



MINISTRY OF FOREIGN AFFAIRS OF HUNGARY

MINISTER OF STATE

Secondly, we were surprised to note that draft report formulates conclusions and promotes recommendations that go beyond not only the powers of the European Parliament, but also those of the European Union as a whole. Basically, the draft report calls upon Hungary to undo the most important constitutional changes that took place over the past three years in areas where the EU holds no competence whatsoever. Moreover, the report presents unclear and general recommendations – a broad political wish-list (e.g. “restore rule of law”) – that carry no particular content or direction. Yet, as the report concludes, if Hungary fails to implement its recommendations Article 7 of the Treaty on the European Union must be applied.

We believe that a report that aims to be the champion of the rule of law should indeed respect certain basic legal principles that serve as the foundation of the European construction. First and foremost, it should respect the principle that the EU enjoys competence only where such competence has specifically been conferred thereupon by the Member States. Furthermore, the report should recognise the fundamental political and constitutional structure of Hungary as a constituent of its national identity, whose protection is clearly enshrined in Article 4 of the Treaty on the European Union. Finally, while not challenging the broad political mandate of the European Parliament, the balance between the various institutions must be maintained. In particular, initiating legal action against Member States for the breach of the European law remains the competence of the Commission (and other Member States) and the determination of whether such breach has taken place is the responsibility of the Court of Justice. The draft report repeatedly oversteps these important institutional boundaries by way of delivering a series of summary judgements and, subject to legal sanction, by instructing Hungary to implement them.

As a consequence, we view the draft report as an unfortunate experiment that may upset the legally defined balance between the Member States and the Union, on the one hand, and between the various institutions of the EU, on the other. Such re-design of the European power-structure cannot take place in such a stealth fashion and be applied vis-à-vis only one Member State. These are issues that can only be addressed in full compliance with the basic principles and rules established by the Treaties and with full respect of the legal order the Union, to which we are all fully and respectfully committed.

Sincerely yours,


Enikő Győri