



TEXTS ADOPTED

P9_TA(2023)0216

Breaches of the Rule of law and fundamental rights in Hungary and frozen EU funds

European Parliament resolution of 1 June 2023 on the breaches of the Rule of Law and fundamental rights in Hungary and frozen EU funds (2023/2691(RSP))

The European Parliament,

- 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 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 budget¹ (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 Facility² (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 Policy³ (the Common Provisions Regulation),
- having regard to the European Convention on Human Rights and the protocols thereto,
- having regard to the Universal Declaration of Human Rights,

¹ OJ L 433 I, 22.12.2020, p. 1.

² OJ L 57, 18.2.2021, p. 17.

³ OJ L 231, 30.6.2021, p. 159.

- having regard to the international human rights treaties of the United Nations and the Council of Europe,
 - having regard to its resolutions of 12 September 2018 on a proposal calling on the Council to determine, 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 founded¹ and of 15 September 2022 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 founded²,
 - having regard to its resolutions of 16 January 2020 and 5 May 2022 on ongoing hearings under Article 7(1) TEU regarding Poland and Hungary³,
 - having regard to its resolution of 24 November 2022 on the assessment of Hungary’s compliance with the rule of law conditions under the Conditionality Regulation and state of play of the Hungarian RRP⁴,
 - having regard to the letter from the leaders of five political groups in the European Parliament of 23 April 2023 on the draft law targeting teachers and on the whistleblower law,
 - having regard to the country chapters on Hungary in the Commission’s annual rule of law reports, in particular those of 2021 and 2022,
 - having regard to the observations of its Committee on Budgetary Control’s fact-finding mission to Hungary from 15 to 17 May 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, as set out in Article 49 TEU, the EU is composed of states that have freely and voluntarily committed themselves to the common values referred to in Article 2 TEU;
- C. 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 Hungary itself has subscribed to the values enshrined in Article 2 TEU; whereas any clear risk of a serious breach by a Member State of the values enshrined in Article 2 TEU does not only concern this individual Member State, but also has a huge 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;

¹ OJ C 433, 23.12.2019, p. 66.

² OJ C 125, 5.4.2023, p. 463.

³ OJ C 270, 7.7.2021, p. 91; OJ C 465, 6.12.2022, p. 147.

⁴ OJ C 167, 11.5.2023, p. 74.

- D. whereas the scope of Article 7 TEU is not confined to the obligations under the Treaties, as laid out in Article 258 of the Treaty on the Functioning of the European Union; whereas the Union can assess the existence of a clear risk of a serious breach of the common values in areas falling under the Member States' competences;
- E. 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 new issues continue to arise; whereas this is having a negative impact on the EU's image, as well as its effectiveness and credibility in the defence of fundamental rights, human rights and democracy globally; whereas this problem must be addressed through concerted EU action;
- F. whereas the application of special legal regimes has enabled the Hungarian Government to legislate by emergency decrees for over three years, under the pretext of different exceptional circumstances; whereas even before the COVID-19 pandemic, the Hungarian Government made use of special legal regimes; whereas a state of danger has been declared in Hungary in response to the war in Ukraine and was recently extended;
- G. whereas the Hungarian Government continues to issue numerous emergency decrees, which have little to do with the grounds under which the state of danger was introduced; whereas in particular on 27 April 2023, the Hungarian Government issued an emergency decree stipulating that local governments were not obliged to ensure that citizens participate in person at municipal public hearings;
- H. whereas on 2 March 2023, the Hungarian Government proposed a draft law on the legal status of those employed in public education and the amendment of certain related laws, drastically restricting teachers' right to freedom of expression and their labour and social rights;
- I. whereas on 3 May 2023, the Hungarian National Assembly adopted a judicial reform package without proper parliamentary scrutiny or public consultation; whereas this package does nothing to review the recent political appointments to the highest levels of the country's justice system;
- J. whereas the decisions, including nominations, regarding the functioning of the country's new Integrity Authority should be transparent and independent in order to avoid any doubts about its legitimacy; whereas the first annual report of this authority did not fully take into account all stakeholder contributions regarding the seriousness of systemic corruption in the management of EU funds in Hungary;
- K. whereas, after years of calling on Hungary to transpose Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law¹ into its national legislation, on 15 February 2023, the Commission referred Hungary to the Court of Justice of the EU for its failure to do so; whereas on 11 April 2023, the Hungarian National Assembly finally adopted new legislation aimed at replacing the 2013 Whistleblower Protection Act and transposing Directive (EU) 2019/1937 into national law; whereas the amendments included provisions allowing citizens to report activities that go against the

¹ Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305, 26.11.2019, p. 17).

