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Situation in Hungary

Greens/EFA motion for resolution

*Tabled by **Judith Sargentini, Benedek Jávor, Ulrike Lunacek, Monika Vana***

on behalf of the Greens/EFA Group The European Parliament, – having regard to the preamble to the Treaty on European Union (TEU), in particular the second and the fourth to seventh indents thereof, – having regard, in particular, to Articles 2, 3(3), second indent, 6 and 7 of the TEU, and to the articles of the TEU and the Treaty on the Functioning of the European Union (TFEU) relating to respect for, and the promotion and protection of, fundamental rights in the EU, – having regard to the Charter of Fundamental Rights of the European Union, of 7 December 2000, which was proclaimed on 12 December 2007 in Strasbourg and entered into force with the Treaty of Lisbon in December 2009, – having regard to its resolution of 10 June 2015 on the situation in Hungary([1](#)), – having regard to the Commission communication of 11 March 2014 entitled ‘A new EU Framework to strengthen the Rule of Law’ ([COM\(2014\)0158](#)), – having regard to the statement of 27 November 2015 by the Council of Europe Commissioner for Human Rights following his visit to Hungary, – having regard to the opinions on Hungary by the European Commission for Democracy through Law (Venice Commission) of the Council of Europe, – having regard to the Commission statement presented at the plenary debate held in Parliament on 2 December 2015 on the situation in Hungary, – having regard to the question to the Commission on the situation in Hungary: follow-up to the European Parliament resolution of 10 June 2015 ([O-000140/2015](#) – B8-1110/2015), – having regard to Rules 128(5) and 123(2) of its Rules of Procedure, A. whereas the European Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of people belonging to minorities, and whereas these values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail (Article 2 TEU); B. whereas the EU Charter of Fundamental Rights prohibits any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation; C. whereas the right to asylum is guaranteed, with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol thereto of 31 January 1967 relating to the status of refugees, and in accordance with the TEU and the TFEU; D. whereas recent developments and initiatives and measures taken over the past few years in Hungary have led to a serious deterioration in the situation as regards, inter alia, media freedom and pluralism, the fight against intolerance and discrimination, the human rights of migrants, asylum seekers and refugees, freedom of assembly and association, freedom of education and academic research, the right to equal treatment on grounds of religion and belief, the ability of civil society organisations to perform their role without hindrance and without having their rights restricted, the rights of people belonging to minorities, including Roma and LGBTI people, the functioning

