Thursday 16 January 2020

P9_TA(2020)0014

Ongoing hearings under article 7(1) of the TEU regarding Poland and Hungary

European Parliament resolution of 16 January 2020 on ongoing hearings under Article 7(1) of the TEU regarding Poland and Hungary (2020/2513(RSP))

(2021/C 270/10)

The European Parliament,

— having regard to Article 2 and Article 7(1) of the Treaty on European Union (TEU),

— having regard to the Charter of Fundamental Rights of the European Union,

— having regard to its resolution of 12 September 2018 on a proposal calling on the Council to determine, pursuant to Article 7(1) of the TEU, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded ([1]),

— having regard to the Commission reasoned proposal of 20 December 2017 in accordance with Article 7(1) of the TEU regarding the rule of law in Poland: proposal for a Council decision on the determination of a clear risk of a serious breach by the Republic of Poland of the rule of law (COM(2017)0835),

— having regard to its resolution of 1 March 2018 on the Commission's decision to activate Article 7(1) of the TEU as regards the situation in Poland ([2]),

— having regard to its resolution of 14 November 2019 on the criminalisation of sexual education in Poland ([3]),

— having regard to its resolution of 18 December 2019 on public discrimination and hate speech against LGBTI people, including LGBTI-free zones ([4]),

— having regard to its resolution of 16 January 2019 on the situation of fundamental rights in the European Union in 2017 ([5]),

— having regard to its resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights ([6]),

— having regard to its legislative resolution of 4 April 2019 on the proposal for a regulation of the European Parliament and of the Council on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States ([7]),

— having regard to the case-law of the Court of Justice of the European Union,

([1]) OJ C 433, 23.12.2019, p. 66.
([2]) OJ C 129, 5.4.2019, p. 13.
([3]) Texts adopted, P9_TA(2019)0058.
([4]) Texts adopted, P9_TA(2019)0101.
([5]) Texts adopted, P8_TA(2019)0032.
([6]) OJ C 215, 19.6.2018, p. 162.
([7]) Texts adopted, P8_TA(2019)0349.

Thursday 16 January 2020

— having regard to the standard modalities for hearings referred to in Article 7(1) of the TEU approved by the Council on 18 July 2019,

— having regard to the adoption on 20 December 2019 of a bill by the Polish Sejm, which introduced a set of amendments to the Act on Common Courts, the Act on the Supreme Court and certain other acts; having regard to the Polish Senate's request to the Venice Commission to issue an urgent opinion on this bill,

— having regard to Rule 132(2) of its Rules of Procedure,

A. whereas the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities, as set out in Article 2 of the Treaty on European Union (TEU), and as reflected in the Charter of Fundamental Rights of the European Union and embedded in international human rights treaties; whereas those values, which are common to the Member States and to which all Member States have freely subscribed, constitute the foundation of the rights enjoyed by those living in the Union;

B. whereas any clear risk of a serious breach by a Member State of the values enshrined in Article 2 of the TEU does not concern solely the individual Member State where the risk materialises, but also has an impact on the other Member States, on the mutual trust between them and on the very nature of the Union and its citizens' fundamental rights under Union law;

C. whereas Article 7(1) of the TEU constitutes a preventive phase endowing the Union with the capacity to intervene in the event of a clear risk of a serious breach of the common values; whereas such preventive action provides for a dialogue with the Member State concerned and is intended to avoid possible sanctions;

D. whereas Article 7(1) of the TEU was triggered by the Commission and Parliament in relation to Poland and Hungary, respectively, following the determination of a clear risk of a serious breach of the values on which the Union is founded;

E. whereas the Council has so far organised three hearings of Poland and two hearings of Hungary within the framework of the General Affairs Council;

F. whereas on 11 December 2019 the Finnish Presidency requested a written explanation concerning an alleged breach by a public official from the Hungarian delegation under Article 339 of the Treaty on the Functioning of the European Union (TFEU) and Article 6(1) of the Rules of Procedure of the Council on confidentiality of the meetings;

