

AG: The Commission Was Not Allowed to Release Funds for Hungary

News

Thomas Wahl

In her [Opinion](#), published on 12 February 2026 in [Case C-225/24 \(Parliament v Commission\)](#), Advocate General (AG) *Tamara Čapeta* proposes that the Commission's decision to release EU funds withheld from Hungary be annulled.

Background of the case

On 13 December 2023, the European Commission took a decision (which remained unpublished) to authorise the disbursement of approximately €10.2 billion to Hungary, after these funds had been withheld due to infringements of EU law under the Common Provisions Regulation ([Regulation \(EU\) 2021/1060](#)). This Regulation sets out the common financial rules that apply to a number of sources of EU funding for the period 2021-2027. Pursuant to the so-called enabling conditions, EU Member States must, *inter alia*, ensure fundamental rights are respected and the Charter of Fundamental rights of the European Union (CFR) is complied with (→[Jaskolska, euCRIM 4/2023, 337-339](#)). In 2022, the Commission suspended the disbursement and required Hungary to fulfill several conditions to comply with the CFR, including the independence of the judiciary. In its 2023 decision, the Commission concluded that Hungary had satisfied the requirements of the CFR in relation to judicial independence and lifted the suspension (→[euCRIM 4/2023, 311](#) and [Kuhl, euCRIM 4/2023, 339-345](#)).

The European Parliament brought an action against this decision in March 2024 (→[euCRIM 1/2024, 6](#)). It argued that the Commission infringed the applicable law and committed manifest errors of assessment, infringed its duty to state reasons and misused its powers.

The AG's Opinion

According to [AG Čapeta](#), the European Commission did not sufficiently verify that Hungary had met the requirements it had set for the release of funds. Disbursement of EU funds can only take place if the required legislative reforms are in force and are effectively being applied in the Member State concerned. The Commission must carry out a proper assessment of the reforms. In the case at issue, the Commission has not been sufficiently demonstrated that the reforms would safeguard the independence of the judiciary (in particular the Hungarian Supreme Court, the *Kúria*), ensure the proper appointment of judges, and remove the obstacles to requests for preliminary rulings to the Court of Justice of the EU. The Commission did also not adequately address the legislative developments that could undermine or offset the objectives of the

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Preprint euCRIM 2026, Vol. 21(1)

ISSN: 1862-6947

<https://euCRIM.eu>



reforms Hungary had undertaken. Furthermore, the Commission had failed to provide sufficient grounds for its decision, contrary to Art. 296 TFEU.

Finally, the AG considered that there was insufficient evidence to support Parliament's allegation that the Commission had misused its discretion by releasing EU funds in exchange for the government under Viktor Orbán lifting its veto on important and urgent decisions in the Council of the European Union.

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The project is co-financed by the Union Anti-Fraud Programme (UAFP), managed by the European Anti-Fraud Office (OLAF).



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