



HUNGARIAN  
HELSINKI  
COMMITTEE

## Hungary: No True Commitment to Restoring the Rule of Law

Selected rule of law and human rights  
developments in the light of the  
Article 7(1) TEU procedure

2 November 2023

The over a decade long process of rule of law and democratic backsliding in Hungary finally led EU Member States in December 2022 to put significant financial pressure on the Hungarian government by triggering the EU conditionality mechanism, and by linking the country's access to EU cohesion funds and the Recovery and Resilience Facility to fulfilling various rule of law and fundamental rights criteria related to the independence of the judiciary, anti-corruption, academic freedom, and the rights of LGBTQI+ people and asylum-seekers. Since then, certain legislative steps have been taken to access EU funds, but the tangible and sustained results of these measures are yet to be seen. Several required anti-corruption measures have not been implemented yet or have been complied with only partially, while the issues regarding the rights of LGBTQI+ people and asylum-seekers have not been addressed at all.<sup>1</sup> The judicial reform package adopted in May 2023 brought important changes, but its compliance with EU requirements remains fundamentally deficient, and certain factors pose an inherent risk to the adequate implementation of the new legal framework.<sup>2</sup> Moreover, the shortcomings of the judicial reform also signal that the Government lacks a true commitment to restoring the rule of law.

This is substantiated by the fact that there has been no progress in most of the areas covered by the procedure under Article 7(1) TEU launched with regard to Hungary, and that none of the recommendations beyond the ones concerning the judiciary that were put forth by the European Commission (EC) in its 2022 Rule of Law Report have been implemented by the country.<sup>3</sup> Changes to the anti-corruption framework and to the judicial system happen in an environment that is characterized by a dismantled system of checks and balances, where the Government continues to have excessive regulatory powers and where legal certainty is lacking, where the non-execution of both domestic and international court judgments is a recurring issue, where independent civil society continues to be under pressure, and where various vulnerable groups face rights violations without independent institutions being capable or willing to protect their rights.

Therefore, the civil society recommendations put forth in May 2023 in areas covered by the Article 7(1) TEU procedure remain valid.<sup>4</sup> In this paper, we summarise the main rule of law and human rights developments that have unfolded since the last Council hearing concerning the Article 7(1) TEU procedure in May 2023 and that fall under the Hungarian Helsinki Committee's mandate, proposing points of inquiry and recommendations in the five selected areas.

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<sup>1</sup> For details, see: <https://helsinki.hu/en/the-hungarian-government-is-yet-to-comply-with-conditions-to-access-eu-funds/>.

<sup>2</sup> For details, see: <https://helsinki.hu/en/assessment-of-hungarys-judicial-reforms/>.

<sup>3</sup> Cf.: European Commission, 2023 Rule of Law Report – Country Chapter on the rule of law situation in Hungary, [https://commission.europa.eu/system/files/2023-07/40\\_1\\_52623\\_coun\\_chap\\_hungary\\_en.pdf](https://commission.europa.eu/system/files/2023-07/40_1_52623_coun_chap_hungary_en.pdf), p. 2.

<sup>4</sup> See: Selected recommendations for Hungary in the Article 7(1) TEU procedure, May 2023, [https://helsinki.hu/en/wp-content/uploads/sites/2/2023/05/HU\\_Article7\\_CS0\\_recs\\_May2023.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2023/05/HU_Article7_CS0_recs_May2023.pdf).

## 1. THE GOVERNMENT'S CONTINUED EXCESSIVE REGULATORY POWERS

### Points of inquiry:

- What legislative steps will be taken to align the constitutional and statutory framework of special legal order regimes with requirements set out by the Venice Commission and to restore legal certainty that has been undermined by the “extensive and prolonged use” of the Government’s emergency powers, as pointed out by the EC’s 2023 Rule of Law Report?
- What guarantees will be introduced to ensure that the Government will not abuse its *carte blanche* mandate granted to it in a state of danger in the future and does not issue emergency government decrees that are not related to the war in Ukraine?
- What guarantees will be introduced to ensure the effective and timely constitutional review of emergency government decrees by the Constitutional Court?

