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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 23 May 2022

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 23 May 2022 in accordance with Article 7(1) TEU.

On 23 May 2022, 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 2 hours 30 minutes.

In line with the standard modalities for hearings under 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 18 May 2022 (8473/22). The hearing covered all the topics included in the European Parliament's reasoned proposal of 12 September 2018.

At the start of the hearing, the Presidency reminded 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 to make its initial remarks. The delegation presented the issues that, in their view, had already been resolved and maintained that duplication of other legal procedures had to be avoided.

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

Afterwards, 18 delegations put questions to Hungary: AT, BE (also speaking on behalf of LU and NL), DE, DK, EE, EL, ES, FI, IE, IT, LV, LT, LU, NL, PT, SI, SK and SE.

Those questions concerned:

- the conduct of the parliamentary elections of 3 April 2022 and the perceived absence of a level playing field;
- the proposed constitutional amendment on the state of emergency linked to humanitarian disasters and military conflicts in neighbouring countries, its necessity and proportionality;
- the context in which NGOs and civil society operated, as well as the current laws affecting them;
- the independence of the judiciary and the appointment of a new president of the Supreme Court (Kúria);

- media pluralism and freedom of expression, including the independence of the Media Council, the protection of journalist and measures to address disinformation;
- the Hungarian Act LXXIX of 2021 providing for more severe action against paedophile offenders and amending certain acts for the protection of children, and its possible effects on the right to equal treatment and the rights of children and of persons belonging to minorities, especially LGBTIQ persons, as well as the risks posed to freedom of expression; the protection of the rights of LGBTIQ persons;
- corruption, and how Hungary intends to implement recommendations by the Group of States against Corruption (GRECO) and by the European Anti-Fraud Office (OLAF), particularly in the framework of its new anti-corruption strategy, as well as the participation of Hungary in the European Public Prosecutor's Office;
- the ratification by Hungary of the Istanbul Convention on preventing and combating violence against women and domestic violence, and the steps taken to address violence against women;
- the primacy of EU law, the implementation of judgements by the Court of Justice of the European Union, the possibility for Hungarian judges to request preliminary rulings by the Court of Justice of the European Union;
- effective access to the right to asylum;
- academic freedom, the expulsion of the Central European University and the scope for foreign universities to operate in Hungary;
- the independence of the Commissioner for Fundamental Rights of Hungary, including the recommendations to downgrade its status by the UN Global Alliance of National Human Rights Institutions.

The Hungarian delegation was given the opportunity to respond to the Commission's remarks and to provide detailed answers to each question put by the other delegations.

In particular, the Hungarian delegation stated that the elections of 3 April 2022 had been free and fair and that international observers had found no irregularities.

The Hungarian delegation stated that the proposed constitutional amendment on the state of emergency was needed in order to respond appropriately to a war in Hungary's neighbourhood and to prepare the country for the economic consequences.

The Hungarian delegation stated that the issue of the transparency law on the financing of NGOs had been resolved and that the Court of Justice of the European Union, while criticising the tools used, had recognised that ensuring transparency was a legitimate objective.

The Hungarian delegation stated that in Hungary the executive branch had no influence on the appointment of judges and that their selection was based on objective criteria. The delegation further stated that the appointment of a former constitutional judge as president of the Kúria was supported by a two-thirds majority in the national assembly and that the candidate met all the requirements in terms of professional competence and of independence.

The Hungarian delegation stated that in Hungary there was a balanced and diverse media landscape, with significant improvements in pluralism in recent years. The delegation also maintained that the Hungarian Media Council was a fully autonomous regulatory agency, reporting only to the parliament, with members appointed by a two-thirds majority, strong guarantees of independence and no conflicts of interest.

The Hungarian delegation stated that the Act LXXIX of 2021 was not directed against LGBTIQ rights but aimed at ensuring that choices on children's education were up to the parents and that propaganda was banned in schools. The delegation also maintained that the rights of minorities and of LGBTIQ persons were fully respected in Hungary.

The Hungarian delegation stated that the fight against corruption was a priority in Hungary, with indictment rates doubling in recent years according to OLAF statistics, and that Hungary's performance was average according to the EU Justice Scoreboard. The delegation further emphasised the efficient cooperation with international bodies, including GRECO and the EPPO, and the long-standing tradition of independence of public prosecutors.

The Hungarian delegation stated that some elements of the Istanbul Convention were not in line with the Hungarian constitution. The delegation maintained that, nevertheless, Hungary implemented fully the substantive requirements of the convention, through concrete actions and very stringent provisions on criminal offences.

The Hungarian delegation stated that the primacy of EU law had to be recognised only in the areas of shared competence, not where Member States had exclusive competence. The delegation maintained that where interventions by the EU institutions in an area of shared competence were not effective Member States had a responsibility to act.

The Hungarian delegation stated that the rights of asylum seekers were fully respected. The delegation further stated that the rulings of the Court of Justice of the European Union were being implemented and that humanitarian support was not penalised, with only those facilitating illegal migration being targeted.

The Hungarian delegation stated that the ruling of the Court of Justice of the European Union on academic freedom had been implemented and that the current rules on the activities of foreign universities, inspired by similar legislation in other Member States, were fully in line with EU law.

The Hungarian delegation stated that the Commissioner for Fundamental Rights of Hungary had recently seen its role reinforced, to include competences on equal treatment, and that the recommendations to downgrade its status by the UN Global Alliance of National Human Rights Institutions was merely related to a lack of activity or of professionalism by the Commissioner.

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

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