



Doc. 13806 – Compendium of written amendments
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(Revised version)

Situation in Hungary following the adoption of Assembly Resolution 1941 (2013)

Contents	Page
A. Draft Resolution	2

A. Draft Resolution

1. In June 2013, the Parliamentary Assembly adopted Resolution 1941 (2013) on a request for the opening of a monitoring procedure in respect of Hungary. Expressing its concern “about the erosion of democratic checks and balances as a result of the new constitutional framework in Hungary”, the Assembly pointed out that “[t]he assessments of the constitution and several cardinal laws by the Venice Commission and Council of Europe experts raise a number of questions with regard to the compatibility of certain provisions with European norms and standards, including with the case law of the European Court of Human Rights”. More specifically, the Assembly:
 - 1.1. called on the Hungarian authorities to continue the open and constructive dialogue with the Venice Commission and all other European institutions and to take a specific set of measures with regard to the Act on Freedom of Religion and the Status of Churches, the Act on Elections of Members of the Parliament, the Act on the Constitutional Court, the Acts on the Judiciary and media legislation;
 - 1.2. noted that the new Hungarian Parliament, for the first time in the history of free and democratic Hungary, had amended the former constitution – inherited from the one-party system – into a new and modern Fundamental Law through a democratic procedure, after intensive debates in the parliament and with contributions from Hungarian civil society;
 - 1.3. while pointing out that, taken separately, each of the concerns outlined was inherently serious, warned against “the sheer accumulation of reforms that aim to establish political control of most key institutions while in parallel weakening the system of checks and balances”;
 - 1.4. decided, in conclusion, not to open a monitoring procedure in respect of Hungary but resolved “to closely follow the situation in Hungary and to take stock of the progress achieved in the implementation of this resolution”.
2. Two years later, the Assembly takes stock of such progress and notes in particular the following:
 - 2.1. concerning the new Hungarian Church Act, it is clear that the freedom of religion is important in Hungarian society and there are no restrictions on Hungarian citizens following their chosen faith. However, in considering the registration of churches, the European Court of Human Rights found in its judgment of 8 April 2014 a violation of Article 11 (freedom of assembly and association) of the European Convention on Human Rights (ETS No. 5), read in the light of Article 9 (freedom of thought, conscience and religion), as such act violated the rights of religious communities when it stripped them of their church status. On 15 May 2015, the Hungarian authorities informed the Council of Europe that six churches were about to sign an agreement, while four others were about to sign a partial

Amendment 1
Tabled by the Committee on Legal Affairs
and Human Rights

In the draft resolution, paragraph 2.1, first sentence, delete the words “and there are no restrictions on Hungarian citizens following their chosen faith”.

Amendment 10
Tabled by the Committee on Culture,
Science, Education and Media

In the draft resolution, paragraph 2.1, first sentence, delete the words: “and there are no

agreement, but this fact does not ensure compliance with the judgment of the European Court of Human Rights;

restrictions on Hungarian citizens following their chosen faith".

Amendment 6

Tabled by Mr Gábor HARANGOZÓ, Mr Attila MESTERHÁZY, Mr Andreas GROSS, Mr Andreas SCHIEDER, Mr Stefan SCHENNACH, Mr Frank SCHWABE, Mr Frithjof SCHMIDT, Ms Doris BARNETT, Ms Mechthild RAWERT, Mr Jonas GUNNARSSON, Ms Carina OHLSSON

In the draft resolution, paragraph 2.1, replace the sentence "On 15 May 2015, the Hungarian authorities informed the Council of Europe that six churches were about to sign an agreement, while four others were about to sign a partial agreement, but this fact does not ensure compliance with the judgment of the European Court of Human Rights;" with the following sentence: "Despite the Court's judgment the Hungarian authorities have still not complied with point 12.1 of the Parliamentary Assembly Resolution 1941 (2013), and the Hungarian Government negotiates merely about financial compensation with the churches deprived of their church status;"

Amendment 2

Tabled by the Committee on Legal Affairs and Human Rights

In the draft resolution, after paragraph 2.1, insert the following paragraph:

"The right to decide to recognise a religious denomination as a church remains within the competencies of the parliament, rather than of an independent authority as requested by the Assembly. There is still no provision for the possibility to appeal against any decision to grant, or reject, a request to be recognized as a church."

