule of law in the Member States;
5. Calls on the Council to publish comprehensive minutes after each hearing and to provide a proper debriefing to the Parliament; Underlines that hearings must be objective, fact-based and transparent, and that the Member States concerned must cooperate in good faith throughout the process in accordance with the principle of sincere cooperation enshrined in Article 4(3) of the TEU;
6. Stresses that the hearings will only be effective if the Council follows-up by addressing concrete recommendations to the Member States in question, as provided for by Article 7(1) TEU; Urges the Council, in light of the rapid deterioration of the situation in both countries, to swiftly adopt such recommendations and to indicate clear deadlines for their implementation; Emphasises that unanimity is not required in the Council to either identify a clear risk of a serious breach of Union values under Article 7(1), or to address concrete recommendations to the Member States; Suggests that if the deterioration persists, the Commission and the Council discuss further steps to protect the values set out in Article 2 of the TEU;
7. Expresses its deep concern that the standard modalities for hearings referred to in Article 7(1) of the TEU do not ensure the same treatment for Parliament as for the Commission; insists that Parliament's invitation to a formal Council meeting is still owing on the basis of the right of initiative and the principle of sincere cooperation between institutions enshrined in Article 13(2) of the TEU; Reiterates its call on the Council to keep Parliament promptly and fully informed at every stage of the procedure;
8. Deplores that several Council presidencies did not find time to meet with all the relevant Parliamentary committees despite official invitations to do so; calls on future Ministers chairing the General Affairs Council to come at least once per presidency to Parliament's relevant committees and update Parliament about these procedures;
9. Calls on all Member States to respect the primacy of EU law and recommends that the Council discusses threats to the primacy of EU law in the different ongoing Article 7(1) procedures; Finds it especially unacceptable that Poland and Hungary continuously fail to implement a significant amount of judgments by the Court of Justice of the European Union and by the European Court of Human Rights ; Urges the Council to take this fact into account when assessing a clear risk of a serious breach of the values set out in Article 2 of the TEU;

10. Calls on the Commission to make full use of all tools available to address breaches by Poland and Hungary of the values set out in Article 2 of the TEU and on which the Union is founded, in particular expedited infringement procedures and applications for interim measures before the Court of Justice of the European Union, as well as the Rule of Law Conditionality Regulation;
11. Calls on the Commission and the Council to refrain from approving the national plans of Poland and Hungary under the Recovery Resilience Fund until they have fully complied with all country-specific recommendations under the European Semester in the field of the rule of law and implemented all relevant judgments of the Court of Justice of the European Union and European Court of Human Rights;¹ recalls that the Commission should use all tools at its disposal to ensure that citizens and residents of the Member States concerned are not deprived of the benefits of EU funds due to their governments' violation of the rule of law;
12. Takes the view that the latest developments in the ongoing hearings under Article 7(1) of the TEU once again underline the imminent need for an EU mechanism on democracy, the rule of law and fundamental rights (DRF), as proposed by Parliament, in the form of an interinstitutional agreement and with a permanent DRF policy cycle among the EU institutions; Deplores the refusal of the Commission and Council to enter into negotiations of this interinstitutional agreement and that no progress was made within the last six years; reiterates its call on the Commission and the Council to immediately enter into negotiations with Parliament on this agreement;
13. Takes note that on 27 April 2022 the Commission finally started the formal procedure under the Rule of Law Conditionality Regulation against Hungary by sending a written notification; Expects the Commission to continue to make steps forward as soon as possible and the Council to have the political commitment to bring the procedure to a successful conclusion without delay and as a matter of priority;
14. Notes with concern that the Commission has not started such proceedings in regard to Poland, and calls for further assessment and action from the Commission under the Regulation; Further regrets that the Commission applies the most narrow interpretation to the Regulation when assessing breaches of the principles of the rule of law in a Member State by effectively excluding a serious risk affecting the financial management of the Union and its financial interests as a condition under which the conditionality mechanism should be activated; Reiterates that the Regulation clearly establishes that endangering the independence of the judiciary constitutes a breach of the principles of the rule of law;
15. Invites the General Affairs Council Ministers to fully take into consideration the findings of the Commission in its written notification to Hungary during its next Article 7(1) hearing on Hungary due to take place at the end of May; Underlines that the findings by the Commission should constitute sufficient ground for the Council to adopt recommendations in the Article 7(1) TEU procedure;
16. Recalls the findings of Parliament's missions to Budapest on 29 September – 1 October 2021² and to Warsaw on 21-23 February 2022³, describing various breaches by Hungary and Poland

¹ This includes but is not limited to the fulfilment of all 11 criteria set out in Article 19 and Annex V to the regulation on the Recovery and Resilience Fund.

² https://www.europarl.europa.eu/doceo/document/LIBE-CR-699096_EN.pdf

³ https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/LIBE/DV/2022/03-31/Missionreport_EN.pdf

in the field of democracy, the rule of law and fundamental rights, especially regarding the independence of the judiciary, media freedom, attacks against civil society actors and the further deterioration of LGBTI+ people's rights and women's rights, and by the alleged use of the Pegasus spyware; calls on the Council to make full use of these findings in its work related to the Article 7(1) procedures;

17. Instructs its President to forward this resolution to the Commission and the Council, the respective Presidents, Governments and Parliaments of Poland and Hungary, and the governments and parliaments of the Member States.