Background: The Government continues to have excessive emergency regulatory powers, and continues to use its mandate to issue emergency decrees extensively and in an abusive manner.<sup>5</sup> The Government first acquired excessive emergency powers with a view to the pandemic in the spring of 2020: it declared a “state of danger”, a special legal order regime, while the governing majority transformed the legislative framework in a way that the Government had a *carte blanche* mandate to override any Act of Parliament via emergency government decrees once a state of danger was declared. The Government has been maintaining a “rule by decree” system ever since, with only a few months of intermission, most recently using the war in Ukraine as a pretext for keeping its excessive regulatory powers. The constitutional and statutory framework governing special legal order regimes was amended as of November 2022, and these amendments cemented the very problematic practices developed during the pandemic in relation to the state of danger.<sup>6</sup> The Government continues to have a *carte blanche* mandate (also to suspend or restrict most fundamental rights beyond the extent permissible under ordinary circumstances); there is no automatic and regular parliamentary oversight over individual emergency decrees; and the effective constitutional review of the emergency decrees is not ensured. The practice of regularly adopting emergency government decrees for purposes not related to the cause of the state of danger continues as well.<sup>7</sup>

The state of danger declared with a reference to the war in Ukraine is currently extended until 25 November 2023, but there is already a bill before the Parliament that would grant the Government authorization to extend it again with an additional 180 days.<sup>8</sup> As it was also pointed out by the EC’s 2023 Rule of Law Report, “[l]egal certainty has been undermined by [...] the extensive and prolonged use of the Government’s emergency powers”,<sup>9</sup> and the current legal framework and practice is in stark contrast with the requirements set out by the Venice Commission.<sup>10</sup>

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<sup>5</sup> For a comprehensive overview, see: Hungarian Helsinki Committee, *Government gains excessive powers from forever renewable state of danger*, 24 February 2023, [https://helsinki.hu/en/wp-content/uploads/sites/2/2023/02/HHC\\_Hungary\\_state\\_of\\_danger\\_24022023.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2023/02/HHC_Hungary_state_of_danger_24022023.pdf).

<sup>6</sup> A detailed analysis of the changes, covering also the special order regimes beyond the state of danger, is available here: Gábor Mészáros: *Exceptional Governmental Measures without Constitutional Restraints*, 2022, [https://helsinki.hu/en/wp-content/uploads/sites/2/2023/01/Meszaros\\_special\\_legal\\_order\\_02112022.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2023/01/Meszaros_special_legal_order_02112022.pdf).

<sup>7</sup> For examples from 2022 and 2023, see: Hungarian Helsinki Committee, *Government gains excessive powers from forever renewable state of danger*, 24 February 2023, [https://helsinki.hu/en/wp-content/uploads/sites/2/2023/02/HHC\\_Hungary\\_state\\_of\\_danger\\_24022023.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2023/02/HHC_Hungary_state_of_danger_24022023.pdf), pp. 6-7.

<sup>8</sup> Bill T/5661, available at: <https://www.parlament.hu/irom42/05661/05661.pdf>.

<sup>9</sup> European Commission, *2023 Rule of Law Report – Country Chapter on the rule of law situation in Hungary*, [https://commission.europa.eu/system/files/2023-07/40\\_1\\_52623\\_coun\\_chap\\_hungary\\_en.pdf](https://commission.europa.eu/system/files/2023-07/40_1_52623_coun_chap_hungary_en.pdf), pp. 1. and 31-32.

<sup>10</sup> European Commission for Democracy Through Law (Venice Commission), *Report – Respect for Democracy, Human Rights and the Rule of Law During States of Emergency: Reflections*, CDL-AD(2020)014, 19 June 2020,

Recommendations:

- *Revise the constitutional and statutory framework of the state of danger in line with international standards, in particular standards set by the Venice Commission and via requesting an opinion from the Venice Commission on any related draft law; and limit the Government’s excessive emergency regulatory powers.*
- *The Government should show self-restraint in the use of the extremely wide-ranging authorization it received during the state of danger, and should refrain from issuing decrees that are not related to the war in Ukraine.*

## 2. PERSISTING PROBLEMS AROUND THE INDEPENDENCE OF THE JUDICIARY

Points of inquiry:

