

The European Commission has launched proceedings to punish Hungary

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On 17 January, the European Commission decided to apply EU law infringement proceedings against Hungary. The European Commission found that the lowering of the retirement ages for judges and public prosecutors from 70 to 62 years was workplace discrimination due to age, and that the new laws on the central bank and the office for personal data protection are restricting the independence of the two institutions they are concerned with. Hungary has one month to respond to the European Commission's accusations. If Hungary fails to follow the recommendations, the final stage of the procedure provides for bringing an action to the Court of Justice of the European Union, which may impose a financial penalty.

Furthermore, the European Commission launched another stage of the excessive deficit procedure against Hungary. Formally, this country met the requirement set in the Treaty of Maastricht to maintain the maximum deficit at the level of 3% of GDP because it had a surplus in public finances at 3.6% of GDP. However, this was an effect of a single operation of taking over assets from open pension funds, without which the real deficit would have reached around 6% of GDP. In the opinion of the European Commission, Budapest has breached its previous undertaking to restrict the deficit. Further actions to be taken by the European Commission include: the issuing of new recommendations to adjust the deficit and a partial or total freezing of subsidies from cohesion funds if the recommendations are not followed. These must be preceded by consent from the Council of the European Union.

Commentary

- At the present stage, the possibility of imposing any concrete sanction on Hungary seems to be a relatively remote eventuality. The punishment of a member state by the Court of Justice of the European Union for infringement of EU law is the final stage of the procedure which comprises more than ten months of consultations and an exchange of viewpoints. In turn, the possible imposition of sanctions in connection with the excessive deficit procedure must be preceded by the use of all possible means to reach a compromise between the EC and Hungary and also by consent from the Council of the European Union.
- Hungary – due to another stage of the excessive deficit procedure having been opened – will be the first EU member state to be disciplined using mechanisms envisaged under

the EU new economic governance rules (the 'Six-Pack') which have been in force since December 2011. Thus the functioning and the effectiveness of the new EU procedures to secure fiscal discipline in member states will be tested using Hungary as an example. The European Commission is likely to issue rather unrestrictive recommendations which are possible to implement for Hungary to revise its budget policy. This would create a greater chance for the approval of the recommendations by the Council of the European Union, since some of the member states oppose the European Commission's strong interference with the formation of national fiscal policies.

- Hungary has already declared its readiness to make concessions regarding the legislation challenged by the European Commission. Prime Minister Orbán wants to reach a compromise since otherwise Hungary would not be able to receive a loan from the International Monetary Fund, which it applied for last November as its financial situation was deteriorating. Support from the European Commission is one of the conditions set by the IMF, which, incidentally, is also insisting that the central bank law needs to be changed.