

Hungary: Rule-of-Law Developments in the Second Half of 2024

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European Law Forum: Prevention • Investigation • Prosecution

News

This news item continues *eucri*m's overview of worrying rule-of-law developments in Hungary as far as implications on Union law, in particular the protection of the EU's financial interests, are concerned. It covers the period from 1 July to 31 December 2024. It follows up on the overview in [eucri](#)m 1/2024, 5-7 which covered developments in the first half of 2024.

- 4 July 2024: Civil society members of Monitoring Committees [jointly request](#) to convene extraordinary sessions of Monitoring Committees following the Sovereignty Protection Office's (SPO) investigation against Transparency International Hungary Foundation and the investigative news portal [atlatszo.hu](#). The investigations were opened on 25 June 2024 (→[eucri](#)m 1/2024, 6-7) on the basis of the "Protection of National Sovereignty Act" of December 2023 (→[eucri](#)m 4/2023, 311). The SPO blames the two civil society organisations as "foreign-funded organisations" that "may harm or undermine Hungary's sovereignty", which can result in criminal liability. The civil society members of the Monitoring Committees state that SPO's investigations are unacceptable and an attempt to exert intimidate pressure to all committee members. The Monitoring Committees ensure that Hungary's share of EU funding is spent in accordance with the relevant rules and the approved plans and are therefore an important pillar to protect the EU's financial interests in Hungary.
- 9 July 2024: A [summary](#) of the results of a survey is [published](#) in which civil society organisations responded to threats posed by the recently enacted "Protection of National Sovereignty Act" (see above) for civil society organisations in Hungary. The interview partners also assessed how the Act affects their activities, strategies and funding. In conclusion, the replies show that the Act imposes significant burdens on civil society organisations and actively impedes their activities. According to the results of the survey, the chilling effect of the law creates fear and self-regulation, hinders cooperation between organisations, and diverts resources away from the actual activities of the organisations. In these circumstances even EU funding can be perceived as a threat.
- 23 July 2024: The Deputy State Secretary [rejects](#) the request of the civil society members of Monitoring Committees of 4 July to convene an extraordinary session due to the SPO's investigations into the Hungarian branch of Transparency International and news portal [atlatszo.hu](#). It is argued that the letter cannot be considered as a formal request to convene an extraordinary meeting of the Monitoring Committee.
- 19 September 2024: Following the application no 60778/19, *M.D. and Others v Hungary*, the [ECtHR ruled](#) for the seventh time that the Hungarian practice of push-backs of immigrants violated the ECHR. Since 2021, the ECtHR has repeatedly ruled that push-backs to Serbia by Hungarian police, often by force and deception, are, in all cases, a violation of human rights, particularly the prohibition of

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Published in
2024, Vol. 19(4) [eucri](#)m pp 262
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ISSN: 1862-6947



collective expulsion (Art. 4 of Protocol No. 4 of the ECHR). The case at issue concerned an Afghan family of six who were made to cross the border from Hungary to Serbia against their will and without any formal order. The ECtHR awards the family €9000 in compensation. *Gruša Matevžič*, Senior Legal Officer of the Hungarian Helsinki Committee, which represented the Afghan complainants before the ECtHR, said: “Even though both the Strasbourg Court and the Court of Justice of the European Union condemned this practice of forcible returns, it still continues to this day.” In a [post on *Verfassungblog.de* on 7 October 2024](#), *Dana Schmalz*, Senior Research Fellow at the Max Planck Institute for Comparative Public Law and International Law, commented on the ruling as follows: “The facts of the case reveal a long list of rule-of-law issues. The judgment further clarifies the scope of protection of Article 4 of the Fourth Protocol. At the same time, it shows how the ECtHR – quietly and without much public reaction – is standing up to the complete undermining of legal standards in asylum and migration law” [translation from German into English by the author with the support of DEEPL].