Amendment 11

Tabled by the Committee on Culture, Science, Education and Media

In the draft resolution, after paragraph 2.1, insert the following paragraph:

"referring to the report on Hungary published on 16 December 2014 by the Commissioner for Human Rights, the Assembly notes with concern that the report found widespread presence of racist and extremist organisations and movements in Hungary and extremism in the country's political arena. These findings are also reflected by the report on Hungary adopted by the European Commission against Racism and Intolerance (ECRI) on 19 March 2015. Therefore, the Assembly urges Hungary to

- 2.2. as required by the Constitutional Court, electoral constituencies were redrawn to become more equal, a positive change recognised by the European Commission for Democracy through Law (Venice Commission) and the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR). The opposition parties, however, claim that the situation is still not fair. Although the Assembly recommendations, echoed by the Venice Commission and the OSCE/ODIHR, regarding the need for an independent body to deal with the drawing of electoral districts have not been met, the main concern does not seem to be the Act on the Election of Members of Parliament but the Act on Electoral Procedures, which has not so far been examined by the Venice Commission;
- 2.3. with regard to the Constitutional Court:
- 2.3.1. no statutory changes were made with respect to the limitation of its jurisdiction on economic matters, which the Venice Commission has clearly criticised;
- 2.3.2. although no statutory changes were made following the opinion of the Venice Commission on the possibility for the Constitutional Court to refer back to its case law, the Hungarian Constitutional Court, in a decision taken in 2013, stated that it was possible to refer back to the substance of its case law created under the former Communist era constitution and has indeed done so in a number of its recent decisions;
- 2.3.3. there is no legal requirement that Constitutional Court judges should have been judges before. A "cooling-down" period in respect of members of parliament between the end of their political mandates and before they could be elected as judge of the Constitutional Court should be introduced;

implement the recommendations by the Commissioner and ECRI;"

Amendment 9

Tabled by Mr Gábor HARANGOZÓ, Mr Attila MESTERHÁZY, Mr Andreas GROSS, Mr Andreas SCHIEDER, Mr Stefan SCHENNACH, Ms Kerstin LUNDGREN, Mr Frank SCHWABE, Mr Frithjof SCHMIDT, Ms Doris BARNETT, Ms Mechthild RAWERT, Mr Jonas GUNNARSSON, Ms Carina OHLSSON, Ms Eva-Lena JANSSON, Ms Monica HAIDER

In the draft resolution, paragraph 2.2, replace the sentence "The opposition parties, however, claim that the situation is still not fair." with the following sentences: "However, in practice, the OSCE/ODIHR Limited Election Observation Mission established in 2014 that a number of key amendments negatively affected the electoral process, including the removal of important checks and balances. Despite the question marks raised by the Venice Commission and the ODIHR, the so-called "compensation formula" has also been kept, which has resulted in an additional six seats being allocated to the government parties, ensuring a two-thirds majority in the parliament."

Amendment 8

Tabled by Mr Gábor HARANGOZÓ, Mr Attila MESTERHÁZY, Mr Andreas GROSS, Mr Andreas SCHIEDER, Mr Stefan SCHENNACH, Ms Kerstin LUNDGREN, Mr Frank SCHWABE, Mr Frithjof SCHMIDT, Ms Doris BARNETT, Ms Mechthild RAWERT, Mr Jonas GUNNARSSON, Ms Carina OHLSSON, Ms Eva-Lena JANSSON, Ms Monica HAIDER

In the draft resolution, paragraph 2.3.2, delete the following words: "Communist era".

Amendment 3

Tabled by the Committee on Legal Affairs and Human Rights

In the draft resolution, at the end of paragraph 2.3.3, after the words "should be introduced", insert the following words: ", as recommended by the Assembly in Resolution 1941 (2013)".

