

Dear Commission President,

We would like to express our deep concern as regards the imminent positive assessment of the Hungarian judicial reforms and their fulfilment of the four judicial milestones set out in the horizontal enabling condition under the Common Provisions Regulation.

The Parliament has made it clear that it expects the Commission to properly assess whether the enabling conditions have been fulfilled before any relevant payments are made. **In our view, the horizontal enabling condition referring to the independence of the judiciary has not been fulfilled.** The Commission implementing decisions approving the 11 programmes adopted on 22nd December 2022 all state in their article on horizontal enabling conditions that as regard the deficiencies in judicial independence, the enabling condition is fulfilled once Hungary has put in place the relevant amendments and those amendments are being applied. This is clearly not the case.

We are most concerned about the implementation requirement regarding the strengthening of the National Judicial Council. The elections for this body are ongoing and expected to be finished around 10th January 2024. As there already have been signs that the decision making is not independent of the government's interests, a positive assessment before this date undermines the purpose of the milestone. It is impossible to assess whether the National Judicial Council will be independent not only on paper, but also in its composition. Until that is the case, all reforms strengthening its position could be void. It is the duty of the Commission to continue to check that none of the reforms are reversed or weakened afterwards by an overnight decree or conflicting legislation.

Moreover, we also wish to express our concerns for new threats to the rule of law in Hungary, such as the proposal for the so called "defence sovereignty law". This would enable the Prime Minister to create a new authority directly under his control, equipped with sweeping powers without any democratic supervision. This risks to be used to further silence opposition parties, NGOs and other government critics. Further, these groups would also be those with no access to EU funds because the current Hungarian government refuses to process applications submitted by them. In some cases, the authorities even justify this publicly arguing that they do not give funds to critics of the government. It is evident that a fair allocation of EU funds in Hungary is virtually impossible.

Yours sincerely,

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