

*Mr Julien Mousnier
Head of Unit
General Secretariat
European Commission
Rue de la Loi 200*

*Mr. Florian Geyer
Head of Unit
DG Justice and Consumers
European Commission
Rue Montoyer 59
B- 1000*

Re : written contributions, recurrent methodological flaws and conflict of interests regarding the Hungary Rule of Law country visit.

Budapest, 17 February 2023

Dear Mr. Mousnier, and Geyer,

First of all, allow us to thank you for the invitation to the country visit on Hungary coordinated by your team on 7 February last and to which the undersigned organisations participated, some of them for the third year in a row. While we believe in the relevance of the exercise you run, we are recurrently concerned by some structural flaws that might undermine its credibility.

Firstly, we deeply regret to observe that our views are systematically ignored. This year, we took again part in the public consultation and the country visit even if since the first launch of the annual Rule of Law report, the methodology and conclusions seem to us discretionary, discriminative and overly biased. We regret that none of our comments and views expressed in the last years have been taken on board, not a single time. This further underpins our conviction that the conclusions of the procedure are predetermined and that it neglects the position of the NGOs supporting national sovereignty, Christian heritage and pro-family policies. Or simply, of any organization questioning the mainstream opinion on the situation of the Rule of Law in Hungary.

We were told this way of proceeding is fully in line with the current methodology “as agreed by Member States”. So be it, but this does not change the fact that this enables the Commission to pick and choose opinions as it so wish. This strengthen the impression that some organisations are only called to “tick the box” and give a fake façade of diversity to an otherwise one-sided exercise.

Secondly, allow us to stress the importance of an impartial and objective assessment in all steps of this exercise. According to the Annex on the Code of Good Conduct attached to the EU Staff Regulation¹, “*Staff shall always act objectively and impartially, in the Community interest and for the public good. They shall act independently within the framework of the policy fixed by the Commission and their conduct shall never be guided by personal or national interest or political pressure*” [emphasis added]. Moreover, article 11 of the EU Staff Regulation clearly states that „*An official shall carry out his duties and conduct himself solely with the interests of the Union in mind. He shall neither seek nor take instructions from any government, authority, organisation or person outside his institution. He shall carry out the duties assigned to him objectively, impartially and in keeping with his duty of loyalty to the Union*”. [emphasis added].

We are sincerely afraid Mr. Gabor Magyar, country desk responsible for Hungary at the Directorate General for Justice and Consumers, does not fulfil those conditions. In an interview he gave in October 2017 for the blog „Magyar Ügyvéd” (Hungarian Lawyer) he literally declared: „*I feel to legitimise a regime through my lawyer activities [in Hungary], which does not anymore suit conditions of a human rights respecting, democratic rule of law state. Rule of law as backstage exists, there are actors on the stage, even the text is known, but the story is totally different because of autocratic director’s instructions. In this tragedy I do not want to be a bystander, but a theatre critic.*” (magyarugyved.blog.hu/2017/10/15/magyar_gabor_is_emigral_bucsuposzt)

It goes without saying that we fully respect Mr. Magyar’s freedom of speech. In times of rampant cancel culture, we even welcome it as we believe political diversity, pluralism and debate are unnegotiable cornerstones of a democracy. We even believe that public political statements like those of Mr. Magyar are compatible with the large majority of tasks an EU official performs.

Nonetheless, as stated in Article 17 of the EU Staff Regulation, “*An official has the right to freedom of expression, with due respect to the principles of loyalty and impartiality.*” [emphasis added]. For that reason, we believe that the political views publicly expressed by Mr. Magyar do create an obvious conflict of interest and are incompatible with his position as Country Desk responsible for the Rule of Law. We ought to think that every person holding public views against a government on the very topic he is in charge of should either abstain or be discarded by his hierarchy. Otherwise, the whole Rule of Law exercise runs the risk of being flawed and perceived as politically biased, which is at odds with Article 17 of the Staff Regulation.

We also trust that, in order to safeguard the objectivity and impartiality of this crucial report, the Commission would never allow that to happen for any Member State. We do respect and value your effort to understand, analyze and evaluate the Rule of Law in Hungary. This being said, we equally kindly ask you to understand that Mr. Magyar’s participation does not guarantee an unbiased and impartial picture about Hungary, as requested in the Staff Regulation and the Code of Conduct.

We already raised this particular issue last year and so did we on 7 February last. So far, we deplore we did not receive a satisfactory response from you. Merely declaring that the Rule of Law exercise is “team work” and that this, per se, thwarts any conflict of interest while at the same time dismissing the concrete and founded concerns we raise does not match the standards of motivation EU citizens are entitled to. We also fail to understand why Hungary does not benefit from the same guarantees as other Member States as we are not aware of any other Rule of Law country desk having publicly criticized the government of the country he or she assesses.

¹ Annex to the Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community.

The Rule of law is a fundamental value resulting from the constitutional traditions of Member States and enshrined in the treaties, therefore, all mechanisms of European institutions aiming at assessing it should fulfill the highest standards of independence and neutrality. We welcome it is monitored in Hungary and in all Member States. But we also fear that flaws and conflict of interest undermine its credibility. For the above mentioned reasons, we would kindly ask you to explain more in details why you believe the position of Mr. Gabor Magyar as the country desk for Hungary after publicly holding hostile public positions does not constitute a conflict of interest and why he continues to hold this position.

Your sincerely,

Dr. Miklós SZÁNTHÓ
Alapjogokért Központ

Ákos Bence GÁT
Danube Institute

Csaba FARAGÓ and Dr. ifj. Zoltán LOMNICI
Századvég Alapítvány

Ágoston Sámuel MRÁZ and Bánk Levente BOROS
Nézőpont Intézet