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NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Values of the Union - Hungary - Article 7 (1) TEU Reasoned Proposal -
Report on the hearing held by the Council on 10 December 2019

As provided for in 10641/2/19 REV2 (paragraph 23 of the Annex), delegations will find in the Annex the formal report on the hearing of Hungary, held on 10 December 2019, in accordance with Article 7(1) TEU.

On 10 December 2019, the Council heard Hungary in accordance with Article 7(1) TEU. The hearing was conducted during the meeting of the General Affairs Council and lasted approximately two hours.

In line with the standard modalities for hearings referred to in Article 7(1) TEU (10641/2/19 REV2), the substantive scope of the issues to be covered by the hearing was agreed by Coreper on 27 November 2019 (14402/19). The hearing covered three of the topics included in the reasoned proposal by the European Parliament of 12 September 2018: independence of the judiciary and of other institutions and the rights of judges; freedom of expression; academic freedom.

At the start of the hearing, the Presidency reminded the participants that the hearing would be conducted in accordance with the standard modalities (10641/2/19 REV2).

The Hungarian delegation was then given the floor so that it could make its introductory general comments. Subsequently, the delegation presented its initial remarks on the topics of the hearing, covering: recent reforms concerning the judiciary; the configuration and regulation of the Hungarian media market; the functioning of the Hungarian higher education system and the creation of the Eötvös Loránd Research Network.

The Commission was then given the floor and presented its remarks.

Afterwards, 12 delegations intervened to put questions to Hungary: BE, DE, DK, ES, FR, IE, IT, LU, NL, PT, SE and SI.

Those questions concerned:

- the omnibus bill submitted on 12 November 2019, and its possible effects on the independence of the judiciary, through the extension of political influence over the judiciary and the change in the relations between the Constitutional Court, public administration and judgments by ordinary courts; the proposed public consultations on the bill; why state and public authorities could file constitutional appeals that were normally for individuals or non-state actors; the division of powers between the President of the National Judicial Office (NJO) and the National Judicial Council (NJC);
- media pluralism and how Hungary intended to address concerns in this area; the merger that had created Central European Press and Media Foundation (KESMA) and the lack of review and oversight by competition authorities; stricter rules on journalists' access to Parliament; the proposed measures to ensure the independence and the pluralism of the Hungarian Media Council;
- the higher education bill, the scope for foreign universities to operate in Hungary, and the case of the Central European University;
- the creation of the new Eötvös Loránd Research Network and the risks of political influence over research funding;
- the role played by NGOs in a democratic and open society and how Hungary intended to preserve it.

The Hungarian delegation was given the opportunity to reply to the remarks by the Commission and to provide detailed answers after each question by delegations.

In particular, the Hungarian delegation stated that the omnibus bill of 12 November 2019 was intended to address a number of technical issues left open by the decision to withdraw the proposed reform of the administrative courts and that a public consultation of stakeholders, especially of the courts, had been carried out. The delegation further stated that the additional avenues for constitutional appeals did not affect the right of individuals to file a complaint, but were rather meant to ensure better protection of individual rights and public interests through the action of public authorities. Moreover, the delegation expressed the view that requests for preliminary rulings in Hungary were above the EU average and that the appointment of the new President of the NJO would resolve the tensions between the NJO and NJC. According to the delegation, past personal conflicts showed clearly that checks and balances worked.

The Hungarian delegation stated that the merger creating KESMA had been a decision by a private foundation, not by the government. The merger had been exempted from scrutiny by competition authorities as a project of national significance; subsequent activities of KESMA, however, were not exempt from the scrutiny of the competition and media authorities. The delegation further considered that there was no threat to freedom of expression. The Hungarian media legislation had undergone close scrutiny by the Venice Commission and the European Commission at the beginning of the 2010s: in its present form, the Hungarian delegation considered that it was in line with EU standards. Moreover, the delegation stated that measures were in place to ensure the independence of the members of the Hungarian Media Council, notably their appointment by the Parliament by a two-thirds majority and for a non renewable nine-year mandate.

The Hungarian delegation was of the view that the real situation in Hungary in the field of higher education was not that reported by the media. Concerning the Central European University, the delegation stated that the University's activities at Bard College in the State of New York did not seem to constitute real higher education activity and therefore the university failed to comply with Hungarian law, unlike 16 other foreign universities operating in Hungary.

The Hungarian delegation stated that the Eötvös Loránd Research Network was independent from the government and had been created to ensure better funding for research.

The Hungarian delegation stated that over 6 000 NGOs from all walks of life were operating in Hungary, and that they were entirely free to engage within their own remit; however, responsibility for political choices lay with elected leaders.

After questions and answers, the Hungarian delegation presented its closing comments.

The Presidency concluded that the General Affairs Council would remain seized of this matter.