1. Takes note of the hearings organised by the Council under Article 7(1) of the TEU in response to threats to common European values in Poland and Hungary; notes with concern that the hearings are not organised in a regular, structured and open manner; urges the Croatian Presidency and other forthcoming presidencies to organise the hearings regularly; underlines that hearings must be objective, fact-based and transparent, and that the Member States concerned must cooperate in good faith throughout the process in accordance with the principle of sincere cooperation enshrined in Article 4(3) of the TEU; recommends that the Council address concrete recommendations to the Member States in question, as enshrined in Article 7(1) of the TEU, as a follow-up to the hearings, and that it indicate deadlines for the implementation of those recommendations; points out that mutual trust between Member States can be restored only once respect for the values enshrined in Article 2 of the TEU is ensured and calls on the Council to act in that direction; calls on Member States to respect the primacy of EU law;

2. Expresses its deep concern that the standard modalities for hearings referred to in Article 7(1) of the TEU do not ensure the same treatment for Parliament as for the Commission and one third of the Member States for the purposes of presenting the reasoned proposal; recalls that Article 7(1) of the TEU provides for equal rights and procedural status for one third of the Member States, Parliament and the Commission with regard to triggering the procedure; welcomes the efforts of the Finnish Presidency to engage in informal dialogue with Parliament, believes that informal dialogue cannot replace the formal presentation of the reasoned proposal in the Council; insists that Parliament's invitation to a formal Council meeting is still owing on the basis of the right of initiative and the principle of sincere cooperation between institutions enshrined in Article 4(3) of the TEU; reiterates its call on the Council to keep Parliament promptly and fully informed at every stage of the procedure;

3. Expresses its regret that the hearings have not yet resulted in any significant progress by the two Member States in question with regard to redressing clear risks of a serious breach of the values referred to in Article 2 of the TEU; notes with concern that the reports and statements by the Commission and international bodies, such as the UN, OSCE and the Council of Europe, indicate that the situation in both Poland and Hungary has deteriorated since the triggering of Article 7 (1) of the TEU; points out that the failure by the Council to make effective use of Article 7 of the TEU continues to undermine the integrity of common European values, mutual trust, and the credibility of the Union as a whole; reiterates its position on the Commission's decision to activate Article 7(1) of the TEU as regards the situation in Poland and on its own proposal calling on the Council to determine, pursuant to Article 7(1) of the TEU, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded; calls on the Council, therefore, to ensure that hearings under Article 7(1) of the TEU also address new developments and assess risks of breaches of the independence of the judiciary, freedom of expression, including media freedom, freedom of the arts and sciences, freedom of association and the right to equal treatment; calls on the Commission to make full use of the tools available to address a clear risk of a serious breach by Poland and Hungary of the values on which the Union is founded, in particular expedited infringement procedures and applications for interim measures before the Court of Justice;

4. Notes that the Commission's reasoned proposal regarding the rule of law in Poland has a limited scope; calls on the Council to examine how to address allegations of violations of fundamental rights in Poland in the context of its current hearings;

5. Takes the view that the latest developments in the ongoing hearings under Article 7(1) of the TEU once again underline the imminent need for an EU mechanism on democracy, the rule of law and fundamental rights (DRF), as proposed by Parliament, in the form of an interinstitutional agreement consisting of an annual independent, evidence-based, non-discriminatory review which assesses, on an equal footing, the compliance of all EU Member States with the values stipulated in Article 2 of the TEU and with country-specific recommendations, to be followed by an interparliamentary debate and a permanent DRF policy cycle among the EU institutions; in this respect, calls on the Commission and the Council to enter without delay into negotiations with Parliament on the interinstitutional agreement in accordance with Article 295 of the TFEU; reiterates that the mechanism must complement and reinforce, rather than substitute, the ongoing and future proceedings under Article 7 of the TEU;

6. Reiterates its position on the proposal for a regulation of the European Parliament and of the Council on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, and calls on the Council to start interinstitutional negotiations as soon as possible;

7. Instructs its President to forward this resolution to the Commission and the Council, the respective Presidents, Governments and Parliaments of Poland and Hungary, and the governments and parliaments of the Member States.