



HUNGARIAN  
HELSINKI  
COMMITTEE



**Mr Didier Reynders**  
European Commissioner for Justice

**cc: Mr Johannes Hahn**  
European Commissioner for Budget and Administration

**cc: Ms Věra Jourová**  
Vice-President of the European Commission

**European Commission**  
Brussels, Belgium

Budapest, 2 May 2023

**RE: adoption of Hungarian legislation on judicial super milestones breaches lawmaking rules**

**Dear Commissioner Reynders,**

**Amnesty International Hungary, the Eötvös Károly Institute and the Hungarian Helsinki Committee** request that you urge the Hungarian government majority not to adopt the judicial reform package, submitted with a view to unfreezing certain EU funds, in an expedited parliamentary process that completely lacks an opportunity for public consultation and transparency

**The adoption of the judicial reform package is essential for Hungary to gain access to EU funds, however, the current legislative process fails to meet the super milestones' requirements of public transparency and consultations.**

**Despite its utmost importance and the fact that the super milestones expressly prescribed an obligation for the Hungarian government to ensure public consultation of the proposed legislation, Bill T/3131 on the judicial reform was submitted to the Parliament in breach of the laws governing the lawmaking process, which precluded any meaningful public and professional consultation on its contents.**

## **I. FACTS**

### **I.1. The public consultation period**

On **18 January 2023**, the Hungarian government published a draft proposal (**Draft**) on the Amendment of Certain Laws on Justice related to the Hungarian Recovery and Resilience Plan (RRP) for public consultation.<sup>1</sup> The Ministry of Justice invited all interested parties to submit their opinion

---

<sup>1</sup> <https://cdn.kormany.hu/uploads/document/6/67/674/6749f8f4633ec8e09cc1f5558b48c544a3e3a1fe.pdf>

in a public consultation by 3 February 2023. Several stakeholders published their opinion, including Amnesty International Hungary, the Eötvös Károly Institute and the Hungarian Helsinki Committee). The three NGOs, as well as other relevant stakeholders, including the biggest Hungarian judicial association and the National Judicial Council (NJC) came to the conclusion that the draft did not meet the commitments made by the Hungarian government to the European Union.

During the first half of **February 2023**, the Hungarian government met and engaged in a dialogue with the stakeholders of the public consultation. At the meeting on 8 February 2023 with the three NGOs, the representatives of the Ministry of Justice stated that they were planning to submit the bill to the Parliament around 20 February 2023. Later, at the meeting of the NJC held on 1 March 2023, the representative of the Ministry of Justice informed the members of the NJC that the bill would be submitted to the Parliament by 3 March 2023. In response to questions by the members of the NJC, State Secretary Róbert Répássy said that *"it is entirely up to you to decide whether, perhaps through its president, the NJC will attend, say, the session of the parliamentary committee or the plenary session, if you wish to follow the debate. This possibility is open to all. The Justice Committee would certainly not exclude the possibility of inviting the president of the NJC, if there is a request to do so."*<sup>2</sup>

**The promises made on behalf of the Ministry of Justice proved to be false because the legislative process consciously aimed to circumvent public consultation and the full parliamentary debate of the laws and is in clear breach of the Hungarian National Assembly's Rules of Procedure.**

## **I.2. The legislative process**

The Bill was not submitted to the Parliament as promised by the Ministry of Justice.

Instead, on **3 March 2023**, Minister of Justice Judit Varga submitted [Bill T/3131](#)<sup>3</sup> on *"the modification of rules related to asset declarations in order to reach an agreement with the European Commission"* (**Bill on Rules of Asset Declarations**). Besides the proposed modification of several laws with respect to rules on asset declarations, the bill did not contain any element of the Draft published earlier. Neither its title nor its content was related to the expected judicial reform. It did, however, contain several paragraphs that proposed minor and completely unnecessary amendments to certain provisions<sup>4</sup> of all the laws to be amended in the context of the judicial reform..

The Bill on Rules of Asset Declarations was discussed in a general debate and in an in-depth debate and was also discussed by the Justice Committee of the Parliament. All discussions in the Parliament were conducted on the basis of the original text of the bill, which did not contain any provisions of the judicial package. By 14 March 2023, all discussions were closed and the bill was scheduled for adoption on 3 May 2023.

On **26 April 2023**, three working days before the planned date of adoption (and one and a half months after closing discussions in the Parliament), Zsolt Semjén, the Deputy-Prime Minister of Hungary initiated the procedure of the Legislative Committee (in Hungarian "Törvényalkotási Bizottság" or "TAB").<sup>5</sup> On the same day, the government party members of the Legislative Committee submitted the whole judicial reform as their own proposal for the modification of the Bill on Rules of Asset

---

<sup>2</sup> <https://orszagosbiroitanacs.hu/download/az-obt-2023-marcius-1-i-ulesenek-jegyzokonyve/?wpdmdl=2526&refresh=64507e09b11dd1682996745> p. 24.

<sup>3</sup> <https://www.parlament.hu/irom42/03131/03131.pdf>

<sup>4</sup> Sections 2, 9, 10 and 23 of the Bill proposed fully redundant modifications to four laws to be amended in compliance with the super milestones.

<sup>5</sup> <https://www.parlament.hu/irom42/03131/03131-0004.pdf>

Declarations. The proposed modification practically fully eliminated the original text of the bill (including its title) and replaced it fully with the provisions implementing the expected judicial reform.

