

## PRESS RELEASE

### Substantial rule of law problems in Hungary confirmed by the Commission's report

**The European Commission's Rule of Law Report has identified substantial problems severely threatening the rule of law in Hungary in all four areas examined by the report. Civil society organisations have raised attention to several of these problems many times over the past years. According to the assessment of eight Hungarian civil society organisations, the report may contribute to strengthening the independence of the judiciary, the anti-corruption framework, the pluralism of the media, and the system of checks and balances. The report is nuanced, but the picture that it draws is depressing. However, the situation may change if concrete recommendations are made to address the outstanding severe problems, now confirmed by the Commission's assessment, in the framework of the ongoing Article 7 procedure against Hungary, and if the Hungarian Government proceeds to comply with those recommendations.**

The European Commission has prepared a Rule of Law Report the first time this year, covering all EU Member States. The report examines four pillars in each of the Member States: the justice system, the anti-corruption framework, media pluralism, and other institutional issues related to checks and balances. The aim of the annual reports is to follow rule of law developments in all the Member States, and to stimulate dialogue and serve as a basis for discussion in relation to the rule of law.

The Commission's [country report](#) on Hungary identifies severe deficiencies threatening the rule of law under all four pillars. Even though the report does not include recommendations for the national governments on how to tackle the problems revealed, in the case of Hungary the forthcoming hearings in the ongoing Article 7 procedure may serve as an ideal opportunity for the Council to call upon the Hungarian Government to take concrete steps on the basis of the conclusions of the report. In addition to that, the EC's [communication](#), covering all Member States, sets out in relation to the Article 7 procedures launched against Hungary and Poland that the Commission remains committed to supporting the Council in the continuation of these procedures so as to resolve the issues at stake raised in them.

In the preparation of the report, the EC has not only relied on the input received from Member States: in the spring, it also launched a [stakeholder consultation](#), so that civil society organisations, academics, or journalists' federations and judges' associations could share their views on the state of the rule of law with the EU. At that time, eight Hungarian civil society organisations – Amnesty International Hungary, Hungarian Civil Liberties Union, Hungarian Helsinki Committee, K-Monitor, Mertek Media Monitor, Political Capital, Romaversitas Foundation and Transparency International Hungary – cooperated to send responses to the EC consultation questions with regard to Hungary. (The consolidated English version of the NGOs' contributions is available [here](#).) The European Commission's report echoes the concerns raised by the contributions of the NGOs above in several respects.

## Justice system

Besides acknowledging the efficiency of the justice system and the high level of digitalisation in Hungary, the report highlights the following problems:

- Over the past years, EU institutions have identified several developments of concern in relation to judicial independence in Hungary, but most of their related recommendations have not been addressed.
- The most important body of judicial self-administration, the National Judicial Council faces challenges in counter-balancing the extensive powers of the President of the National Office for the Judiciary relating to the administration of the court system. Balancing of powers can be achieved with legal certainty only through a legislative reinforcement of the Council's powers.
- It raises concerns that the Kúria (the Supreme Court) declared unlawful an order for preliminary reference to the European Court of Justice by a criminal judge. The fact that the Kúria can issue such a decision, and that the possibility of disciplinary proceedings against the judge has also emerged, could discourage individual judges from submitting requests for a preliminary ruling to the CJEU.
- The Government and pro-government media outlets have criticised certain judicial decisions, including those awarding compensations to Roma children segregated in school in the Gyöngyöspata case and to inmates complaining about their detention conditions. These negative narratives could undermine public trust and confidence in the justice system.
- New rules allow for appointment to the Kúria of Constitutional Court justices, elected by Parliament, outside the normal procedure (without an application process and the involvement of the self-administration bodies of the judiciary). This enhances the role of the legislation in defining the composition of the highest judicial forum and so weakens the separation of powers.
- The report welcomes the increase in judicial salaries, but finds it of concern that the system of bonuses is not objective and transparent enough.
- Hungary has not complied with recommendations by the Group of States against Corruption (GRECO) pertaining to prosecutorial independence. Accordingly, the Prosecutor General may remain in office after the expiry of their mandate if a minority blocks the election in Parliament of a successor. Guarantees are insufficient for instances when superiors wish to remove cases from subordinate prosecutors.

