

Hungary: Rule-of-Law Developments July – Mid-October 2021

Thomas Wahl

News

This news item continues updates in previous eucrim issues on rule-of-law developments in Hungary (as far as they relate to European law). For the last overview → [eucrim 2/2021, 72-73](#) with further references to previous reports.

- 8 July 2021: The [controversial law enters into force](#) that was passed by the Hungarian Parliament on 15 June 2021 and, in particular, prohibits or limits access to content that propagates or portrays the so-called “divergence from self-identity corresponding to sex at birth, sex change or homosexuality” for individuals under 18 (dubbed by critics the “anti-LGBTIQ law”, → [eucrim 2/2021, 72](#)).
- 8 July 2021: In a [resolution](#), the European Parliament (EP) “condemns in the strongest possible terms” the Hungarian anti-LGBTIQ law adopted by the Hungarian Parliament in June 2021 (see above). According to the EP, the law constitutes a clear breach of the EU’s values, principles and law. The resolution also stresses that the introduced restrictive measures are part of a larger political agenda that is gradually dismantling fundamental rights in Hungary. The Council is called on to issue concrete recommendations to Hungary within the Article 7(1) procedure. MEPs call on the Commission to launch an accelerated infringement procedure and to use all tools in the CJEU, such as interim measures and penalties for non-compliance if necessary. Furthermore, the EP points to a number of issues in Hungary where the Rule of Law Conditionality Regulation (→ [eucrim 3/2020, 174-176](#)) should be immediately triggered to protect the EU budget, and expresses serious concerns that the Hungarian Recovery and Resilience Plan may not comply with EU law.
- 15 July 2021: The Commission is [launching an infringement procedure](#) against Hungary over its “anti-LGBTIQ law” (see above). The Commission sees no valid justification why the exposure of children to LGBTIQ content as such would be detrimental to their well-being or not in line with the best interests of the child. Therefore, a letter of formal notice was sent to Hungary because the Commission considers that the law does not comply with a number of EU rules, including the Audiovisual Media Services Directive, the Treaty principles of the freedom to provide services (Art. 56 TFEU) and the free movement of goods (Art. 34 TFEU) as well as several fundamental rights enshrined in the Charter, such as the right to human dignity, freedom of expression and information, the right to respect of private life, and the right to non-discrimination.
- 15 July 2021: In the infringement case for unlawfully restricting access to the asylum procedure, the Commission decides to [refer Hungary to the CJEU](#). In 2020, Hungary introduced an “asylum pre-procedure” before a non-EU national can make an application for international protection in Hungary. Hungary justified the measure based on the danger posed by the COVID-19 pandemic. By contrast, the

AUTHOR

Thomas Wahl

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

Published in
[2021, Vol. 16\(3\) eucrim pp 137 – 138](#)

ISSN: 1862-6947

<https://eucrim.eu>



Commission considers it a breach of the [Asylum Procedures Directive](#) (Directive 2013/32/EU), read in light with Art. 18 CFR (right to asylum).

- 30 July 2021: Hungary's National Election Committee [approves the government's request for a referendum](#) on Hungary's LGBTIQ law. In early 2022, before the parliamentary elections, Hungarians will be asked, *inter alia*, whether they support the holding of sexual orientation workshops in schools without parental consent and whether they believe that gender re-assignment should be promoted amongst children and made available to them. Critics see the referendum as a move by Prime Minister *Victor Orban* to back the controversial "anti-LGBTIQ law" against "attacks from Brussels."
 - 1 September 2021: In a [letter to a number of UN special rapporteurs](#) 23 civil society organisations raise serious concerns over the Hungarian government's attacks on the rights of LGBTQIA+ people. The letter calls on the UN special rapporteurs to put pressure on the Hungarian government to change track, and to call on the EU to launch further infringement proceedings against the country.
 - 6 October 2021: In a discussion with Commissioners *Dombrovskis* and *Gentiloni*, [MEPs called on the Commission](#) not to approve the Hungarian and Polish resilience and recovery plans unless the countries address all concerns over their rule-of-law deficiencies, in line with the conditionality rules for the access to EU funds.
-

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**