On **27 April 2023**, the Legislative Committee adopted the modification proposed by government party politicians.<sup>6</sup> The text of the modification only became available at 16:36 on the parliamentary website on 26 April 2023. The judicial package implementing the four super milestones is currently scheduled for final discussion on **2 May 2023**,<sup>7</sup> still under the original name of the bill (as Bill on the Rules of Asset Declarations).

**Parliament is scheduled to adopt the Bill T/3131 on 3 May 2023.**

This not only means that the final version of the bill's text was not submitted by the Ministry of Justice, which was in charge of preparing it and conducting the public consultation procedure. It also means that the text was published not more than two working days before the planned adoption date, leaving practically no time for proper parliamentary debate regarding its content. The proposed legislation was not discussed in the framework of a general debate or an in-depth debate in the Parliament, nor was it discussed at the Justice Committee, while all former discussions were conducted on the basis of the original text of the proposal which was fully eliminated.

## **II. BREACH OF THE LAWMAKING PROCESS**

### **II.1. Breach of the rules on public consultation**

Both the Hungarian legislation on the lawmaking process and the super milestones set by the Union institutions with respect to the judiciary require the Hungarian government to conduct a meaningful public consultation process before submitting a proposal regarding the judicial reform to the Parliament. Although the Hungarian government published a draft version of the proposal in January 2023 for consultation, this was never formally submitted to the Parliament, and the proposal actually submitted to the Parliament (as an amendment of the Bill on the Rules of Asset Declarations) remarkably differs from the draft published in January. Therefore, the text proposed to be adopted by the Parliament contains extensive parts that have not been consulted or discussed with the public or with professional stakeholders.

### **II.2. Deliberate breach of the Rules of Procedure of the Hungarian Parliament**

In addition to the above, the process seriously breaches the Rules of Procedure of the Hungarian Parliament. On the one hand, section 40 (3) of the Parliamentary Decision 10/2014 (II.24.) on the Rules of Procedure of the Hungarian Parliament clearly states that "*an amendment proposal that seeks to delete the entire bill shall not be discussed and shall not be put to the vote.*" In this case, the original Bill on the Rules of Asset Declarations is fully deleted (emptied), and was replaced with fully new content, including its title. Not even a small part of the original text remains. On the other hand, the modification also breached Section 42(b) of the Rules of Procedure, according to which the proposed amendment may not cover parts of the original bill not affected by the amendment. This was precisely the case here, as the original bill dealing with asset declarations only covered a few non-relevant parts of the laws relating to the judiciary.

---

<sup>6</sup> <https://www.parlament.hu/irom42/03131/03131-0006.pdf>

<sup>7</sup>

[https://www.parlament.hu/web/guest/nyitolap?p\\_p\\_id=hu\\_parlament\\_cms\\_pair\\_portlet\\_PairProxy\\_INSTANCE\\_ZMat2CAJFnIW&p\\_p\\_lifecycle=1&p\\_p\\_state=normal&p\\_p\\_mode=view&p\\_auth=zUJDKNUG&\\_hu\\_parlament\\_cms\\_pair\\_portlet\\_PairProxy\\_INSTANCE\\_ZMat2CAJFnIW\\_pairAction=%2Finternet%2Fcplsql%2Fogy\\_trend\\_nyilv.tervnapirend\\_ny%3FP\\_CKL%3D42%26P\\_ULES%3D77%2F4%2F69](https://www.parlament.hu/web/guest/nyitolap?p_p_id=hu_parlament_cms_pair_portlet_PairProxy_INSTANCE_ZMat2CAJFnIW&p_p_lifecycle=1&p_p_state=normal&p_p_mode=view&p_auth=zUJDKNUG&_hu_parlament_cms_pair_portlet_PairProxy_INSTANCE_ZMat2CAJFnIW_pairAction=%2Finternet%2Fcplsql%2Fogy_trend_nyilv.tervnapirend_ny%3FP_CKL%3D42%26P_ULES%3D77%2F4%2F69)

### **II.3. Breach of the principle of legality implying a transparent, accountable, democratic and pluralistic law-making process**

The Hungarian government seeks to meet the requirements of the rule of law by adopting the agreed judicial reform in a legislative process that is not only in breach of the Rules of Procedure of the Hungarian Parliament but also grossly narrows the scope of parliamentary discussions regarding the proposal. It is particularly worrying that the Hungarian government is using this process in connection with a law that sets forth key provisions to change the organisation of the judiciary, which is an important cornerstone of the rule of law framework.

**If the legislation is passed in this manner and the European Commission releases funds based on the adopted laws, the European Commission would necessarily find itself legitimising a lawmaking process that is abusive, consciously aims to circumvent the public consultation process, the parliamentary debate of the laws and is in clear breach of the Hungarian National Assembly's Rules of Procedure. The implementation of the conditions set by the European institutions is expected to strengthen respect for the rule of law. The process leading to the restoration of the rule of law may only be legitimate if it complies with the principles of legality implying a transparent, accountable, democratic and pluralistic law-making process.**

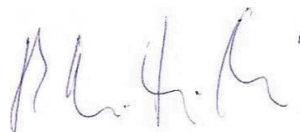
### **III. RECOMMENDATIONS**

**We request the European Commission to publicly raise concerns related to the serious shortcomings of the lawmaking process with the Hungarian government, and ask that the government submit, after a proper public consultation process, a new Bill meeting the rule of law conditions as soon as possible for adoption by the Parliament where the legislative process fully complies with the Rules of Procedure of the Parliament and respects the principle of legality.**

Yours sincerely,



András Kristóf Kádár  
co-chair  
Hungarian Helsinki Committee



László Majtényi  
President  
Eötvös Károly Institute



Dávid Vig  
Director  
Amnesty International  
Hungary