of the constitutional system, the independence of the judiciary and of other institutions that should act as checks and balances in a democratic state and many worrying allegations of corruption and conflicts of interest undermining the rule of law; E. whereas the Commission failed to respond to Parliament's request in its resolution of 10 June 2015 on the situation in Hungary to undertake an in-depth monitoring process on the situation of democracy, the rule of law and fundamental rights in Hungary, assessing a potential systemic serious breach of the values on which the Union is founded as per Article 2 TEU; F. whereas in July and September 2015 the Hungarian Parliament adopted a number of amendments, relating in particular to the law on asylum, the penal code, the law on criminal procedure, the law on the border, the law on the police and the law on national defence; whereas the Commission's preliminary assessment highlighted a number of concerns and questions relating to the substance and implementation of those amendments; whereas on 6 October 2015 the Commission sent an administrative letter to the Hungarian Government; whereas the Hungarian Government responded to that letter; G. whereas, in its statement presented at the plenary debate held in the European Parliament on 2 December 2015 on the situation in Hungary, the Commission declared that it was ready to use all the means at its disposal, including infringement proceedings, to ensure that Hungary – and any other Member State – complies with its obligations under EU law and respects the values of the Union as enshrined in Article 2 TEU; whereas the Commission considers that the conditions for activating the Rule of Law Framework as regards Hungary are not met at this stage; 1. Reiterates its position expressed in its resolution of 10 June 2015 on the situation in Hungary, which condemned the repeated statements made by Hungarian Prime Minister Viktor Orbán instigating a debate on a potential re-establishment of the death penalty in Hungary, denounced the public consultation on migration and the related country-wide billboard campaign initiated by the Hungarian Government, urged the Commission to activate the first stage of the EU framework to strengthen the rule of law and called on the Commission to present a proposal for the establishment of an EU mechanism on democracy, the rule of law and fundamental rights; 2. Recalls that a clear risk of a serious breach by a Member State of the values referred to in Article 2 TEU would trigger the 'Article 7' procedure; 3. Denounces the series of swift legislative measures taken in recent months that have rendered access to international protection extremely difficult and have unjustifiably criminalised migrants and asylum seekers, in breach of the Geneva Convention and its protocol; stresses its concerns regarding respect for the principle of non-refoulement; condemns the increasing recourse to detention of asylum seekers and using xenophobic rhetoric linking migrants to social problems or security risks, including through government-led communication campaigns, thereby making the integration of the few migrants staying in the country even more problematic; 4. Believes that all Member States must comply fully with EU law in their legislative and administrative practice, and that all legislation, including the primary law of any Member State or candidate country, must reflect and be in accordance with basic European values, namely democratic principles, the rule of law and fundamental rights; 5. Deplores once again the absence of a reaction from the Council to the developments in Hungary; urges the Council of the European Union and the European Council to hold a discussion and adopt conclusions on the situation in Hungary; 6. Notes that the developments in Hungary have led to concerns regarding the principles of the rule of law, democracy and fundamental rights over the past few years, which, taken together, could represent an emerging systemic threat to the rule of law in this Member State; believes that Hungary is a test for the EU to prove its capacity and willingness to react to threats and breaches of its own founding values by a Member State; notes with concern that developments in some other Member States such as Poland show worrying signs of similar undermining of the rule of law as in Hungary; 7. Regrets that the current approach taken by the Commission focuses mainly on marginal, technical aspects of the legislation while ignoring the trends, patterns and combined effect of measures on the rule of law and fundamental rights; believes that infringement proceedings, in particular, have failed in most cases to lead to real changes and to address the situation more broadly; reiterates its call on the Commission to activate the first stage of the EU framework to strengthen the rule of law, and therefore to initiate immediately an in-depth monitoring process concerning the situation of democracy, the rule of law and fundamental rights in Hungary, assessing a potential systemic serious breach of the values on which the Union is founded as per Article 2 TEU, including the combined impact of a number of measures that undermine democracy, the rule of law and fundamental rights, and evaluating the emergence of a systemic threat to the rule of law in that

Member State which could develop into a clear risk of a serious breach within the meaning of Article 7 TEU; 8. Considers that the Commission has so far failed to act in accordance with its duties as guardian of the Treaties and with the Union's common interests and values; deplores the fact that by not considering or responding adequately to Parliament's concerns repeatedly expressed by the majority of its Members, the Commission undermines the principle of mutual sincere cooperation between the institutions laid down in Article 13(2) TEU; takes note of the Commission's decision of 14 July 2015 to suspend several contracts across eight EU funding programmes owing to the use of an excessively restrictive selection criterion in public procurement procedures in Hungary; calls on the Commission to continue all investigations and to use all existing legislative tools to their full extent, to ensure the transparent and proper use of EU funds in Hungary on the basis of EU law; 9. Welcomes the registration of a European Citizens' Initiative inviting the Commission to propose the triggering of Article 7 TEU for alleged breaches by Hungary of the EU's fundamental values; instructs its Committee on Civil Liberties, Justice and Home Affairs to draft a specific report on Hungary in accordance with Rule 83(1)(a) of its Rules of Procedure with the aim of adopting a reasoned proposal calling on the Council to act in accordance with Article 7(1) TEU; 10. Reiterates its call on the Commission to present a proposal for the establishment of an EU mechanism on democracy, the rule of law and fundamental rights, as a tool for compliance with and enforcement of the Charter and Treaties as signed by all Member States, relying on common and objective indicators, and to carry out an impartial, yearly assessment of the situation of fundamental rights, democracy and the rule of law in all Member States, indiscriminately and on an equal basis, involving an evaluation by the EU Agency for Fundamental Rights, together with appropriate binding and corrective mechanisms, in order to fill existing gaps and to allow for an automatic and gradual response to breaches of the rule of law and fundamental rights at Member State level; 11. Instructs its President to forward this resolution to the Commission, the Council, the President, Government and Parliament of Hungary, the governments and parliaments of the Member States and the candidate countries, the EU Agency for Fundamental Rights, the Council of Europe and the Organisation for Security and Cooperation in Europe. —(1) Texts

adopted,
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