



Hungarian Helsinki Committee



EÖTVÖS KÁROLY
POLICY INSTITUTE



Comments on background materials distributed by the Hungarian Government related to the EPP Public Hearing on 29 March 2011 on the Hungarian Draft Constitution

In connection with the EPP Public Hearing on the Hungarian Draft Constitution in the European Parliament, three Hungarian NGOs, the Eötvös Károly Policy Institute, the Hungarian Civil Liberties Union and the Hungarian Helsinki Committee have submitted background materials to the leaders of the European Parliament groups, such as the list of the most problematic issues related to the draft Constitution of Hungary. The above-mentioned NGOs furthermore submit their comments on the background material of the Government 'Analysis on certain focal questions related to the elaboration of the new constitution' (referred to as 'Analysis') and the flyer of the event.

1. It is not true that 'in the parliamentary election campaign of 2010 the candidate prime minister of Fidesz made it clear several times that he considers it necessary to adopt a new constitution if the new governing majority would have the possibility to do so'. This statement of the Analysis may be clearly contravened, since the intention to adopt a new Constitution was not indicated at all in the electoral program of the Fidesz.

2. The Analysis suggests that the concept paper of the new Constitution was prepared by the ad-hoc parliamentary committee. This suggestion is misleading, since the Parliamentary resolution No 9/2011. (III. 9.) declares clearly that the concept paper prepared by the ad-hoc committee is not to be considered as determining the direction of framing the Constitution, but serves merely as a 'support-material for the MPs' constitution-making work'. Thus, the draft Constitution was not prepared on the basis of the concept paper compiled by the ad-hoc committee.

3. The reference in the Analysis to the 'wide-scale professional discussion' is misleading, since the supposed professional debate took place at a time when the draft Constitution was not public at all, and a professional discussion carried out without a text to be debated is clearly senseless.

4. According to the Analysis, 'in the course of the consultation, the opinion of the citizens will primarily be sought regarding the social and economic issues of everyday life directly affecting the voters'. The truth is that **some questions posed in the framework of the 'national consultation' are loosely related to the constitution-writing process; however, others are a populist wish-list. The questionnaire does not cover the important questions that surface and must be answered in a constitution-writing process. The questionnaire also ignores those questions that have already emerged as dilemmas in the ongoing process,** consequently, important dividing symbolic and substantive questions about the constitutional structure and the basic rights remain unanswered during this so-called national consultation. Thus, the questionnaire did not serve the aim of an open public debate. Furthermore, the questionnaire was distributed so late that answers could have had no impact on the draft Constitution. This discrepancy is not solved by the Prime Minister submitting proposed modifications on the basis of the alleged result of the 'national consultation', thus based on information unverifiable by the public.

5. The flyer states falsely that 'the Bill of Rights in the new constitutional text is based on the European Charter of Fundamental Rights'. Several rights included in the Charter are omitted from the Hungarian Draft Constitution, while it contains restrictions beyond those allowed by the Charter.