- **When and how does the Government intend to take the outstanding legislative steps and provide proof of proper implementation where necessary to fully comply with the “super milestones” set by the Council of the European Union for Hungary to access funds under the Recovery and Resilience Facility, and identical preconditions set for accessing cohesion funds, aimed at restoring the independence of the judiciary?**
- **When and how does the Government intend to fulfil the recommendation of the EC included in its 2023 Rule of Law Report that the transparency of case allocation systems in lower-instance courts should be improved?**
- **How does the Government intend to counter the chilling effect on the freedom of expression of judges and implement the European Court of Human Rights’ judgment in the *Baka v. Hungary* case?**

Background: In order to comply with four “super milestones”, set by the Council of the European Union for Hungary to access funds under the Recovery and Resilience Facility, and identical preconditions set for accessing cohesion funds, aimed at restoring the independence of the judiciary, the Hungarian Parliament adopted a judicial package in May 2023, albeit in a procedure that breached the rules of law-making.<sup>11</sup> The Government claims to have met all the requirements, however, in reality, the reform remains fundamentally deficient, and the effectiveness and sustainability of the adopted changes remain largely to be seen. Three out of the four “super milestones” are implemented defectively even at the level of the legal framework. For example, further legislative steps are necessary to fully restore the right of Hungarian judges to make preliminary references to the Court of Justice of the European Union (CJEU). In addition, there are reform areas where further proof is required of the proper implementation of the milestones to verify compliance, such as the proper implementation of the case allocation scheme at the Kúria (Hungary’s top court).<sup>12</sup> Moreover, there have already been attempts to derail the changes prescribed in the new law, including attempts to

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[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2020\)014-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2020)014-e). See especially paras 10., 14., 65., 81., 84. and 87-88.

<sup>11</sup> Erika Farkas – András Kádár, Restoring the Rule of Law by Breaching it: Hungary’s Judicial Reform and the Principle of Legality, *Verfassungsblog*, 10 July 2023, <https://verfassungsblog.de/restoring-the-rule-of-law-by-breaching-it/>

<sup>12</sup> Hungarian Helsinki Committee, *Fundamental Deficiencies of the Hungarian Judicial Reform*, 31 October 2023, [https://helsinki.hu/en/wp-content/uploads/sites/2/2023/10/Fundamental\\_deficiencies\\_Judicial\\_Reform\\_20231030.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2023/10/Fundamental_deficiencies_Judicial_Reform_20231030.pdf)

interfere with the election process of the self-governing body of the Hungarian judges, the National Judicial Council, which has been significantly strengthened by the judicial package.<sup>13</sup>

It has to be emphasized that the “super milestones” did not address all of the concerns around judicial independence in Hungary. Outstanding issues include the lack of transparency of case allocations at lower tier courts, as also recognized by the EC’s 2023 Rule of Law Report.<sup>14</sup> The role of the captured Kúria and its President as well as the Kúria’s ability to control lower courts through the obligatory interpretation of the law pose significant risks as well. Finally, the freedom of expression of Hungarian judges has been repeatedly undermined in the past years, with judges speaking up for judicial independence targeted by smear campaigns and administrative measures, resulting in a chilling effect among judges.<sup>15</sup> The lack of action countering this latter phenomenon amounts to the non-implementation of the judgment of the European Court of Human Rights (ECtHR) in the *Baka v. Hungary* case.<sup>16</sup>

#### Recommendations:

- ➔ *Take the outstanding legislative steps and provide proof of proper implementation where necessary to fully comply with the four “super milestones” set by the Council of the European Union for Hungary to access funds under the Recovery and Resilience Facility, and identical preconditions set for accessing cohesion funds, aimed at restoring the independence of the judiciary.*
- ➔ *Implement the respective recommendation of the EC’s 2023 Rule of Law Report and “[i]mprove the transparency of case allocation systems in lower-instance courts, taking into account European standards on case allocation”.*
- ➔ *Fully execute the ECtHR judgment in the Baka v. Hungary case. Introduce legal provisions that guarantee the exercise of the freedom of expression of judges and provide adequate legal remedy against violations of that freedom; and condemn all forms of harassment, intimidation or retaliation against judges, including smear campaigns, for expressing their professional opinion.*

