



Plenary sitting

B9-xxxx/2024

16.01.2024

MOTION FOR A RESOLUTION

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

Situation in Hungary and frozen EU funds
(2024/2512(RSP))

Isabel Wiseler Lima, Petri Sarvamaa, Monika Hohlmeier
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Moritz Korner, Katalin Cseh
on behalf of the Renew Group

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on behalf of the Verts/ALE Group

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on behalf of The Left Group

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European Parliament resolution on Situation in Hungary and frozen EU funds (2024/2512(RSP))

- having regard to the Treaty on European Union (TEU), in particular Articles 2, 4(3) and 7(1) thereof,
- having regard to the Charter of Fundamental Rights of the European Union (‘the Charter’),
- 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 the proposal for a Council Regulation amending Regulation (EU, Euratom) 2020/2093 laying down the multiannual financial framework for the years 2021 to 2027,
- having regard to Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (the Rule of Law Conditionality Regulation),
- having regard to Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (the RRF Regulation),
- having regard to Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (the Common Provisions Regulation),
- having regard to its previous resolutions on Rule of law in Hungary in particular those of 12 September 2018, 8 July 2021, 15 September 2022, 16 January 2020, 24 November 2022, 1 June 2023
- having regard on the communication from the Commission of 20th June 2023 on the mid-term revision of the Multiannual Financial Framework 2021 – 2027
- having regard on its interim report on 22 September 2023 on the proposal for a mid-term revision of the multiannual financial framework 2021-2027,
- having regard to the country chapters on Hungary in the Commission’s annual rule of law reports, in particular those of 2021, 2022 and 2023,
- 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 TEU, and as reflected in the Charter and embedded in international human rights treaties;

B. whereas a Member State’s compliance with the values enshrined in Article 2 TEU is a condition for the enjoyment of all the rights derived from the application of the Treaties to that

Member State; whereas according to Article 7 TEU, the Union can assess the existence of a clear risk of a serious breach of the values referred to in Article 2 or it can determine the existence of a serious and persistent breach by a Member State of the values referred to in Article 2;

C. whereas for several years, the rule of law has been deteriorating in Hungary as a result of the systematic actions of its government; whereas this situation has not been sufficiently addressed, many concerns remain and many issues continue to arise; whereas the situation of various vulnerable groups, in particular women, LGBTIQ+ persons, Roma, migrants, asylum seekers and refugees, has significantly deteriorated in the past years, and they keep facing fundamental rights violations without independent institutions being capable or willing to protect them; whereas the absence of the rule of law has led to control over both state and private media and the constant abuse of the already lax labour laws by the Hungarian Government, as well as to the environmental degradation;

D. whereas on 3 May 2023, the Hungarian National Assembly adopted a judicial reform package without proper parliamentary scrutiny or public consultation; whereas this package, despite subsequent additions, does nothing to review the recent political appointments to the highest levels of the country's justice system;

E. whereas on 12 December 2023, the Hungarian National Assembly adopted a 'national sovereignty protection' package without proper parliamentary scrutiny or public consultation; whereas this package provides the executive with even more opportunity to silence and stigmatise independent voices and opponents;

F. whereas Hungary is one of the largest recipients of EU funds (with over 32 billion EUR in CPR and NGEU funds allocated to Hungary in the current MFF); whereas the deterioration of the rule of law in Hungary poses a significant risk to the protection of the financial interests of the EU and on the implementation of the EU Budget in Hungary;

G. whereas the Rule of Law Conditionality Regulation is of utmost importance as it is one of the most effective instruments which allows to protect the EU Budget

H. whereas on 15 December 2022, the Council adopted Implementing Decision (EU) 2022/2506 on measures for the protection of the Union budget against breaches of the principles of the rule of law in Hungary; whereas pursuant to the Conditionality Regulation, the Commission has monitored the implementation of the remedial measures proposed by Hungary in the course of the procedure in the framework of the Council Implementation Decision of 15 December 2022; whereas the measures include the suspension of 55 % of budgetary commitments under three operational cohesion policy programmes, as well as a prohibition on entering into legal commitments with any public interest trust established on the basis of the Hungarian Act IX of 2021 or any entity maintained by such a public interest trust; whereas in December 2023, the Commission has re-evaluated Hungary's situation and confirmed that the risk to the Union budget remains unchanged since December 2022, and the Council's measures should not be adapted or lifted;