Hungarian way of life and the Fundamental Law, such as activities violating the ‘constitutionally recognised role of marriage and the family’; whereas this law was then sent back to the Hungarian National Assembly by the Hungarian President; whereas this law, if adopted as envisaged, would have legitimised open discrimination and posed a serious threat to the rights of LGBTIQ+ people and to the freedom of expression of everyone in Hungary; whereas on 23 May 2023, the National Assembly adopted the law after excluding the controversial provisions;

- L. whereas independent media and civil society organisations reported a surge in the excessive use of force and arbitrary detention by the Hungarian police during recent protests, in particular towards minors and elected politicians;
- M. 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 Hungary¹; 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 Hungary should inform the Commission by 16 March 2023, and every 3 months thereafter, about the implementation of the remedial measures to which the country committed with its second reply to the Commission, including the additional commitments included in Hungary’s letter of 13 September 2022;
- N. whereas in February 2023, the Hungarian Government initiated the stepping down of several government ministers from the boards of public interest trusts overseeing the operation of key universities; whereas these ministers were replaced by other political appointees with close links to the current ruling party in a non-transparent process; whereas no measures have yet been proposed to fully restore academic freedom in Hungary;
- O. whereas from 2017 to 2021, a total of 1 993 irregularities were identified, both fraudulent and non-fraudulent, in relation to European Structural and Investment Funds and agriculture and rural development funds, ranking Hungary as the sixth highest in terms of such cases detected among EU Member States; whereas during the same period the European Anti-Fraud Office closed 26 investigations into the misuse of EU funds, with recommendations for financial recovery; whereas this is the highest number of closed investigations of all the Member States; whereas Commission audits for the 2014-2020 period resulted in 13 requests for corrective actions and interruption procedures and one suspension decision, and an estimated EUR 1.48 billion of financial corrections;
- P. whereas the refusal of the Hungarian authorities to participate in enhanced cooperation on the establishment of the European Public Prosecutor’s Office prevents the latter from investigating fraud and the mismanagement of EU funds in Hungary, and therefore creates additional risks to the sound financial management of EU funds;

¹ Council Implementing Decision (EU) 2022/2506 of 15 December 2022 on measures for the protection of the Union budget against breaches of the principles of the rule of law in Hungary (OJ L 325, 20.12.2022, p. 94).

- Q. 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;
- R. whereas the Rule of Law Conditionality Regulation is the only piece of EU secondary legislation linking the respect for the rule of law to access to EU funds; whereas on 22 December 2022, the Commission adopted a Partnership Agreement with Hungary, which includes a detailed roadmap to improve Hungary's administrative capacity and to tackle challenges such as the transparency of, and competition in, public procurement, the prevention, detection and correction of corruption, fraud and conflict of interest, and capacity building of the beneficiaries of cohesion policy funding and partners; whereas the Commission also approved several operational programmes, while referring to several horizontal and thematic enabling conditions; whereas the Commission concluded that Hungary is currently 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, in particular its national strategic framework for gender equality, its national strategic policy framework for social inclusion and poverty reduction, and its national Roma inclusion strategic policy framework; whereas 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;
- S. whereas Hungary is one of the largest net recipients of EU funds; whereas according to the Commission, the risk to the sound financial management of the EU budget can be considered significant in the light of the seriousness of the irregularities identified in Hungarian public procurement, in particular regarding the increased number of public tenders with single bidders;
- T. whereas Hungary has committed to fulfil the relevant country-specific recommendation of the European Semester, as enshrined in the Council Recommendation of 12 July 2022 on the 2022 National Reform Programme of Hungary and delivering a Council opinion on the 2022 Convergence Programme of Hungary¹ in particular, to improve education outcomes and the quality and transparency of the decision-making process through effective social dialogue, engagement with other stakeholders and regular impact assessments;
1. Reiterates its findings, concerns and recommendations expressed in its previous resolutions on Hungary and especially the 12 areas outlined in its resolutions of 12 September 2018 and 15 September 2022; condemns the deliberate and systematic efforts of the Hungarian Government to undermine the founding values of the EU enshrined in Article 2 TEU; recalls that the Hungarian Government is responsible for restoring compliance with EU law and the values enshrined in Article 2 TEU;
 2. Is strongly concerned about the further 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, especially with regard to several pieces of legislation