### 3. NEW PLANS AIMED AT STIFLING INDEPENDENT CIVIL SOCIETY AND MEDIA

#### Points of inquiry:

- **What steps does the Government envisage to comply with the recommendation by the EC’s 2023 Rule of Law Report that Hungary should “[f]oster a safe and enabling civic space and remove obstacles affecting civil society organisations, including by repealing legislation that hampers their capacity of working”?**

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<sup>13</sup> For details, see: Hungarian Helsinki Committee, *Updated summary assessment on Hungary’s compliance with the 4 super milestones aimed at restoring the independence of the judiciary*, 9 October 2023, <https://helsinki.hu/en/wp-content/uploads/sites/2/2023/10/update-judicial-milestones-09102023.pdf>, pp. 3-4.

<sup>14</sup> European Commission, *2023 Rule of Law Report – Country Chapter on the rule of law situation in Hungary*, [https://commission.europa.eu/system/files/2023-07/40\\_1\\_52623\\_coun\\_chap\\_hungary\\_en.pdf](https://commission.europa.eu/system/files/2023-07/40_1_52623_coun_chap_hungary_en.pdf), pp. 2. and 6.

<sup>15</sup> For a detailed account of the factors that pose an inherent risk to the adequate implementation of the new legal framework, see: Amnesty International Hungary – Eötvös Károly Institute – Hungarian Helsinki Committee, *Assessment of Act X of 2023 on the Amendment of Certain Laws on Justice related to the Hungarian Recovery and Resilience Plan in light of the super milestones set out in the Annex to the Council Implementing Decision on the approval of the assessment of the recovery and resilience plan of Hungary*, 22 May 2023, [https://helsinki.hu/wp-content/uploads/2023/05/Assessment\\_of\\_the\\_Judicial\\_Reform\\_052023.pdf](https://helsinki.hu/wp-content/uploads/2023/05/Assessment_of_the_Judicial_Reform_052023.pdf), V. Future Risks and Prospects (pp. 12-17.).

<sup>16</sup> See the communication submitted by the Hungarian Helsinki Committee to the Committee of Ministers of the Council of Europe on 5 October 2023: [https://helsinki.hu/wp-content/uploads/2023/10/Baka\\_v\\_Hungary\\_NGO\\_Communication\\_under\\_Rule\\_9\\_2-20231005.pdf](https://helsinki.hu/wp-content/uploads/2023/10/Baka_v_Hungary_NGO_Communication_under_Rule_9_2-20231005.pdf).

- **In particular, when will the Hungarian legislator**
  - (i) **abolish Act XLIX of 2021 on the Transparency of Organisations Carrying out Activities Capable of Influencing Public Life and accompanying amendments which unduly make certain civil society organisations subject to audits by the State Audit Office;**<sup>17</sup>
  - (ii) **comply with the judgment of the CJEU in case C-821/19 and fully abolish the “Stop Soros” law, which despite amendments in late 2022, continues to have a deterring effect on the provision of legal assistance to asylum-seekers;**<sup>18</sup> and
  - (iii) **abolish the so-called “immigration tax”.**
- **How does the planned “defence of sovereignty” bill align with the EC’s recommendation to foster a safe and enabling civic space? How does the Government intend to ensure that any new legislative measure in this area is in line with international standards and does not unduly interfere with the freedom of association and/or expression of civil society actors and independent journalists?**

Background: As established in the EC’s 2023 Rule of Law Report, no progress has been made in relation to the EC’s 2022 recommendation to remove obstacles affecting civil society organisations (CSOs), and CSOs remain under pressure.<sup>19</sup> In 2023, the laws negatively affecting civil society space in Hungary continued to be in force, administrative measures designed to hamper the operation of CSOs continued, and organised public campaigns against CSOs receiving foreign funding intensified.<sup>20</sup>

In addition, new plans to stifle independent civil society and independent media were announced. On 21 September 2023, the head of the parliamentary group of the governing party Fidesz, Mr. Kocsis, stated at a press conference held during the kick-off meeting of the group that they would submit a “defence of sovereignty” bill to the Parliament in the autumn. According to him, the bill would aim to “make life difficult for leftist journalists, fake NGOs and dollar politicians”.<sup>21</sup> He claimed that the adoption of the bill would entail, among others, amendments to the Criminal Code and the Fundamental Law. Quoting the Prime Minister, he highlighted that Hungary’s economic, cultural and political sovereignty was under attack mainly from “Brussels” (i.e. the EU) through, among others, the financing of fake NGOs, activists, leftist parties’ events and the media by the EC.