- 24 September 2024: The Council of Europe [Committee of Ministers issues an interim resolution](#) which blames Hungary for not having remedied violations of the prohibition of torture and inhuman or degrading treatment in relation to its law and practice of life sentences. The Committee of Ministers scrutinized the [László Magyar group of cases](#) which partly date back to 2014. It expresses deep regret about the continued absence of information on any developments to comply with ECtHR case law requiring that the applicants’ life sentences can be regarded as reducible, so that they are provided with a prospect of release and a possibility of review, both of which must exist from the imposition of the sentence. The interim resolution calls on the Hungarian authorities to submit an updated action plan, including information on all outstanding issues, by 15 March 2025 at the latest.
- 3 October 2024: The European Commission decides to [refer Hungary to the Court of Justice](#) because it considers its national law on the “Protection of National Sovereignty” (see above) to be in breach of EU law. The Commission opened infringement proceedings in this matter against Hungary on 7 February 2024 (→[eucrim 1/2024, 5](#)). After having carefully assessed the reply of the Hungarian authorities, the Commission maintains that most of the grievances identified have still not been addressed. The Commission considers that the law infringes several fundamental rights enshrined in the Charter as well as several fundamental freedoms of the internal market, the e-Commerce Directive, the Services Directive, as well as EU Data protection legislation.
- 12 November 2024: Ahead of the General Affairs Council meeting which plans to deal with the Article 7 procedure against Hungary, the [Hungarian Helsinki Committee \(HHC\) publishes a paper](#) in which selected rule of law and human rights issues are presented that demonstrate Hungary’s fundamental disregard for EU values and EU law as well as the diminished level of domestic human rights protection in the country. The HHC also proposes points of inquiry and recommendations. The issues relate to the following: shrinking civic space and the Sovereignty Protection Act; non-execution of European court judgments; the possibility of Hungary’s top court to block the binding effect of CJEU judgments; perpetuated states of exception; and lack of an effective domestic human rights protection system.
- 15 November 2024: The [Hungarian Constitutional Court rejects a constitutional complaint](#) brought by Transparency International (TI) Hungary against the “Protection of National Sovereignty” Act (→[eucrim 4/2023, 311](#)). The constitutional complaint was supported by 31 other NGOs which participated as *amicus curiae*. TI argued that the Act allows for a blatantly retaliatory and stigmatising procedure. In particular, the powers of the Sovereignty Protection Office (SPO) to launch procedures against a foreign-funded NGO if the SPO deems that the outcome of an election could be influenced, was considered too broad and unlawful. In rejecting the complaint, the Hungarian Constitutional Court mainly argues that the law did not give the SPO the power to apply any legal consequences, so the sections in question were not connected to the right to the freedom of expression. Moreover, since the reports of the SPO do not constitute either a public authority decision or any other administrative decision,

there is no need to provide for a right to appeal against them. While the SPO welcomed the judgment, [TI and other NGOs announced](#) that they will have the law reviewed by the ECtHR.