¹ OJ C 334, 1.9.2022, p. 136.

that were adopted in a non-transparent way without the sufficient possibility for parliamentary debates and amendments and without meaningful public consultation; is further concerned about the repeated and abusive invocation of the ‘state of danger’, the misuse of whistleblower protections to undermine LGBTIQ+ rights and freedom of expression, and the restriction of teachers’ status and the infringement of their social and labour rights, which is threatening academic freedom;

3. Condemns the Hungarian Government’s anti-EU communication campaigns, which are part of the government’s strategy to divert attention from its non-compliance with the values enshrined in Article 2 TEU and its systemic corruption; believes that such campaigns further damage the trust between the EU and Hungary and require a proper response from the Commission;
4. Deplores, in view of the forthcoming European Parliament and local elections in 2024, that the recommendations in the final report of the OSCE Office for Democratic Institutions and Human Rights on its election observation mission of the Hungarian parliamentary elections and the referendum of 3 April 2022 have not yet been implemented; urges the Hungarian Government to bring its conduct of elections in line with OSCE commitments and other international obligations and standards for democratic elections;
5. Stresses that the rule of law is key for a functioning single market in the EU; underlines that the Hungarian authorities must guarantee equal opportunities to access EU funding for individuals, companies and local and regional authorities, and must ensure independent judicial oversight, as well as impartial and effective complaints mechanisms for companies; is extremely worried that the pillars of the rule of law, in particular the prohibition of the arbitrary exercise of executive powers, are under severe pressure in Hungary; stresses that this has led to an environment of discrimination and fear that contradicts the pillars of the single market and puts some companies and their legitimate business interests at severe risk; underlines that all companies on the Hungarian market should have the same rights and face the same obligations to conduct business whether they are owned by Hungarian or non-Hungarian persons or entities, and that they must rely on fair and predictable governance by the Hungarian Government;
6. Is appalled by reports about intimidation methods, such as visits by the secret police to some companies’ offices, and other forms of pressure being used by certain individuals known to be connected to the Prime Minister’s close circle or office, with the aim of bringing those parts of the Hungarian industry deemed to be ‘strategic’ under their control; highlights that in such ‘strategic’ parts of the industry, the government often lowers or exempts companies from regulatory standards, including under competition law and by using special legal regimes;
7. Further condemns the reported systemic discriminatory practices against companies in Hungary in certain sectors, 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; highlights that the targeted companies operate predominantly in sectors such as telecommunications, retail, construction, transportation, media, publishing, banking and insurance; is deeply

concerned by the growing concentration of businesses in the hands of oligarchs with ties to the current government who have publicly signalled their intention to buy into these sectors, as well as by the targeting of the competitors of those businesses; highlights that the discriminatory measures include arbitrary legislation, special permit requirements, the prolongation of additional and temporary COVID-19 taxes or levies, such as the turnover tax on the retail sector, registration obligations concerning the import and export of materials, unreasonable price caps in the food retail sector, an increasing number of inspections and audits and other intimidation measures;