The text of the bill is not yet available publicly, but if it will indeed reflect what Mr. Kocsis claimed to be its foreseeable content, it would fit into the series of attacks against civil society that began in 2014: Mr. Kocsis’s wording suggests that the planned changes are not aimed at reforming party financing, even though that has been a consistent demand of relevant civil society actors with a view to ensure transparency, equal opportunities and competition,<sup>22</sup> but instead would generally affect and

<sup>17</sup> For more details, see: Hungarian Helsinki Committee, *LexNGO 2021 – a look into Hungary’s second anti-NGO law on its first anniversary*, 12 May 2022, [https://helsinki.hu/en/wp-content/uploads/sites/2/2022/05/HHC\\_LexNGO2021\\_info\\_note.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2022/05/HHC_LexNGO2021_info_note.pdf).

<sup>18</sup> In more detail, see: *Criminalisation continues – Hungary fails to implement CJEU judgment*, 21 December 2022, <https://helsinki.hu/en/wp-content/uploads/sites/2/2022/12/Criminalisation-continues.pdf>.

<sup>19</sup> European Commission, *2023 Rule of Law Report – Country Chapter on the rule of law situation in Hungary*, [https://commission.europa.eu/system/files/2023-07/40\\_1\\_52623\\_coun\\_chap\\_hungary\\_en.pdf](https://commission.europa.eu/system/files/2023-07/40_1_52623_coun_chap_hungary_en.pdf), pp. 1-2. and 35-37.

<sup>20</sup> See in detail the Hungarian Helsinki Committee’s written statement submitted in the framework of the OSCE Warsaw Human Dimension Conference 2023 on shrinking space for independent civil society in Hungary: <https://helsinki.hu/en/wp-content/uploads/sites/2/2023/10/OSCE-WHDC-2023-HHC-civic-space-statement.pdf>.

<sup>21</sup> See the reporting from the press conference at [https://hvg.hu/itthon/20230921\\_Szuverenitasi\\_torvenycsomag\\_kormany\\_frakcioules\\_Kocsis\\_Mate](https://hvg.hu/itthon/20230921_Szuverenitasi_torvenycsomag_kormany_frakcioules_Kocsis_Mate).

<sup>22</sup> See e.g. the joint report of K-Monitor, Political Capital, and Transparency International on the campaign spending of participating parties at the 2022 parliamentary elections at: [https://politicalcapital.hu/pc-admin/source/documents/Kozteruleti\\_Kampanykoltsek\\_2022marcius.pdf](https://politicalcapital.hu/pc-admin/source/documents/Kozteruleti_Kampanykoltsek_2022marcius.pdf), K-Monitor’s recommendations of February 2022 on election and campaign financing reforms: <https://k.blog.hu/2022/02/12/part-es-kampanyfinansirozas> or

undermine the freedom of association and/or expression of civil society actors and independent journalists.

Recommendations:

- Take steps without delay to implement the EC's recommendation to "[f]oster a safe and enabling civic space and remove obstacles affecting civil society organisations".
- In line with the EC's recommendation, repeal legislation that hampers CSOs' capacity of working, in particular (i) Act XLIX of 2021 on the Transparency of Organisations Carrying out Activities Capable of Influencing Public Life, (ii) the "Stop Soros" law (Article 353/A of the Criminal Code), and (iii) Article 253 of Act XLI of 2018 on the "immigration tax".
- Make sure that any new legislative measures that affect the freedom of assembly, association and expression of civil society actors and journalists are in line with international standards. In particular, request an opinion from the Venice Commission on the draft of any such law before submitting it to the Parliament and comply with the Venice Commission's subsequent recommendations.
- Government and governing party representatives should refrain from making statements that are capable of exerting a chilling effect on civil society.