2.4. with regard to the judiciary, the issue of the transfer of cases between judges was resolved through legislative amendments in the framework of the dialogue with the Secretary General of the Council of Europe. Generally, the position of the Chairperson of the National Judicial Office – a quite unique institution in Europe – has changed and his powers are now limited;

Amendment 4
Tabled by the Committee on Legal Affairs and Human Rights

In the draft resolution, paragraph 2.4, replace the sentence “Generally, the position of the Chairperson of the National Judicial Office – a quite unique institution in Europe – has changed and his powers are now limited;” with the following sentences: “The Chairperson of the National Judicial Office still has the power to annul the outcome of a competition for the appointment of a judge, but this power has been somewhat limited by the statutory imposition of certain conditions that must be met for the Chairperson to exercise this power. There is still no guaranteed appeals process relating to the decisions of the Chairperson;”

2.5. concerning the issues related to the media, the Commissioner for Human Rights of the Council of Europe, in his report on Hungary published in December 2014, pointed out that media in Hungary still suffered from both an inadequate legal framework and political pressures. For its part, the Assembly, at its January 2015 part-session, invited the Venice Commission to identify the provisions which pose a danger to the right to freedom of expression and information through the media in the Hungarian Act CLXXXV of 2010 on Media Services and Mass Media, in the Hungarian Act CIV of 2010 on the Freedom of the Press and the Fundamental Rules of Media Content, and in the Hungarian tax laws on progressive tax on advertising revenue for media. The Venice Commission is expected to adopt its opinion on 19 and 20 June 2015;

Amendment 12
Tabled by the Committee on Culture, Science, Education and Media

In the draft resolution, paragraph 2.5, replace the second and third sentences with the following sentences: “For its part, the Assembly urged the Hungarian Parliament in its Resolution 2035 (2015) to pursue further reforms of its legislation in order to improve the independence of the media regulatory authorities, the State news agency and the public service broadcasters, to increase transparency and pluralism in the private media, as well as to combat racist expressions against ethnic minorities. In accordance with Opinion 798/2015 of the Venice Commission on Hungarian media legislation, the Assembly calls on Hungary to implement those recommendations.”

2.6. as regards the recent debate on the reintroduction of the death penalty in Hungary, the Assembly strongly underlines once again that the prohibition of the death penalty is enshrined in the core values of the Council of Europe and welcomes the withdrawal of any proposal on this matter.

Amendment 5
Tabled by the Committee on Legal Affairs and Human Rights

In the draft resolution, after paragraph 2.6, insert the following paragraph:

“the Assembly recalls that certain constitutional and democracy issues, such as the wide scope of the “cardinal laws” and the requirement of qualified majorities for future changes pointed out by the Venice Commission, still need to be addressed.”

3. In conclusion, the Assembly welcomes the measures taken by the Hungarian authorities and their ongoing co-operation with the Secretary General of the Council of Europe, and encourages them to continue the open and constructive dialogue with the different Council of Europe interlocutors and other international organisations. It therefore resolves to ask the Hungarian authorities to endeavour to solve the outstanding issues, but that

Amendment 7
(If adopted, amendment 13 falls)
Tabled by Mr Gábor HARANGOZÓ, Mr Attila MESTERHÁZY, Mr Andreas GROSS, Mr Andreas SCHIEDER, Mr Stefan SCHENNACH, Ms Kerstin LUNDGREN, Mr Frank SCHWABE, Mr Frithjof SCHMIDT, Ms Doris BARNETT, Ms Mechthild RAWERT, Mr Jonas

special examination of these matters by the Assembly should now be concluded.

GUNNARSSON, Ms Carina OHLSSON, Ms Eva-Lena JANSSON, Ms Monica HAIDER

In the draft resolution, paragraph 3, replace the words "but that special examination of these matters by the Assembly should now be concluded." with the following sentences: ". However the Assembly regrets to note that with regard to the provisions of its Resolution 1941 (2013) insufficient progress has been made by the Hungarian authorities. The Assembly also takes due note of the European Parliament's resolution of 10 June 2015 on the situation in Hungary stating that "recent developments have led to concerns regarding the principles of the rule of law, democracy and fundamental rights in Hungary over the past year, which, taken together, could represent an emerging systemic threat to the rule of law in this Member State". The Assembly therefore concludes that it will continue to follow closely the situation in Hungary."

Amendment 13

(Falls if amendment 7 is adopted)

Tabled by the Committee on Culture, Science, Education and Media

In the draft resolution, paragraph 3, replace the last sentence with the following sentences: "The Assembly remains seized of the media situation in Hungary in the framework of its future reports on attacks against journalists and media freedom in Europe as well as on new methods of political influence over independent journalism. The situation of racism and intolerance also requires special attention."