

For Immediate Release

EU: Use Article 7 Now to Protect European Values

Concerted Action needed to Counter Rule of Law Threats in Poland and Hungary

(Brussels, June 18, 2021) – European Union affairs ministers should put the governments of Hungary and Poland on notice that there is no place for attacks on the rule of law in the EU and step up scrutiny of their human rights-abusive policies, Amnesty International, Human Rights Watch, the International Commission of Jurists (ICJ), the International Federation for Human Rights (FIDH), the Open Society European Policy Institute (OSEPI) and Reporters Without Borders (RSF) said today.

Ministers from EU member states meeting in the General Affairs Council session on June 22, 2021 will discuss the situations in Poland and Hungary under the Article 7 procedure. Article 7 is the mechanism provided for in the EU treaty to hold accountable governments whose actions threaten the bloc's rule of law, human rights, and democratic principles.

“The actions by Poland and Hungary show that leaving rule-of-law breaches unchecked undermines democratic institutions and eventually affects the human rights and lives of everyone in those countries,” said Philippe Dam, Europe and Central Asia advocacy director at Human Rights Watch.

“The June 22 hearings are a good start, but much more is needed to prove member states’ resolve to protect EU’s democratic values and reaffirm, loud and clear, that there is no room in the EU for those who disown them,” said Elena Crespi, Western Europe Programme Director at FIDH.

Resuming hearings on the situations in Hungary and Poland under Article 7 is a strong signal from the Council that violations of EU principles will not go unnoticed within the Union, the organizations said. But EU ministers have a responsibility to make up for the time lost and show readiness to take further action as the situations in both countries continue to deteriorate.

The European Commission invoked Article 7 in December 2017 for the first time since its creation in response to the dramatic erosion of judicial independence in Poland by the Law and Justice (PiS) Party government. But the EU Council, consisting of the member states, has not held a formal hearing regarding the situation since [September 2018](#).

The European Parliament triggered article 7 in September 2018 for Hungary because of the repeated deliberate attacks on democratic institutions and human rights by the Fidesz-led government, but the Council has not convened a hearing on the matter since [December 2019](#). EU officials contended that discussions related to Article 7 could not take place during the Covid-19 pandemic, allegedly because EU ministers could not meet in person during this period.

While EU action has stalled Poland’s government has continued to strengthen its grip on the judiciary. Many judges and prosecutors have faced arbitrary disciplinary proceedings for speaking up against problematic judicial reforms. The government has used a politically compromised Constitutional Tribunal to bypass parliamentary objections to its efforts to undermine independent institutions and erode rights across the board. The concerns over the functioning of the Tribunal include, in particular, mishandling of cases by its president and unlawful change in the composition of the already designated hearing benches.

In October 2020, at the behest of the Polish government, the Constitutional Tribunal severely undermined access to sexual and reproductive rights for women in Poland by extending the existing ban on abortion to include cases of “severe and irreversible fetal defect or incurable illness that threatens the fetus’ life”. In April, the government used the same tribunal to discontinue the mandate of the country’s [human rights Ombudsman](#), despite the delays in the appointment of a successor. The government is also using the Constitutional Tribunal to seek decisions on the validity of the Istanbul Convention on preventing violence against women and to try to undermine the binding nature of decisions by the EU Court of Justice on Polish law.

In Hungary, the government used the Covid-19 pandemic as a pretext to intensify its attacks on the rule of law and public institutions, increase executive power, and limit human rights, including the rights to freedom of expression, information and peaceful assembly. Hungary finally abided by the [June 2020 EU Court decision](#) by [repealing](#) a [2017 law](#) forcing civil society organizations receiving over 20,000 EUR per year in foreign funds to register as foreign-funded. But at the same time the government introduced a new bill requiring the national State Audit Office to conduct annual financial inspections of civil society organizations that report more than around 55,000 EUR, with the risk that it could create a new method to demonize and obstruct the work of watchdog groups. The draft bill leaves untouched the controversial [2018 law criminalizing groups giving assistance](#) to asylum seekers.

In July 2020, the editor-in-chief of Hungary’s largest online independent daily, Index.hu, [was fired as](#) a result of a financial takeover of the company controlling its revenues by a person with close links to the country’s ruling party. In September, the Media Council, a broadcast regulator tied to the executive after controversial changes passed early in the decade, revoked the frequency for the independent Budapest radio station Klubradio, forcing it off the air. On June 9, the European Commission opened a [new legal proceeding](#) against Hungary on the basis that the decision to take Klubradio off the air was discriminatory and non-transparent.

Civil society groups in Poland, Hungary and elsewhere in the EU have criticized the European Council and European Commission for failing to uphold the bloc’s founding values of respect for human rights and the rule of law in countries that breach them.

In December, the EU established a new mechanism conditioning EU funding upon respect for the rule of law, but both the European Commission and the Council have succumbed to Hungary and Poland’s blackmailing and announced they would not start enforcing the measure until autumn. On June 10, the [European Parliament](#) took the European Commission to Court if it further delays the implementation of the mechanism.

European ministers should continue to convene regular hearings on the situations in Poland and Hungary and take all steps available under Article 7 to hold both governments to account for violating the EU’s core values. These should include adopting specific rule-of-law recommendations that Poland and Hungary’s governments should carry out by a set deadline and, absent any concrete steps toward compliance, work toward the required four-fifth vote to determine that there is a clear risk of a serious breach of the values protected by the EU treaty. Such a determination would open up the possibility of sanctions that the Council could adopt, by unanimity, to react to this breach.

“After years of foot-dragging, it’s important for EU states to finally come together to scrutinize the situation in Poland and Hungary,” said Eve Geddie, Head of European Institutions Office at Amnesty International.

“EU states have a duty to act together to halt the hollowing out of public institutions and attacks on the rule of law in Poland, Hungary and any other member state that threatens core European values,” said Natacha Kazatchkine, Senior Policy Analyst at Open Society European Policy Institute.