

Letter to Commissioner Kroes regarding Media Freedom in Hungary

JULY 2, 2012

Dear Vice President Kroes,

We are writing to ask you to take further steps to ensure media freedom in Hungary, including by pursuing action under Article 7 of the EU Treaty in response to the Hungarian government's failure to implement recommendations by the Council of Europe pursuant to your request.

In a February 9 public statement to the European Parliament Civil Liberties, Justice and Home Affairs Committee, you set out your concerns with the situation of media freedom and freedom of expression in Hungary. Those concerns echo the research findings of Human Rights Watch as set out in our February 2012 memorandum addressed to the European Union:

<http://www.hrw.org/news/2012/02/16/memorandum-european-union-media-freedom-hungary>

In your February 9 statement to the European Parliament, you also made it clear that the Hungarian authorities "should explicitly and transparently ask the Council of Europe for a comprehensive opinion on the compliance of the media legislation and its application in practice [...]" As you know, the Hungarian government failed to do so.

A joint initiative of the EU and the Council of Europe resulted in an expert opinion prepared by the Council of Europe, which was issued on May 16. In the meantime the Hungarian government had put forward draft amendments to its media laws. The Council of Europe analysis made clear that despite some positive developments, such as removing most requirements for journalists to reveal sources, the proposed amendments did not come close to addressing adequately the problems with the laws.

In your February 9 statement, you further stated that "Hungarian authorities should accept and implement any concrete recommendations that would be made by the Council of Europe." Instead, the legal changes were adopted by the Hungarian Parliament on May 25 without taking into account the majority of the recommendations by the Council of Europe.

Ongoing problems with the laws include the politicized appointments process for the Media Council, the main media regulator, evidenced by the direct appointment of its president by the prime minister and the 9-year tenure of its members, which can only be ended by a supermajority of parliament. Further concerns include the requirement for "balanced" reporting, which in practice has a chilling effect on investigative journalism and leads to self-censorship.

Human Rights Watch is also concerned that the Hungarian government inserted new amendments to the laws that further curtail media freedom just before the proposals were submitted to parliament for adoption on May 25. One such amendment states that only the Media Council is authorized to approve a broadcasting agreement, excluding courts from playing an oversight role in such agreements. Another amendment states that the Media Council is not obliged to conclude contracts, which means that it could ignore the results of public tenders for broadcasting licenses and award them as it wishes.

The new provisions directly affect media outlets such as Klubradio, which in 2011 won a frequency bid that the Media Council never concluded. While a Budapest metropolitan court on 28 February ruled that the Media Council may not refuse to conclude the contract, the new provision included in the media law applies retroactively to pending cases such as Klubradio's. At this writing, the case is pending appeal before the Media Council.

In response to the amendments that were adopted by the Hungarian parliament on May 25, a June 7 interview with the Hungarian weekly newspaper Figyelo (reported also in the English-language Businessweek), cited you as stating that "Hungary's changes to its media law failed to address concerns of the European Union and the Council of Europe," and terming the status of the media law "embarrassing," with the government having "failed to deliver on its promises," addressing only 11 of 66 recommendations by the Council of Europe, "without guaranteeing the independence of the Media Authority or clarifying all ambiguities."

In your February 9 statement you made clear that should Hungary fail to comply with the recommendations of the Council of Europe, you would consider taking further action, in particular to refer Hungary to the Council of the European Union for action under Article 7 of the EU Treaty. Under

Article 7 of the EU Treaty, a member state may be stripped of its voting rights if there is a clear risk of a breach of the common values of the European Union, or if a member state is in serious breach of those values.

Hungary's recent adoption of media law amendments demonstrate that the government has no intention of complying with the recommendations by the Council of Europe or taking positive steps to improve media freedom.

The curbs on media freedom are not an isolated breach of Hungary's obligations under EU and human rights law. They are part of a wider pattern of deteriorating human rights in the country, along with limitations on the independent judiciary, limitations on freedom of religion, potential limitations on women's reproductive rights and discrimination against lesbian, gay, bi-sexual and transgender groups and homeless people.

The curbs on media freedom and the failure of the Hungarian government to comply with the recommendations of the Council of Europe by themselves warrant Article 7 action as a serious risk to the common values of the EU. We believe time has come to initiate action under Article 7 to determine whether there is a clear risk of a serious breach by Hungary of EU principles and to take appropriate measures to ensure compliance with EU principles.

Sincerely,

Lotte Leicht
Director of EU Advocacy
Human Rights Watch

Hugh Williamson
Director, Europe and Central Asia Division
Human Rights Watch

Cc:

President of the European Parliament, Mr. Martin Schulz

Chair of the European Parliament's Civil Liberties, Justice and Home Affairs (LIBE), Mr. Juan Fernando Lopez Aguilar

LIBE Rapporteur on Hungary, Mr. Rui Tavares

Chair of the European Parliament's Subcommittee on Human Rights (DROI), Ms. Barbara Lochbihler

Vice-President of the European Parliament responsible for Democracy and Human Rights, Mr. Edward McMillan-Scott

Director of Human Rights and Democracy Unit, EEAS, Ms. Veronique Arnault.

Head of Cabinet of Vice-President Neelie Kroes, Mr. Anthony Whelan

Working Party on Fundamental Rights, Citizens Rights and Free Movement of Persons (FREMP) Representative of Denmark, Mr. Lars Solso Lind

Working Party on Fundamental Rights, Citizens Rights and Free Movement of Persons (FREMP)

Representative of Cyprus, Mr. Constantinos Constantinides

Denmark, Minister of European Affairs, Mr. Nicolai Wammen

Cyprus, Minister of Foreign Affairs, Ms. Erato Kozakou Marcoullis

Forrás: <http://www.hrw.org/print/news/2012/07/02/hungary-letter-commissioner-kroes-regarding-media-freedom-hungary>