#### 4. VIOLATING THE RIGHTS OF ASYLUM-SEEKERS, REFUGEES AND MIGRANTS: NON-COMPLIANCE WITH CJEU JUDGMENTS

Point of inquiry:

- How does the Government justify its outright refusal to implement CJEU judgments handed down in cases C-808/18 and C-823/21?

Background: By now, the Hungarian government plainly refuses to implement two separate judgments of the CJEU, delivered as a result of infringement procedures initiated by the EC. By undermining the primacy of EU law, this threatens the foundations of the European Union.

The judgment in case C-808/18 concerned, among others, the domestic legalisation of collective expulsions. In December 2020, the CJEU found Hungarian law and practice to be in breach of EU law, including the Charter of Fundamental Rights.<sup>23</sup> As the Government refuses to implement the judgment, the EC referred Hungary back to the CJEU, requesting the imposition of fines.<sup>24</sup> This is the first such case in the history of Hungary's membership in the Union.

In June 2023, the CJEU delivered its judgment in case C-823/21 regarding the so-called "embassy system" and found it to be in breach of EU law.<sup>25</sup> The "embassy system" was introduced in May 2020: it sets a compulsory precondition for those seeking asylum to first submit a statement of intent at the Hungarian embassy in Belgrade or Kyiv. The system was introduced under the guise of the special legal order declared due to the pandemic and has been extended on an annual basis ever since. Following

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Transparency International Hungary's proposals tabled in 2016: <https://transparency.hu/wp-content/uploads/2016/02/Kampanykod.pdf> and in 2014: <https://tinyurl.com/bdcv84s8>.

<sup>23</sup><https://curia.europa.eu/juris/document/document.jsf?jsessionid=DD3A9CDB3A1B4FB736E6928274A83835?text=&docid=235703&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=4691075>

<sup>24</sup><https://curia.europa.eu/juris/liste.jsf?language=en&td=ALL&num=C-123/22>

<sup>25</sup><https://curia.europa.eu/juris/document/document.jsf?text=&docid=274870&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=4691161>

the delivery of the judgment in June, the Government submitted a bill (Bill T/5655) to the Parliament in September that would extend the embassy system from 31 December 2023 until the end of 2024.<sup>26</sup>

Recommendations:

- Withdraw the sections of Bill T/5655 that would extend the embassy procedure beyond 2023.
- Implement without further delay the judgments of the CJEU in cases C-808/18 and C-823/21.

## 5. VIOLATING THE RIGHTS OF PUBLIC EDUCATION TEACHERS AND STUDENTS

Points of inquiry:

- **What is the Government's reply to claims that the so-called Status Act violates various rights of students and teachers protected also by the Charter of Fundamental Rights?**
- **How does the Government intend to ensure that teachers are not reprimanded for exercising their fundamental rights?**

Background: The mounting dissatisfaction with and within the public education system in Hungary led to widespread protests by teachers, students, parents and supporters in 2022 and 2023, including mass demonstrations, strikes organised by teachers' unions, and civil disobedience. The central administration and the governing majority have only reacted so far with negligence or reprisal,<sup>27</sup> by amending teachers' strike rules through an emergency government decree<sup>28</sup> in the middle of a lawsuit<sup>29</sup> on the details of the strike and later cementing the restrictions on statutory level,<sup>30</sup> by accusing<sup>31</sup> the unions of campaigning for the opposition parties at the national elections in 2022; by dismissing<sup>32</sup> teachers because of civil disobedience they started exercising after the Government emptied their right to strike; by denying<sup>33</sup> the existence of lawful civil disobedience; and finally by adopting the so-called Status Act<sup>34</sup> without including the teachers' organisations (unions and interest groups) in the law-making process in a truly meaningful way.

