

Hungary: 'Stop Soros' – a package of anti-immigration regulations

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On 20 June, the Hungarian parliament made a number of legislation changes branded collectively by the governing Fidesz as the 'Stop Soros' package. The parliament amended the constitution that has been in force since 2012 for the seventh time and introduced changes to the police act, the act on refugee status and the criminal code (among other laws). The new regulations in the constitution provide that "foreign people may not settle in Hungary", and a citizen of another country (with the exception of citizens who have the right to free movement of people inside the EU) may stay in the territory of Hungary only on the grounds of individually expressed government consent. The amendments of the legislation also provide that the refugee status may not be granted to individuals who crossed the borders of countries where they were safe before reaching Hungary. Part of the constitutional amendments also concerned other issues (including the establishment of administrative courts and a prohibition on homeless people camping in public spaces). The most important legislation changes include the amendment of the criminal code imposing a penalty of up to one year's imprisonment for "illicitly helping immigrants". Under the new regulations, a person against whom proceedings are pending on charges of illegal border crossing, damaging or impeding the construction of border strongholds, smuggling people, helping immigrants, etc. may not be present within a distance of 8 km of the state border (unless this person has a registered address there).

Fidesz argues that adopting the 'Stop Soros' package is necessary for security reasons and presents this step as the fulfilment of its most important electoral promise. Both the constitutional amendments and the legislation changes were supported by the opposition radical right party Jobbik (along with the governing party Fidesz). The other opposition parties either voted against the vote or boycotted it.

The amendments of the Hungarian legislation have been criticised by the spokesperson of the European Commission and the United Nations High Commissioner for Human Rights. The Venice Commission in an opinion adopted at a session on 22–23 June stated that the imposition of a penal sanction for helping immigrants illegally crossing the border is not contrary to international human rights standards. At the same time it emphasised that actions such as preparation and the distribution of informative materials on international protection or assistance in submitting an application for refugee status should not be penalised. It also pointed to the ambiguity of these regulations and potential problems with interpretation and the risk of the 'arbitrary' restriction of the functioning of non-governmental organisations in the area of human rights.

Commentary

- The fact that the 'Stop Soros' package was passed proves that the immigration issue for Prime Minister Viktor Orbán was not simply a tactical instrument for mobilising the electorate during the recent parliamentary election but that it has become a constant and dominant element of Fidesz's agenda and ideological line. Highlighting the threats posed by immigrants successfully consolidates the right-wing electorate even though a marginal number of immigrants have arrived in Hungary since 2016 (around 250 people who illegally crossed the border were detained between January and June 2018). It should be expected that opposing immigration will remain Fidesz's main message at least until the election to the European Parliament in spring 2019. Playing the migration card fits in with Orbán's rhetoric of "defence from foreign dictate", in particular that from EU and UN institutions, which according to Fidesz politicians have links with the billionaire George Soros and are involved in plans to bring immigrants to Hungary. In turn, the Venice Commission (an advisory body of the Council of Europe) in most cases is not the subject of direct criticism because its opinions have been used for years by the Hungarian government in disputes with neighbouring countries concerning Hungarian minorities, recently above all in the dispute over the education act in Ukraine.
- Adopting further restrictive solutions and harsh anti-immigration rhetoric have been used to build Orbán's position on the European political scene. It helps the Hungarian prime minister to polarise the debate in the EU on migration policy and allows him to play the role of the leader of the camp opposing immigrants and defending the 'Christian character of Europe'. This is also an element of his game inside the European People's Party (EPP), including with Chancellor Angela Merkel. There is a dispute over the shape of the migration policy and attitude towards Orbán both inside the EPP and among the German Christian Democrat circles. Fidesz is supported amongst others by the Bavarian CSU and Austria's ÖVP, while for instance the Dutch Christian Democrats are very critical. Fidesz's radical rhetoric in the campaign ahead of the parliamentary election this year provoked some of the politicians from the EPP, including the president of the EPP's faction in the European Parliament, Manfred Weber, to remind Fidesz – as a member of the EPP – of the 'red line' that it may not cross. Their criticism above all concerned the regulations aimed at non-governmental organisations and the Central European University in Budapest which are being pushed through by Fidesz. Orbán has not disregarded the EPP's reservations, one proof of which is the government's withdrawal from part of the proposed regulations targeted against non-governmental organisations. At the same time, the Hungarian prime minister has consciously made confrontational gestures towards his critics: the 'Stop Soros' package was adopted on World Refugee Day (established in 2000 by the UN General Assembly), two days before the publication of the Venice Commission's opinion concerning this issue, contrary to appeals from this institution and the European Commission. Considering the numerous appeals to exclude Fidesz from the EPP, the Hungarian prime minister thus shows he is willing to make only minor concessions. At the same time, he suggests that, even though he wants to remain in the family of the Christian Democrat parties, one alternative for him may be to create an anti-immigrant group ahead of the election to the European Parliament.

- The regulation imposing the penalty of imprisonment for helping immigrants which has provoked the greatest controversies is formulated in an unclear manner, and it is difficult to conclude what impact it will have on the functioning of non-governmental organisations. Adopting this regulation, however, fits in with the governmental strategy of impeding the functioning of the third sector, especially organisations acting in the area of human rights and receiving funds from foreign sources. Since June 2017, non-governmental organisations which receive support from foreign donors exceeding around 25,000 euros annually must be registered in the governmental database and use the phrase “organisation supported by foreign sources” in all materials. A procedure concerning the violation of EU law has been launched against Hungary in connection with this in front of the Court of Justice of the European Union. In June this year, a governmental project of amending the tax act was submitted to the Hungarian parliament which would impose an obligation to pay a 25% tax on each organisation which takes “actions promoting immigration”. According to the bill, for example, conducting campaigns in the media and presenting immigration in a positive light will be classified as such actions. The situation of non-governmental organisations, along with the status of the Central European University in Budapest, has become the main subject of Hungary’s dispute with EU institutions and the Council of Europe. On 25 June, the European Parliament Commission on Civil Liberties, Justice and Home Affairs (LIBE) adopted a recommendation on the launch of the procedure on the grounds of article 7 against Hungary; one of the reasons for this being the restrictions in the functioning of non-governmental organisations in Hungary.