8. Recalls that, within the scope of application of the Treaties, any discrimination on grounds of nationality is prohibited in accordance with the Charter, and that the freedom of establishment, the freedom to provide services and the free movement of capital are fundamental freedoms of the single market; underlines that the rules regarding equality of treatment forbid not only overt discrimination by reason of nationality or, in the case of a company, its seat, but all covert forms of discrimination that, by the application of other criteria of differentiation, lead in fact to the same result; underlines that the proper implementation of competition and public procurement rules is also in the interest of Hungarian companies;
9. Regrets the repeated use of government decrees to modify Hungary's annual budget, whereby the 2022 budget of Hungary was modified 95 times, thus completely bypassing the normal budgetary procedure and the role of the parliament, and making democratic scrutiny of the planning, implementation and control of spending in the budget practically impossible; considers this to be clear proof of the lack of sound financial management of the budget;
10. 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, underlining that any further delaying of such action would amount to a breach of the rule of law principle by the Council itself with long-lasting and potentially damaging consequences; insists that Parliament's role and competences be respected;
11. 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 how Hungary 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; asks the Council to find a proper solution as soon as possible; recalls that Parliament could take appropriate measures if such a solution is not found;
12. Reiterates its call on the Commission to make full use of the tools available to it to address the clear risk of a serious breach by Hungary of the values on which the Union is founded, in particular expedited infringement procedures, applications for interim measures before the Court of Justice of the EU and actions regarding the non-implementation of its judgments;
13. Strongly regrets that, in some instances, the impression was created that certain legislative acts proposed by the Hungarian Government or adopted by the Hungarian National Assembly had been agreed on with the Commission; urges the Commission to

refrain from any actions or statements that might indicate that there have been any non-transparent negotiations or agreements prejudging the official position of the institutions; underlines that the Commission is tasked with independently and objectively assessing Hungary's compliance with the milestones and conditions, without compromising on democracy, the rule of law and fundamental rights;

14. Regrets the lack of information made available to Parliament regarding the Commission's assessment of the Hungarian authorities' compliance with the milestones and conditions, hampering Parliament's ability to exercise its role as the budgetary and discharge authority; expresses discontent about the fact that Parliament often has to learn from the press or other sources about what the Commission is proposing to accept or accepting from the Hungarian authorities; expects the Commission to inform Parliament and the Council swiftly and regularly about any relevant developments, especially when new facts occur, and reminds the Commission, in particular, of its legal obligations set out in Article 25(2) of the RRF Regulation and Article 8 of the Rule of Law Conditionality Regulation; notes the importance of transparency for European citizens as well, including Hungarian citizens who are directly affected; calls on the Commission to report its intentions to Parliament prior to taking any final decisions;
15. Calls on the Commission to fully exercise its role as the guardian of the Treaties by further clarifying and explaining its procedures and criteria for assessments of relevant conditions, milestones, targets and commitments under the Common Provisions Regulation, the RRF Regulation and the Rule of Law Conditionality Regulation, including the role of services, individual commissioners and the College as a whole; expects the Commission to ensure that any assessment of legislation being prepared in Hungary is publicly available, only follows the publicly available draft and does not precede public consultation, and expects it to reserve final conclusions until after the final text is adopted, published and translated; calls on the Commission to respect Parliament's role, as enshrined in those regulations;
16. Welcomes the adoption of measures under the Rule of Law Conditionality Regulation and expects the Commission and the Council to lift the adopted measures only after concrete evidence is presented that guarantees that the reasons for the adoption of the measures have been addressed comprehensively, namely that the remedial measures adopted by the Hungarian Government have also proven effective in practice and in particular that no regression has been detected on already adopted measures; stresses that, if these measures are reversed in the future, the EU should immediately proceed to launch measures under the Rule of Law Conditionality Regulation; reiterates its opinion that the 17 measures alone, as negotiated by the Commission and the Hungarian Government, are not sufficient to address the existing systemic risk to the EU's financial interests; calls on the Commission to make a proper assessment of recent legislative developments and to take immediate action under the Rule of Law Conditionality Regulation as regards other remaining breaches of the rule of law, particularly those relating to the independence of the judiciary and other grounds addressed in the letter sent by the Commission to Hungary on 19 November 2021;
17. 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 Article 5(4) and (5) of the Rule of Law Conditionality Regulation; calls on the Commission to find ways to ensure that EU funds reach citizens, businesses, regional and local authorities, non-governmental organisations and any other relevant stakeholders if the government does

not cooperate on the deficiencies regarding the rule of law; reiterates that local and regional authorities that are led by parties in opposition to the current government are being hit especially hard financially as a consequence of the government's actions;