The Status Act transformed the legal status of public education teachers, which (and the Status Act in general) is widely deemed as a retaliation by the Government for the protests of teachers and students for a better public education system. First, the Status Act does not address several of the problems in the public education system as raised by stakeholders. Second, the Status Act further weakens teachers' professional autonomy and curtails their say regarding substantive educational content. Third, the new law increases public education teachers' vulnerability as employees. Finally, certain provisions of the Status Act are an implicit admission on behalf of the governing party and the

<sup>26</sup> Article 87 of Bill T/5655 on the Amendment of Certain Acts in Order to Strengthen Public Security and the Fight Against Migration

<sup>27</sup> For a comprehensive overview, see: Hungarian Helsinki Committee, *Curtailling the rights of teachers in Hungary – How the Government used legal tools to crack down on teachers asking for improvements in the public education system*, 23 March 2023, [https://helsinki.hu/en/wp-content/uploads/sites/2/2023/03/HHC\\_Hungary\\_teachers\\_23032023.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2023/03/HHC_Hungary_teachers_23032023.pdf).

<sup>28</sup> Government Decree 36/2022. (II. 11.) on Certain State of Danger Rules Affecting Public Education Institutions

<sup>29</sup> See e.g.: <https://helsinkifigvelo.444.hu/2022/03/05/o-io-cio-acio-felulkodifikacio-avagy-a-kormany-hogyan-vette-el-a-sztrajkjogot-a-tanaroktol>.

<sup>30</sup> Act V of 2022 on Regulatory Issues Related to the Termination of the State of Danger

<sup>31</sup> See e.g.: <https://kormany.hu/hirek/a-kormany-az-orszag-biztonsagat-es-a-gazdasagot-is-megvedti>, <https://kormany.hu/hirek/a-kormany-fellep-a-szankcios-inflacio-ellen>.

<sup>32</sup> See in detail: <https://telex.hu/english/2022/10/03/protesters-demand-reinstatement-of-fired-teachers-in-budapest> and <https://telex.hu/english/2022/11/30/8-more-hungarian-high-school-teachers-fired-for-civil-disobedience>.

<sup>33</sup> Cf. a letter by the Ministry of Interior to teachers' unions from August 2022, available at: <https://cdn.kormany.hu/uploads/sheets/c/cb/cb7/caafbb2b8b4e99e97c36bd7efb8c.pdf>.

<sup>34</sup> Act LII of 2023 on the New Career Path of Teachers. See also: <https://www.csee-etuice.org/en/news/member-organisations/5248-hungary-passes-controversial-education-law-despite-protest-from-education-trade-unions>.

Government that the public education system is indeed burdened by serious deficiencies, such as a shortage of teachers. As a result of these characteristics, the Status Act may further reduce the attractiveness of the teaching profession in Hungary.

Various provisions of the Status Act go against the best interests of the child, violate aspects of the right to education, and violate various fundamental rights of public education teachers in the context of exercising their profession that are protected also by the Charter of Fundamental Rights. Moreover, the road that led to the adoption of the Status Act is – due to the absence of meaningful consultations with professional organisations – at odds with the commitment made by the Government towards the EU in Hungary’ Human Resources Development Operational Programme Plus that “the Government and the Parliament will not unilaterally introduce measures that increase teachers’ workload, restrict existing professional autonomy or undermine the attractiveness of the profession. Such measures can only be taken on the basis of a meaningful social dialogue with the largest teachers’ unions, in particular with regard to acquired rights.”<sup>35</sup>

Recommendations:

- ➔ *The Status Act should be repealed. Any new law concerning the public education system should duly address the concerns raised by professional, interest and civil society groups in relation to the public education system and should be drafted with the meaningful involvement of these groups, while also ensuring compliance with international human rights standards and commitments made towards the EU.*
- ➔ *It should be ensured that the state and public administration agencies refrain from actions that curtail the freedom of expression of teachers, and from any action that might exert a chilling effect on their freedom of expression.*

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<sup>35</sup> *Emberi Erőforrás Fejlesztési Operatív Program Plusz – EFOP Plusz 2021-2027*, [https://www.palyazat.gov.hu/emberi\\_eroforras\\_fejlesztési\\_operativ\\_program\\_plusz](https://www.palyazat.gov.hu/emberi_eroforras_fejlesztési_operativ_program_plusz), Priority 2, p. 44. The cited text is a translation by the Hungarian Helsinki Committee from Hungarian.