

The consequences of international criticism of the constitutional changes in Hungary

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The European Parliament on 3 July adopted a resolution concerning constitutional reforms in Hungary by a definite majority of votes. The resolution criticises the tempo and the scope of the changes and their compliance with EU standards and values. On 25 June, the Parliamentary Assembly of the Council of Europe (PACE) expressed “serious and sustained concerns” about the changes being introduced by Hungary in the context of the country’s obligations linked to its membership in the Council of Europe. Both resolutions refer primarily to the package of constitutional amendments adopted in March (the so-called “fourth amendment”), for instance, the introduction to the constitution of regulations which had previously been challenged by the Constitutional Court. Both the PACE and the European Parliament made reference to the opinion passed in June by the Venice Commission (an advisory body to the Council of Europe). They recommended the Hungarian government amend the law. However, they stopped short of using tougher instruments, such as the Council of Europe’s monitoring procedure (currently this procedure is pending against ten of the 49 member states of the Council of Europe, none of these are EU member states, though) and the proposal to suspend the rights of an EU member state, which can be recommended by the European Parliament.

Commentary

- Although neither of the two resolutions will have direct legal consequences, they have still provided critics with arguments for constitutional change in Hungary. In response, the Orban cabinet has promised to make some limited concessions, as it did following the reservations expressed against the media law and the new constitution. The government is most likely to step back from three solutions which the European Commission has found contrary to EU law, namely the competences of the president of the National Judicial Office to transfer cases to another court without a clearly stated reason, the possibility to introduce a special tax should a financial sanction be imposed on Hungary, and the ban on broadcasting electoral advertisements in private media. The government has already suggested changes regarding the first two issues and has also declared it is willing to continue co-operation with the Venice Commission. No further

concessions should be expected.

- The Hungarian government has called the European Parliament's resolution into question, presenting it as an ideological attack against conservative reforms. Although the resolution has also been backed by a definite majority of MEPs from the European People's Party (EPP), politicians from Fidesz are stressing that the document was developed on the basis of a report by Rui Tavares, a radical left MEP. In turn, they are presenting the closing of the Excessive Deficit Procedure (EDP) with regard to Hungary as an example of successful co-operation with EU authorities. The government drew attention to this in full-page advertisements published in the most important Hungarian daily newspapers two days after the European Parliament passed the resolution.
- Hungary's case has triggered a discussion in the EU on how to reinforce mechanisms to ensure that member states observe the basic laws. In its resolution, the European Parliament proposed to establish a 'Copenhagen high-level group' (in March, Denmark, Finland, Holland and Germany came up with a proposal for the development of a mechanism which would impose economic sanctions). The discussions on the resolution concerning Hungary have, however, revealed differences of opinion regarding these issues inside the EU. Similarly, a compromise in the Council of the EU should not be expected. Therefore, stricter supervision of compliance with the basic laws in the EU appears to be a long-term prospect, and sanctions on Hungary seem unlikely.