- 19 November 2024: The [General Affairs Council revisits the Article 7 procedure](#) against Hungary for disregarding EU values. However, once more no significant progress is made. It is reported that the Commission provided ministers with an update on the latest developments in Hungary and ministers had an opportunity to provide their comments. Hungary presented its remarks. The Article 7 procedure concerning Hungary was launched by the European Parliament in 2018 due to the erosion of EU values and disregard of EU law by the *Orbán* government. Article 7 TEU allows EU membership rights to be suspended if the European Council decided that a country seriously and persistently breaches the principles on which the EU is founded.
- 22 November 2024: Representatives of the three highest judicial administration bodies, the Kúria President, the President of the National Office for the Judiciary (NOJ) and the President of the National Judicial Council (NJC), signed an "[Agreement](#)" with the Hungarian government, represented by the Ministry of Justice. According to this "Agreement", judicial leaders approved cooperation with the Ministry of Justice in the adoption of undefined overall structural judicial reforms in exchange for unguaranteed promises regarding a long-overdue salary raise.
- 27 November 2024: A group of civil society organisations presents a [detailed assessment of Hungary's compliance with rule-of-law conditions to access EU funds](#). The assessment relates to (1) Hungary's commitments under the "conditionality mechanism", (2) the "super milestones" that the country must fulfil in order to receive any payment from the EU's Recovery and Resilience Facility (RRF), and (3) the horizontal enabling condition "Effective application and implementation of the Charter of Fundamental Rights" under the Common Provisions Regulation that would pave the way for EU programme funding (for the mechanisms → [article by I. Jaskolska, eucrim 4/2023, 337-339](#)). The civil society organisations conclude that the Hungarian government had not taken adequate measures in order to fully address the rule of law and human rights concerns raised, and it had not complied with significant conditions established by EU institutions. The assessment is designed to feed the upcoming re-assessment by the Commission and the Council in the framework of the conditionality mechanism in December 2024.
- 3 December 2024: Judges and other employees of the [judiciary are up in arms against the "Agreement" of 22 November 2024](#) (see above). The websites of the two major Hungarian judges' associations have [published a wealth of protest letters](#), some of them sharply worded. The number of protests is growing daily. They are directed against both the content of the agreement and the circumstances under which it was signed. Protesters criticise that the Hungarian government put undue pressure on judicial leaders who opted for giving up guarantees of judicial independence in a political bargain that might yield to salary raises.
- 6 December 2024: Calling the "Agreement" of 22 November 2024 (see above) a "Black Friday at Hungarian Courts", [the Hungarian Helsinki Committee analyses the "Agreement"](#), its antecedents, and the unprecedented public protest by Hungarian judges and judicial staff under four angles: (1) how the government exerted financial pressure on the judiciary, pushing it to the brink of inoperability; (2) how this was converted into political pressure on the National Judicial Council; (3) why the concluded "agreement" violates judicial independence and undermines the system of checks and balances; (4) how the undetailed, undefined reforms highlighted in the "agreement" can undermine judicial independence.
- 11 December 2024: By explaining two cases, the Hungarian Helsinki Committee (HHC) [illustrates how pressure is put on judges/judicial staff](#) through administrative means at the Kúria – the highest judicial authority in Hungary. The persons concerned have spoken out in defence of the separation of powers, judicial independence, and incompatibility of Hungarian law with EU law. The HHC emphas-

ised that breaches of the freedom of expression of judges have been a long-standing problem in Hungary and the [issue is persistent](#).

- 16 December 2024: The European Commission decides that it will [further block the release of EU funds](#) to Hungary. Using the conditionality mechanism, the Commission declares that it does not accept the specific legislative amendments regarding public interest trusts and entities maintained by them, which were formally notified by Hungary on 2 December 2024. This means that Hungary will lose around €1 billion. Shortcomings in public interest trusts are one area in which the Commission sees a linkage between rule-of-law deficits in Hungary and the protection of the EU's financial interests, so that Regulation 2020/2092 on a general regime of conditionality for the protection of the Union budget applies (→[eucrim 3/2020, 174-176](#)). The Commission also clarified that the other Council measure suspending part of cohesion funds also remains in place, as Hungary did not notify any remedy to address the related rule-of-law concerns. Measures to protect the Union budget from breaches of the principles of the rule of law in Hungary were set by the Council in December 2022 (→[eucrim 4/2022, 240](#)).
 - 19 December 2024: In the case *M.D.A. and Others v Hungary* (application no. 16217/19), the [ECtHR finds that Hungary violated Art. 3](#) (inhuman or degrading treatment) and Art. 5 §§1 and 4 (right to liberty and security) ECHR for the treatment and detention of an Afghan family (four children and two adults) in the *Röszke* transit zone located between Hungary and Serbia. The family was held there for four months and Hungarian authorities, *inter alia*, tried to force them to return to Serbia “voluntarily” by withholding food from the parents. The ECtHR particularly rejected Hungary’s argument that transit zones are not places of detention. In its reasoning, the ECtHR refers to a similar case decided in March 2021 (*R.R. and Others v Hungary, application no. 36037/17*). The ECtHR also holds that Hungary has to pay the family €10,000 in respect of non-pecuniary damage.
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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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