

Hungary: Rule-of-Law Developments April-July 2022

Thomas Wahl

News

This news item continues the overview in previous euCRIM issues of the recent rule-of-law developments in Hungary as far as they relate to European law.

- 3 April 2022: Coinciding with the parliamentary elections, the Hungarian government lets carry out a [referendum on its controversial “Children Protection Act”](#), which prohibits or limits access to content that propagates or portrays “divergence from self-identity corresponding to sex at birth, sex change or homosexuality” for individuals under 18 (→ [euCRIM 2/2021, 72](#)). This law (dubbed by critics the “anti-LGBTIQ law”) is also subject to infringement procedures by the European Commission (→ [euCRIM 3/2021, 137](#)). However, the referendum turns out invalid because the threshold of 50% of registered voters casting a valid “yes” or “no” vote was not reached.
- 8 April 2022: The [Hungarian National Election Committee \(NEC\)](#) fines [16 NGOs](#) some of which have campaigned against the referendum for “having defeated the constitutional purpose of the exercise of power”. The fine “is aimed at silencing the huge community that exercised its right to free expression and democratically defeated the government’s propaganda referendum”, the [NGOs wrote in a joint statement](#).
- 15 April 2022: the [Hungarian Supreme Court \(Kúria\)](#) [quashes the decisions by the NEC](#) which fined the NGOs for their campaigns against the referendum (see above). The court held that freedom of expression, especially concerning public affairs, “must enjoy special protection” and should not be curbed “unless for a reason concerning the rule of law”. It added that “no legal stipulations contain a prohibition of campaign messages aimed at invalid voting.”
- 27 April 2022: The Commission [triggers the so-called conditionality mechanism](#) against Hungary. The mechanism enables the EU to cut off an EU Member State from receiving EU money if it breaches principles of the rule of law (→ details in separate news item under “Protection of Financial Interests”).
- 3 May 2022: FECSKE (Support Network for Detainees and their Families) [calls attention to the severe restrictions for detainees](#) to receive packages, correspondence and family visits. The NGO stresses that, despite a decrease in the crime rates in Hungary, imprisonments are increasing, in particular due to a stricter criminal policy. Imprisonment is increasingly ordered even in cases of petty offences, the FECSKE says.
- 23 May 2022: The General Affairs Council holds its [fourth hearing in the Article 7\(1\) procedure against Hungary](#) examining whether there is a clear risk of a serious breach by a Member State of the values referred to in Art. 2 TEU. Discussion focus on the independence of the judiciary, the functioning of the constitutional and electoral system, freedom of expression and the fight against corruption. On the eve of the Council meeting, several civil society organisations provide input by assessing the recent

AUTHOR

Thomas Wahl

Senior Researcher
Max Planck Institute for the
Study of Crime, Security and
Law

Published in
2022, Vol. 17(2) euCRIM pp 83 –
84

ISSN: 1862-6947

<https://euCRIM.eu>



rule-of-law developments in Hungary. In their [joint letter](#), they stress that “all [these developments] highlight persistent, structural and interrelated deficiencies with the respect for democracy, the rule of law and fundamental rights in Hungary and point towards the need for urgent action.”

- 25 May/8 June 2022: The Hungarian Parliament adopts an amendment to the Fundamental Law and [declares a state of danger](#) due to the “armed conflict and humanitarian disaster in the territory of Ukraine, and in order to eliminate the consequences of these in Hungary”. Subsequently, the Parliament adopted the [Fourth Authorization Act](#), removing parliamentary oversight over individual emergency government decrees. [Critics argue](#) that the Parliament’s acts give the Hungarian executive the *carte blanche* for governing with emergency decrees and enabling it to continue its excessive regulatory powers which were first acquired with the argument to overcome the COVID-19 pandemic.
 - 6 July 2022: Media report on a [legal opinion](#) commissioned by the Greens Group of the European Parliament in connection with the application of the EU’s conditionality mechanism (→ [eucrim 3/2020, 174-176](#)) to Hungary. In it, the European Commission is recommended to cut off the country not only from funds from the various agricultural, cohesion and reconstruction budgets, but also from any inflow of money from Brussels. They base their opinion on the fact that the country violates democratic principles in such a “fundamental, regular and far-reaching” way, so that the “legitimacy of the allocation of EU funds” in Hungary is generally at risk. Therefore, the experts consider it “appropriate” for Brussels to “withhold one hundred percent” of the funds.
 - 13 July 2022: In a report, which is designed to underpin the European Parliament’s stance against Hungary in the Article 7(1) procedure, the [LIBE Committee voices harsh criticism](#) over Hungary undermining European values. The report details the areas triggering rule-of-law concerns and stresses that the situation has deteriorated in recent years, exacerbated by EU inaction. MEPs urge the Commission to withhold recovery funds to Hungary until the country complies with recommendations (made by EU institutions) and CJEU rulings.
-

About eucrim

eucrim is the leading journal which regularly informs about current developments in European criminal and “criministrative” law.

All news items are freely accessible at: <https://eucrim.eu/news/>

Stay informed by emailing to eucrim-subscribe@csl.mpg.de to receive alerts for new releases of issues.

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



**Co-funded by
the European Union**