

Hungary: Latest Rule-of-Law Developments

Thomas Wahl

News

This news item continues the overview given in [euCRIM 1/2020](#), pp. 4 et seq. of recent events causing Hungary to struggle with European institutions as regards the country's move away from the EU rule-of-law values.

- 18 May 2020: The Chair of the European Data Protection Board (EDPB), *Andrea Jelinek*, voices concern over the move on th part of the [Hungarian government to suspend certain obligations under the GDPR](#). The suspension includes the rights to access and erasure of personal data, the obligation of authorities to notify individuals, and judicial remedies. It is part of the powers conferred by the state-of-emergency law – passed following the coronavirus outbreak in the country (see [euCRIM 1/2020](#), p. 5). In a subsequent [statement of 3 June 2020](#), the EDPB clarifies that the rights of data subjects can be restricted by legislative measures only under strict conditions (Art. 23 GDPR). The EDPB reiterates that, “even in these exceptional times, the protection of personal data must be upheld in all emergency measures, thus contributing to the respect of the overarching values of democracy, rule of law and fundamental rights on which the Union is founded.”
- 18 June 2020: the Grand Chamber of the CJEU rules that restrictions imposed by Hungary on the financing of civil organisations by persons established outside Hungary do not comply with EU law ([Case C-78/18](#)). The Hungarian “Transparency Law” (passed in 2017) imposed obligations of registration, declaration, and publication on certain categories of civil society organisations directly or indirectly receiving support from abroad and exceeding a certain threshold; it also provided for the possibility to apply penalties to organisations that do not comply with those obligations. Critics considered the law a piece of knee-jerk legislation, passed in order to curb donations to NGOs by *George Soros*. The law was made subject to infringement proceedings by the Commission. The judges in Luxembourg conclude that the restrictions run counter to the obligations on Member States in respect of the free movement of capital laid down in Art. 63 TFEU. In addition, both the organisations at issue and the person who granted them support were treated in a discriminatory way and infringed in their rights to respect for private and family life, to the protection of personal data, and to freedom of association. In a [statement of 18 June 2020](#), Commissioner for Justice, *Didier Reynders*, welcomes the judgement. The CJEU follows the opinion of the Advocate General of 14 January 2020 in this case (see [euCRIM 1/2020](#), p. 5). Regarding measures known as the “Stop Soros” Law, another infringement proceeding is currently pending ([Case C-821/19](#)).
- 17 June 2020: The Hungarian Parliament votes in favour of the [termination of the nation's state of emergency](#). The state-of-emergency law, which was passed at the end of March in reaction to the coronavirus pandemic ([euCRIM 1/2020](#), p. 5), generated criticism because it allowed Prime Minister *Viktor Orbán's* government to rule by decree without a predefined end date. The law also allowed to

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clamp down on “fake news.” Following the vote by the Hungarian parliament, critics are still ringing the alarm bell. In a [joint statement of 27 May 2020](#), [human rights groups](#) argue that the bill terminating the “state of danger” still makes it easier for the Hungarian government to rule by decree. It leaves open the possibility for the government to declare another state emergency, granting it extra powers to handle an epidemic. In addition, some changes (e.g., extra powers for security authorities) will remain since they have already been passed into law.

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