18. Underlines that academic freedom has to be fully restored in Hungarian universities by removing all possibilities for politically motivated intervention into independent operations by public authorities or asset management structures, such as public interest trusts;
19. Expects the Commission to ensure that the milestones (including the ones referred to as 'super milestones') and targets linked to the first payment request from Hungary under the Recovery and Resilience Facility are satisfactorily fulfilled as demanded in the RRF Regulation; expects the Commission to closely monitor any reversal of the measures linked to the fulfilment of any milestone or target and to take immediate action should evidence be found pointing to the contrary; recalls the importance of co-governance and that under the RRF Regulation, Hungary should ensure that regional and local authorities, civil society and other relevant stakeholders are adequately involved in the drafting and implementation of the national recovery and resilience plan; stresses the fact that local and regional authorities were not adequately involved in the drafting of the national recovery and resilience plan as requested in the RRF Regulation; further recalls that the inclusion of a REPowerEU chapter in the national recovery and resilience plan will require a complementary consultation with relevant stakeholders, allowing them sufficient time to react;
20. Insists that adequate control and audit measures are key for the protection of the financial interests of the EU; is of the opinion that the current audit and control arrangements put in place by the Hungarian authorities must show concrete results in practice, particularly as regards addressing systemic issues and guaranteeing sufficient reliability of its accounts, before EU funds can be disbursed; recalls the RRF provisions and the guidelines adopted by the Commission, outlining that the adequacy of control and audit systems is a precondition for the payment of any RRF funds and that non-compliance should lead to the suspension of the full instalment and all future instalments; calls on the Commission to strictly apply the existing methodology; acknowledges the establishment of new structures, such as the Integrity Authority, and their potential impact on addressing existing issues in areas related to control, auditing, public procurement, conflicts of interest and other relevant areas, and eagerly awaits concrete and sustainable results in practice; calls for these newly established structures to be equipped with adequate resources and to have sufficient independence (without government or political influence) in order to fulfil their tasks, bearing in mind the recent resignation of several members of the Anti-Corruption Task Force;
21. Takes note of the approval of the Partnership Agreement between the Commission and Hungary and of the operational programmes; welcomes the critical assessment of Hungary's fulfilment of the enabling conditions, in particular the horizontal enabling condition on the Charter; expects the Commission to properly assess whether both horizontal and thematic enabling conditions have been fulfilled before any relevant payments are made and to continue to closely monitor their fulfilment throughout the whole funding period; calls on the Commission to closely monitor whether the partnership principle and horizontal principles, as enshrined in the Common Provisions Regulation, are being fully respected;

22. 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; insists, furthermore, on the necessity of appropriate checks in order to prevent the agreed on measures from being circumvented by the authorities;
23. Remains committed to ensuring that EU funds reach Hungary once conditions are fulfilled; reiterates that the obligation to fulfil the requirements set out in the relevant decisions taken under the Common Provisions Regulation, the RRF Regulation and the Rule of Law Conditionality Regulation lies with the Hungarian Government and that non-compliance and negative results, including lack or suspension of commitments, decommitments or financial corrections, are direct results of the government's failure to implement its obligations;
24. Insists on the importance of the EU defending its values and principles by using all of the tools available to it; stresses the risk that, without proper action, EU funding could be misused to perpetuate the vested interests of the existing political and economic power, taking into account the electoral context; believes that the implementation of the Rule of Law Conditionality Regulation as regards the Hungarian case will define the efficiency of the mechanism itself and set a precedent on how EU institutions ensure the protection of the financial interests of the EU; underlines that actions to tackle breaches of the rule of law can contribute to increasing citizens' trust in the EU;
25. 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.