I. whereas on 15 December 2022, the Council adopted an Implementing Decision on the approval of the assessment of the recovery and resilience plan for Hungary, which set out several milestones that should be effectively implemented before the submission of the first payment request; whereas on 7 December 2023, the Council adopted an implementing decision approving the amended recovery and resilience plan of Hungary, including a REPowerEU chapter;

J. whereas on 22 December 2022, the Commission adopted a Partnership Agreement with Hungary; whereas the Commission also approved several operational programmes, while

referring to several horizontal and thematic enabling conditions; whereas the Commission concluded that Hungary was not fulfilling the horizontal enabling condition on the Charter with regard to judicial independence and the provisions of several laws posing serious risks to LGBTIQ+ rights, academic freedom and the right to asylum; whereas Hungary concluded in its self-assessment on the lack of fulfilment of several thematic enabling conditions and the Commission took note of this,; whereas both the horizontal and thematic enabling conditions must be respected throughout the whole programming period for expenditure to be reimbursed from the EU budget;

K. whereas the Commission adopted a decision on 13 December 2023 considering that the horizontal enabling condition on the EU Charter of Fundamental Rights is fulfilled in what concerns judicial independence; whereas this decision means that Hungary may start claiming reimbursements of up to around €10.2 billion from European Structural and Investment Funds;

L whereas the European Council failed to reach unanimity on 14-15 December 2023 on a decision to amend the Multiannual Financial Framework for 2021-2027; whereas this failure was reportedly the result of the opposition of the Prime Minister of Hungary; whereas the failure to reach an agreement on the MFF revision seriously puts at risk the continuity and predictability of the financial aid granted by the EU to Ukraine, with severe strategic implications for the EU;

M. whereas over the past decade, Hungary has turned into a hybrid regime of electoral autocracy, according to the relevant indices;

1. Reiterates its findings, concerns and recommendations expressed in its previous resolutions on the state of the rule of law and fundamental rights in Hungary; condemns the deliberate, continuous and systematic efforts of the Hungarian Government to undermine the founding values of the EU enshrined in Article 2 TEU; is strongly concerned about the further erosion of democracy, as well as the deterioration of the rule of law and the fundamental rights situation in Hungary since the adoption of the European Parliament resolution of 15 September 2022, in particular, the recent adoption of the ‘national sovereignty protection’ package; recalls that the Hungarian Government is solely responsible for restoring compliance with EU law and respecting the values enshrined in Article 2 TEU;

2. Strongly regrets the failure of the Council to make meaningful progress in the ongoing Article 7(1) TEU procedures; reiterates its call on the Council to address all new developments affecting the rule of law, democracy and fundamental rights; reiterates its call on the Council to address recommendations in the context of this procedure; underlines that the Council shares the responsibility for the protection of the values enshrined in Article 2 TEU and that the failure to do so would have long-lasting and potentially damaging consequences; calls on the European Council and Member States to take action and to determine whether Hungary has committed serious and persistent breaches of EU values under Article 7(2) TEU; insists that Parliament’s role and competences be respected;

3. Strongly condemns the actions-of the Prime Minister of Hungary, who decided to block the decision on the essential MFF revision including the Ukraine aid package, in full disrespect and violation of EU’s strategic interests; believes that such actions are in violation of the principle of sincere cooperation, as enshrined in the Treaties; points to the fact that in no way can the EU give in to blackmail and trade the strategic interests of the EU and its allies by renouncing its values; forcefully reiterates its insistence on a the need for an urgent and targeted reinforcement of the MFF, providing for citizens’ needs and delivering on political

commitment already taken, including funding for Ukraine; calls on the European Council to urgently agree on such a position in the extraordinary summit on the 1st of February;

4. Welcomes the Commission's Communication of 13 December 2023, confirming that the risk to the Union budget remains unchanged since December 2022, and thus prolonging the adopted measures under the Conditionality Regulation; is of the opinion that this confirms Parliament's previous concerns and recommendations on the matter; reiterates its call on the Commission to ensure that the final recipients or beneficiaries of EU funds are not deprived of these funds, as set out in the Rule of Law Conditionality Regulation; underlines that actions tackling breaches of the rule of law are essential to increase citizens' trust in the EU;

