

INFOCUS

Parliament vs. Commission: The case of unfrozen funds for Hungary

C4EP analysis on the subject – *Much ado about... what exactly? The European Parliament taking the European Commission to the European Court over the unfrozen funds for the Hungarian government*

„The actual and probable obligation coming from that judgment would be a ban on further similar steps by the Commission, additionally, clarifying the currently missing criteria that the Commission should have applied and will have to apply in future similar situations. And there will be similar situations, as this legislative practice and solution expectedly will be applied in future legislation. And that is where we reach a very important point to ask the question: who wins what exactly, even in the case of losing it?

Even if the Commission loses now, the actual judgment is going to contain arguments, interpretations, that will be used in the future not only as base for further legislation but also as legal precedent for future cases. And it is very important to realise: the Commission is losing the case for not being strict enough – at least according to the European Parliament. Now the Commission does not really need encouragement to be stricter in the future, practically it only needs legal base to do so. Which it may get from this case now, even if losing it. That is a very good deal in the eyes of the European Commission on the long term.”

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Commission considers that Hungary's judicial reform addressed deficiencies in judicial independence, but maintains measures on budget conditionality

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MEPs debate EU summits and situation in Hungary

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MEPs threaten legal action if Commission unfreezes more funds for Hungary

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5 questions about the EU Parliament suing the Commission over Hungary cash

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Confirmed: European Parliament Sues Commission Over Hungarian Funds

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Putin 'wins' rigged Russian election with 87 percent of the vote

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Revenues from frozen Russian assets will be used for military support to Ukraine

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European Parliament demands action over Russian interference allegations, worry about election fallout

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War a real threat and Europe not ready, warns Poland's Tusk

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EU pumps four times more money into farming animals than growing plants

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Why Poland's 'Return to Europe' Won't Be So Smooth

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C4REPORT

EPC: EU-Japan cooperation on economic security: Parallel paths, shared problems – 11 March 2024

„The aim of this conference organized by the European Policy Centre (EPC) was to shed light on the crucial role of economic security in today's global landscape, with a specific focus on strategies and challenges faced by both Japan and the EU. Ambassador Kazutoshi Aikawa set the tone in his opening address, emphasizing the pivotal role of economic security in ensuring resilience and strategic autonomy. He underscored the challenges posed by increasing dependence on dominant economic players such as China, particularly highlighted by disruptions in supply chains during the Covid-19 pandemic. These disruptions underlined the urgent need for a more diversified economy.”

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Bruegel, The Transatlantic Foundation of the German Marshall Fund of the United States and GLOBSEC: Democracy Tour: The Eleventh Hour to Strengthen Democracy in the EU? – 21 March 2024

„Vera Jourová opened the panel, reminding us that if we fail to have fair elections, we have trouble in the whole European Union. She highlighted cybersecurity as a field to invest in, especially in the light of foreign interference, disinformation and deepfakes. Talking about

Russia, Jourová underlined that stopping the support for Ukraine would mean that Putin wins, and we cannot let that happen. She warned us about three conditions which could lead to a successful pro-Russian campaign in the Member States: a historically rooted sentiment, low resilience of the society and political proxies.”

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The Parliament Magazine and European Movement International: Road to the European elections: A stronger Europe in the world by 2030? – 22 March 2024

„Maria Blassar, Head of the Delegation of the Representation Office of the European Commission in Finland provided the introductory remarks for Panel I, underlining that European security and defence policy is a very timely subject, ever since the start of the Ukraine-Russia war. The EU is determined to provide Ukraine all kinds of support, including military assistance. At the same time, the question of the longer perspective arose: how to strengthen Europe’s own defence? That is what the European Commission had in mind proposing the European Defence Industry Strategy. It aims to increase defence readiness by augmenting defence expenditure in the Member States. The Commission proposed an initial 1.5 billion € funding proportion for a two year period starting in 2025. It is debatable whether it is sufficient or rather not, but Blassar emphasized that this is just the beginning.”

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EPC: Undoing the illiberal state in Poland: First lessons and challenges – 25 March 2024

„The aim of the conference organized by the European Policy Center (EPC) was to provide a comprehensive analysis of the current political landscape in Poland, particularly focusing on the challenges and progress in restoring the rule of law.”

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C4EPOSITION

Thomas Gutschker (EU Correspondent, Frankfurter Allgemeine Zeitung)

Mid-December, one day before a crucial vote in the European Council on opening accession talks with Ukraine, the EU-Commission unfroze 10 billion euros for Hungary from Cohesion funds. Three months later the Parliament decided to sue the Commission before the European Court of Justice (ECJ) trying to annul the payout decision. It is only the fourth time in history the Parliament is taking legal action against the Commission. Chances it will succeed are rather low. However, it is still a smart move, politically speaking.

The case has been assessed by the Parliament’s Legal Service. In its confidential opinion, dated March 1st, the Service made clear that the Commission enjoys a wide margin of discretion when it assesses the fulfilment of conditions justifying the grant of Union financial support. It would therefore be for the Parliament to establish before the ECJ that the Commission committed a “manifest error” when it determined that Hungary had met

the enabling conditions under the Common Provisions Regulation. “Manifest” means that the assessment was implausible or not supported by facts. That will be a tough call although the timing had a bad smell – to say the least. In fact, Hungary had enacted a number of judicial reforms required by the Commission. Parliament essentially argues the Commission has been too weak vis-a-vis Budapest which points to a disagreement that is rather political than judicial in nature.

The Court will be entering uncharted territory though. There is no case law yet on the Common Provisions Regulation which sets horizontal conditions for 8 EU funds and has only been introduced with the 2014-2020 Multiannual Financial Framework. In other cases the ECJ has taken an increasingly strict line on the standards of judicial independence required under Union law. So, Parliament can at least hope that the Court will look at the substance of its complaint. The Legal Service concluded that it was “difficult to predict in advance how the Court might rule in such a case”. We will not know the outcome soon. Such cases take on average around one year and a half.

However, Members of Parliament are more interested in the short-term benefits they can reap from the judicial proceedings. One is to use the case in the upcoming election campaign. Especially Greens and Liberals are keen to portray the EPP’s lead candidate Ursula von der Leyen as an unreliable and partial actor on the rule of law. Social Democrats cannot really attack her because their own lead candidate Nicola Schmit was the Commissioner who prepared the December decision on Hungary.

The second benefit became evident when the European Council met early February to decide on a 50 billion euros support package for Ukraine. This time, Hungarian Prime Minister Viktor Orbán agreed without getting any financial incentives. Beforehand he had insisted on unfreezing Hungary’s funds under the Recovery and Resilience Facility. But given the criticism and Parliament preparing its litigation the Commission had no margin of maneuver to accommodate his request. This will not change until the verdict is due.