

Hungary: Rule-of-Law Developments January – April 2023

Thomas Wahl



News

This news item continues the overview of previous eucrim issues reporting on recent rule-of-law developments in Hungary (as far as they relate to European law). The overview follows up the one in [eucrim 3/2022, 169-170](#).

- 23 January 2023: In a contribution for the European Commission's 2023 rule of law report, the Hungarian Helsinki Committee (HHC) [showcases the negative effects of the rule-of-law backsliding in Hungary](#) on institutions and mechanisms crucial for a well-functioning criminal justice system. The criticism includes undermining the independence of the judiciary, governmental attacks against lawyers, and hasty legal changes without meaningful public consultation.
- 3/21 February 2023: [NGOs assess the Hungarian bill](#) that will bring about changes to the judicial system in Hungary and which was presented in January 2023. The bill is intended to fulfil the “super milestones” concerning the judiciary, which were agreed with the EU institutions in order to unblock money from the EU's Recovery and Resilience Facility (RRF). The NGOs found that there are milestone elements the Government's proposal fully complies with, but these are mostly the ones that are rather technical in nature. At the same time, milestones that demand core changes in the judicial system remain non-implemented. In a [summary table](#), the NGOs listed the milestones and the problems with implementation.
- 24 February 2023: The Hungarian Helsinki Committee (HHC) explains Hungary's current legal [framework of special legal order regimes](#) and voices its concern over the prolonging governance under the state of danger. According to the HHC's paper, since 1 November 2022, the state of danger has a new constitutional and statutory basis, but these legislative changes mainly mean that problematic practices developed during the COVID-19 pandemic have been cemented by the legislature into the Hungarian legal system. The state of danger currently persists with reference to the war in Ukraine.
- 17 April 2023: The dispute continues on whether the planned Hungarian legislative reforms concerning the judiciary fully comply with the super milestones for the sake of unfreezing RRF grants (cf. *supra*). The debate is specifically on the extent to which Hungary must [remove the ability of public authorities to challenge final decisions](#) of the ordinary courts before the Hungarian Constitutional Court. Such removal is required by milestone no 216. The Commission particularly criticised that allowing public authorities to file a constitutional complaint for breach of their rights undermined the right to an effective remedy of other parties as well as the right to respect the *res iudicata* character of a final judicial decision. Civil society organisations claim that the Hungarian legislature should *expressis verbis* exclude the possibility of public authorities acting in their capacity as such, to submit a constitutional complaint before the Constitutional Court, which has not been done so far.

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- 22 April 2023: Hungary's President *Katalin Novák* [vetoes a parliamentary act](#) that would enable people to report on those who challenge the “constitutionally recognized role of marriage and the family” and those who contest children’s rights “to an identity appropriate to their sex at birth.” In particular, citizens would have been enabled to anonymously report same-sex couples raising children together. The law was criticised for being discriminatory toward LGBTQ+. This is the first time that a head of state had objected to a law of great importance to *Victor Orbán's* ultra-conservative ideology since the right-wing populist Prime Minister came into office in 2010.
 - 25 April 2023: Hungarian civil society organisations present a [full assessment](#) of the steps taken by the Hungarian Government to comply with the milestones established by the EU institutions to access EU funds (cf. supra). According to the assessment, numerous issues related to the anti-corruption framework, competition in public procurement, judicial independence, the predictability, quality and transparency of law-making, the rights of refugees and asylum-seekers, academic freedom and the rights of LGBTQI+ persons remain unresolved, and remedial measures taken so far remain unsatisfactory.
 - 3 May 2023: The Hungarian parliament [passes an act that entails judicial reforms](#). The reform is designed to meet the four super milestones on the judiciary (cf. supra). The act strengthens the powers and role of the National Judicial Council, reinforces the independence of Hungary’s Supreme Court (Kúria), abolishes the power of public authorities to lodge constitutional complaints (see above), and removes obstacles to references for preliminary rulings to the ECJ. It is now up to the Commission to endorse whether the reforms can unlock EU money. Observers believe that Hungary can now have access to over €13.2 billion in EU funds.
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