5. Expresses its regret and reaffirms its serious concerns about the decision of the Commission considering that the horizontal enabling condition on the EU Charter of Fundamental Rights is fulfilled in what concerns judicial independence, thus enabling Hungary to submit reimbursement claims of up to 10.2 billion EUR, without adequate control mechanisms or public procurement procedures in place to guarantee the sound financial management and the protection of the EU Budget; believes that this decision is politically contradicting the decision to prolong the measures adopted under the Conditionality Regulation and expresses its disappointment that Parliament was not adequately informed in the process; underlines that the Commission is tasked with independently and objectively assessing Hungary's compliance with applicable legislation, without compromising on democracy, the rule of law and fundamental rights; believes that even after the recent reforms, Hungary does not meet the standard of judicial independence set out in the Charter, as indicated by experts in Hungary and internationally, as the measures adopted do not ensure sufficient safeguards against political influence and can be either circumvented or not adequately applied; in particular, is concerned about the persistence of obstacles to preliminary references, problems with allocation of cases in Kúria, and the deficient system of nomination of President of the Kúria; urges the Commission to share, together with the decision, a detailed written justification; calls on the Commission to re-assess its decision, especially in light of national measures taken since, and to refrain from disbursing any funds, until all legislation is fully implemented and the adopted measures prove their effectiveness in practice;

6. Reiterates its previous calls on the Commission to ensure that no payments under the RRF should be made to Hungary until the milestones (including the ones referred to as "super milestones") and targets linked to the first payment are satisfactorily met and prove their sustainability in practice; is of the opinion that the current audit and control arrangements put in place by the Hungarian authorities, through a fast-track procedure to meet the required criteria for judicial reforms must show concrete, sustainable and verifiable results in practice, particularly as regards addressing systemic issues, before EU funds can be disbursed; calls on the Commission to conduct a new updated assessment, in particular, the state of judicial independence in Hungary, especially in light of developments since the decision has been taken;

7. Underlines that the Hungarian authorities must guarantee equal opportunities to access EU funding for individuals, companies, civil society, NGOs and local and regional authorities, and must ensure independent judicial oversight, as well as impartial and effective complaints mechanisms; condemns the reported systemic discriminatory practices against academia, journalists, political parties, civil society as well as companies in certain sectors; regrets the politically motivated business practices that give an unfair advantage to competitors, non-transparent and manipulated public procurement procedures, takeover bids by the government and entities with ties to the Prime Minister, and the use of EU funds to enrich political allies of

the government in contradiction to EU competition and public procurement rules; stresses that the rule of law is key for a functioning single market in the EU;

8. Underlines the important role of the presidency of the Council in driving forward the Council's work on EU legislation, ensuring the continuity of the EU agenda and representing the Council in relations with the other EU institutions; questions if the Hungarian Government will be able to credibly fulfil this task in 2024, in view of its non-compliance with EU law and the values enshrined in Article 2 TEU, as well as the principle of sincere cooperation; recalls that in some cases the President of the European Council could be replaced by the member of the European Council representing the Member State holding the six-monthly Presidency of the Council; asks the Council to find proper solutions to mitigate these risks as soon as possible; recalls that Parliament can take appropriate measures if such a solution is not found; calls on the President of the Council and Member States to start procedures immediately to reform the decision making process in the Council, in order to end the abuse of the veto right and the blackmail in the European Council and other European Institutions;

9. Stresses that the measures required for the release of EU funding, as defined by the relevant decisions taken under the Common Provisions Regulation, the RRF Regulation and the Rule of Law Conditionality Regulation, must be treated as a single, integral package, and that no payments should be made even if there is progress in one or more areas but deficiencies still persist in another; remains committed to ensuring that EU funds reach the Hungarian population, including through direct funding for local and regional authorities as well as civil society, once conditions are fulfilled and that the Hungarian authorities bear the sole responsibility for the current situation;

10. Reiterates its call 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, financial measures and expedited infringement procedures, applications for interim measures before the Court of Justice of the EU and actions regarding the non-implementation of its judgments; expects prompt action following the adoption of the 'national sovereignty protection' package;

11. Instructs its Committee on Legal Affairs to take the necessary steps as soon as possible, in relation to the Commission's decision leading to the unfreezing of 10.2 billion EUR, including the legal service analysis in accordance with Rule 149, with a view to review the legality of the decision C(2023) 9014 before the Court of Justice, in accordance with Art 263 TFEU; recalls the possibility for the European Parliament to use any legal and political measures at its disposal, if the Commission releases funding without criteria being fulfilled or if it fails to ensure the full implementation of the relevant legislation, considering its responsibility to act as Guardian of the Treaty and to protect the EU financial interests; reminds that the Commission is politically accountable to the Parliament;

12. 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.