## Anti-corruption framework

The report highlights that deficient independent control mechanisms and tight interconnections between politics and certain national businesses are conducive to corruption. According to the European Commission, even though the Hungarian Criminal Code provides for a criminal law framework for tackling corruption, there is a systematic lack of determined action to investigate and prosecute corruption cases involving high-level officials or their immediate circle.

According to the report, the system of assets declarations should be reviewed: the verification of assets and interests declarations may be improved as regards systematic

checks and independent oversight. Whilst the regulation of lobbying remains incomplete, corruption prevention policies have focused on integrity in state administration and law-enforcement agencies.

The shrinking possibilities of civic oversight in the context of restrictions to media freedom, a hostile environment for civil society organisations and constant new challenges in the application of access to public information rules further weaken the anti-corruption framework.

### **Media pluralism**

The Commission's report draws a fair picture of the systemic problems characterizing the past years. It

- raises the attention to the problems pertaining to the independence of the Media Council, specifically mentioning that all five members of the Media Council have been nominated by the governing party;
- strongly criticizes the practice of distributing state advertising, highlighting that it permits the Government to exert indirect political influence over the media;
- highlights the challenges in accessing information and the problems pertaining to accessing public interest data; and
- criticizes the obstruction of the work of independent media outlets and the intimidation of journalists, but it acknowledges that there have been no reports of physical attacks on journalists.

### **Other institutional issues related to checks and balances**

The report

- identifies the transparency and quality of the legislative process as a source of concern, particularly that consultations have been recurrently bypassed, and that consultations and impact assessments are rather formal;
- concludes that the possibility for public authorities to challenge final court decisions in the Constitutional Court raises questions of legal certainty;
- states that the weakening of independent institutions further affect checks and balances, and highlights that the Commissioner for Fundamental Rights (the Ombudsperson) did not demonstrate adequate efforts in addressing all human rights issues;
- recalls that certain measures adopted under the special legal order in the spring (some of which are still applicable due to the Transitional Act) raised questions as regards their necessity and proportionality, and interfered with the stability of the regulatory environment;
- addresses the issue that civil society remains under increased pressure in Hungary, and that hostile rhetoric used by the Government and pro-government media hinders constructive cooperation with civil society organisations; and
- highlights in relation to the 2017 law on "foreign-funded organisations", stigmatizing civil society organisations, that it was found incompatible with EU law by the Court of Justice of the European Union this year. According to the report, legislative measures required to execute the judgment are under preparation. This is new information for Hungarian civil society organisations, because the Hungarian Government has not

informed the public so far about its planned steps to execute the judgment of the Luxembourg court.

Even though the Hungarian country report is one of the lengthiest as compared to the other 26 country reports, unfortunately there are a number of important, systemic problems that are still missing from it. For example, the report does not cover the non-transparent nature of the case allocation system at the courts. Similarly, it does not address public procurement rules that allow for diverting EU funds, the corrupt system of informal payments in the public health system, and the governmental takeover of the public service media. The report does not address with adequate emphasis the non-transparent nature of media ownership, or that the governing majority has systematically eliminated the independence of institutions that should serve as checks on and balances to the executive branch, such as the Constitutional Court – among others by subordinating the constitution-making process to political goals.

Notwithstanding, the European Commission's Rule of Law Report reflects adequately the poor state of the rule of law in Hungary. At the same time, it also confirms earlier criticisms by domestic and international stakeholders, which the Government strived to discard as lies or attacks against the country. However, in fact there is a common root for these criticisms: the systematic demolishing of the rule of law by the Hungarian Government.

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*Amnesty International Hungary\**  
*Hungarian Civil Liberties Union*  
*Hungarian Helsinki Committee*  
*K-Monitor*  
*Mertek Media Monitor*  
*Political Capital*  
*Romaversitas Foundation*  
*Transparency International Hungary*

*(\* Amnesty International Hungary contributed to the "Justice system" and the "Other institutional issues" segment of the press release. Amnesty does not currently work on anti-corruption or media pluralism related matters therefore not in a position to bear responsibility for the contents of those parts.)*