

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

Thomas Wahl



News

This news item continues the overview of previous eucrim issues of recent rule-of-law developments in Hungary as far as they relate to European law (previous overview → [eucrim 2/2022, 83-84](#)). The overview covers the period from the second half of July until the end of October 2022.

- 15 July 2022: The Commission [refers Hungary to the CJEU over the controversial “Children Protection Act”](#). The Act was approved in 2021 and 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. The Commission immediately launched an infringement procedure against this act in 2021. Since Hungarian authorities did not sufficiently respond to the Commission’s concerns, the Commission now takes the last step of the infringement procedure and takes Hungary to the CJEU. The Commission believes that the law violates several internal market rules and the fundamental rights of individuals (in particular LGBTIQ people).
- 15 July 2022: The Commission launches [another legal action against Hungary before the CJEU](#). The Commission proceeds against the Hungarian Media Council's decision to reject Klubradio's application for the use of radio spectrum. This prevented Klubradio (a liberal talk and news radio station based in Budapest) from continuing its activity in the radio broadcasting sector on the basis of radio frequency. The Commission opened an infringement procedure in June 2021 for breach of the EU telecom rules. The Hungarian authorities did not resolve the issues, which is why the Commission now decided to refer Hungary to the CJEU.
- 19 July 2022: The Hungarian government submits a [bill](#) to the parliament which is to strengthen public participation in the preparation of laws. Strengthening public consultation is one request by the Commission for approving Hungary’s access to the Recovery and Resilience Fund. [NGOs criticised](#), however, that the bill will not remove the actual problem that there is no governmental commitment to meaningful, genuine public consultation. In addition, the bill lacks effective guarantees.
- 29 July 2022: The Hungarian Civil Liberties Union (HCLU) and the Hungarian Helsinki Committee (HHC) communicate to the CoE Council of Ministers that [Hungarian authorities have failed to execute ECtHR judgments on freedom of information](#) cases. Considering the 2009 ECtHR judgment in *Kenedi v. Hungary*, the two NGOs argue that the Hungarian Government has not taken the necessary general measures to prevent the occurrence of similar violations in the future and so has not executed the judgment. There are systemic causes behind the non-compliance with freedom of information judgments, such as the lack of effective and genuinely coercive enforcement tools. Criminal procedures launched for non-compliance with freedom of information judgments under the respective provisions of the Criminal Code rarely lead to indictments, HCLU and HHC say.

AUTHOR

Thomas Wahl

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

Published in
2022, Vol. 17(3) [eucrim](#) pp 169
– 170

ISSN: 1862-6947

<https://eucrim.eu>



- 30 July 2022: [EP political group leaders condemn](#) Prime Minister Viktor Orbán's recent racist declarations about not wanting to become "peoples of mixed race". The EP's statement stresses that the declarations constitute a breach of the EU values and "have no place in our societies". The Council is called on to finally issue its recommendations to Hungary in the framework of the Article 7 procedure. The Commission is urged to treat with priority the ongoing infringement procedures against Hungary's violation of EU rules prohibiting racism and discrimination and make full use of the tools available to address breaches of values enshrined in Art. 2 TEU.
 - 23 August 2022: In an [open letter](#) to the Hungarian Minister of Justice, NGOs called on to carry out proper public consultations and involve CoE's Venice Commission before any changes to the judicial system are made. The organisations fear that planned reforms might undermine the independence of the judiciary.
 - 6 September 2022: The Hungarian Helsinki Committee publishes [a research paper which reviewed secondment decisions](#) by the National Office for the Judiciary (NOJ) in the past years. According to the research, there are systemic deficiencies of the legal framework and practice, jeopardizing the independence of the judiciary in Hungary.
 - 12 September 2022: NGOs publish several [briefing papers](#) that assess the publicly made commitments from the Hungarian government which reply to the launched conditionality mechanism against Hungary (→ [eucrim 2/2022, 106](#)). The NGOs state that the commitments made, and the legislative proposals put forward by the government so far are clearly insufficient to reach any of the goals to protect the EU budget. The NGOs make several recommendations in order to bring about meaningful change in tackling corruption, protecting the EU budget, and recovering certain rule of law safeguards.
 - 15 September 2022: [The EP deplures in a resolution](#) the Council's inability to make meaningful progress in the ongoing Article 7 procedure against Hungary. MEPs argue that Hungary infringes EU values and rules in a number of areas, including the functioning of the constitutional and electoral system, the independence of the judiciary and of other institutions and the rights of judges, corruption and conflicts of interest, privacy and data protection, the right to equal treatment, including LGBTIQ rights, etc. MEPs believe that the situation has deteriorated since 2018 such that Hungary has become an "electoral autocracy". Recovery funds should be withheld until the country complies with EU recommendations and CJEU rulings. MEPs also say that any further delay in acting under Article 7 rules to protect EU values in Hungary would amount to a breach of the principle of the rule of law by the Council itself. The report on the situation in Hungary, which was adopted by the resolution, builds on the resolution with which the EP launched the Article 7 procedure in 2018 to provide an overview of developments in 12 areas of concern identified by the EP (→ [eucrim 2/2022, 84](#)).
 - 4 October 2022: The Hungarian government submits several bills to the parliament in order to deliver on its commitments in the process of the conditionality mechanism initiated by the Commission in April 2022 (see above). In contrast, [NGOs criticise](#) after a review of the bills that many of the proposed remedial measures still have deficiencies. They say that "while in some of the above areas it is possible to identify steps in the direction suggested by the European Union, the Government, when formulating remedial measures, was careful not to introduce changes that would shake the institutional and procedural fundamentals of the captured, illiberal state."
 - 26 October 2022: The Hungarian Helsinki Committee (HHC) communicates to CoE's Council of Minister that Hungary has failed to achieve any tangible progress with regard to preventing, investigating and sanctioning [ill-treatment by the police](#) since last year, and so continues failing to execute multiple ECtHR judgments. According to the HHC, Hungary should address outstanding structural deficiencies in several areas of police work.
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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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