






Weekly Briefing

Hungary External Relations briefing:
The Sargentini Report's Background and its Meaning for Hungary
and the EU
Csaba Moldicz

China-CEE Institute

Kiadó: Kína-KKE Intézet Nonprofit Kft.
Szerkesztésért felelős személy: Chen Xin
Kiadásért felelős személy: Huang Ping

 1052 Budapest Petőfi Sándor utca 11.
 +36 1 5858 690
 office@china-cee.eu
 china-cee.eu

The Sargentini Report's Background and its Meaning for Hungary and the EU

2019, September 12, the European Parliament adopted the so-called Sargentini proposal. With the adoption the EP backed a resolution calling on European Union (EU) member states to trigger Article 7 procedures against Hungary in order to prevent the risk of a "serious breach of European values". The aim of this briefing is to show that putting Hungary on a show trial is rather motivated by geopolitical interests of the players than any other serious legal considerations. Invoking the Article 7 procedure could not only result in exclusion of Fidesz from the European People's Party but also in a suspension of Hungary's voting rights in the European Union institutions.

To frame this story better, one must remind that the next European Parliament elections are to be held 23–26 May 2019. Therefore, it should not come as a surprise that the Sargentini proposal is a good occasion for the participants to form distinctive profiles and make themselves more visible to the voters. While Orbán's blank rejection of the mainstream EU policy on immigration has put him on a collision course with Brussels, the European People's Party has largely kept its head down, avoiding open confrontation whenever Orbán has challenged European norms – until now.

Manfred Weber, the leader of the party, called for the members to choose a side concerning the report, but his announcement of voting in favor to launch the procedure tilted the scale. However, it's clear that the EPP still has many voters that agree with Orbán's stance on immigration and his agenda on the Nations of Europe. It is very likely that the report against Hungary is a final attempt by pro-immigration forces to punish anti-immigration the Hungarian government before the end of the current European Parliament term.

Chancellor Sebastian Kurz said that the membership of Fidesz in the EPP would not be suspended until the Article 7 procedure against Hungary is concluded, however it is more likely that it is going to be a long process, which will again involve the European Council, the European Commission and the Parliament.

Regardless of the content, the Hungarian government's assessment is that the Sargentini report did not receive the required two-thirds majority. "Under the EU's Lisbon Treaty, a vote by two-thirds of MEPs would have been required for the report's approval, and abstentions should have also been taken into account in the vote tally", Gergely Gulyás, chief-of-state told in a press conference. If we take into account only the votes in favor and against, it gives 448 votes in favor out of 645, or 69 percent of the votes. On the other hand, if we also consider abstentions (total number of 48), the supportive votes only represent 65 percent of the votes cast. With the abstentions counted, the report would have failed to secure a two-thirds majority.

But how come that 48 Members of the European Parliament (MEPs) have abstained in such a question, which might shape the whole future not only of Hungary, but the European Union? In the list below there are some reasons given by the MEPs to why they abstained from voting:

1. It goes beyond the competence of the European Union and unjustifiably intervenes in the sovereignty of the Member States. (Sajjad Karim, European Conservatives and Reformists – ECR)

2. The procedure has rather a political purpose, even if there is truth in the report. This instrument should not be abused for political party considerations. (Helga Stevens, ECR)

3. Double standard is applied by the EU: at the same time, at least five other member countries are fighting the same thing with no more serious issues (corruption, human rights, division of powers, independence of the judiciary, freedom of the press, abuse of EU funding etc.) than Hungary, such as Malta, Slovakia, Romania or Poland. (Franc Bogovič, EPP)

4. The report is not based on a clear list and a comprehensive legal analysis that demonstrates how the Hungarian government violates European law. (Richard Sulík, ECR)

5. It is dangerous for the Parliament to act as a judge. If that were the case, then the same decisions should be made and accepted in the rest of the EU. (Santiago Fisas Ayxelà, EPP)

6. Dialogue with the Orbán government should continue. Penalty and punishment must be used with the utmost care. (Peter van Dalen, ECR)

For whatever reasons MEPs had to abstain, it is clear that quite many parliamentarians are not sure about the legitimacy of the very report and concerned about how to proceed with it.

The Center for Fundamental Rights published the Refutation of the Top 10+1 erroneous statements of the Sargentini Report as it is firmly convinced that the criticisms contained therein are nothing more than disguised political accusations. Some of the allegations are perceptibly based on the inadequate knowledge or deliberate misinterpretation of the Hungarian legislation, while others are clearly ideological, they say. The report contains a number of factual errors that make it clear that the document is inappropriate to provide an objective and unbiased picture of the situation in Hungary.

This view is confirmed by those MEPs voting against the report, as well as it stands close to the opinion of those abstaining from voting. It is not surprising that the government communication contains such elements as blaming the voting system concerning the proposal, highlighting the errors of the report and assuring the people that the government will fight for sovereignty and will continue to protect the borders. In fact, the anti-Sargentini-Verhofstadt-Soros campaign is part and parcel of the Fidesz-KDNP's offensive for the election hoping that the number of Fidesz delegates can be significantly increased, which, given the weakness of the opposition, is very likely.

The Publicus Institute surveyed the opinion of the Hungarian electorate on the Sargentini report by interviewing 1001 people from 12 to 19 September. The representative survey shows that nearly three-quarters (72 percent) of the respondents had heard of the report and the events that took place in Strasbourg.

— It must be added the ration does not necessarily mean that Hungarians are aware of the complexity and the real intent of the situation since the communication of the government is focused on the anti-immigration policy, border control and that of reduced sovereignty by the EU.

When it comes to opinions about the Sargentini Report and the question of sovereignty, the word is that the majority of Hungarians (46 percent) believe that the issue of democratization is primarily the country's internal affair, however also a matter for the EU. According to a third of the respondents (31 percent) of the adult population think that the European Union should have no say in the internal affairs of member states, while 14 percent think that in the case of an EU member state such matters are fully a matter of the European Union.

— Based on such statistics, people in general believe in the sovereignty of a member state and give primer legitimacy to the government in power to shape domestic politics, however it suggests that in case of a threat of the rule of law the EU is empowered to at least intermediate.

Out of ten respondents, nine (89 percent) said that even though a government was elected by a two-thirds majority, it can be called to account. This is what all social groups think of, including 90 percent of Fidesz voters.

— These results clearly show how important democracy is to all social layers and thus the whole society.

However, the society is much more fragmented if we examine whether the EU must intervene in the case of domestic violations of democratic standards, – the majority – more than half (52 percent) of the respondents would support intervention, while four out of ten (42 percent) would condemn it.

— This figure points to the fact that according to Hungarians, a member state, a government has no longer sovereignty if democratic values are violated. But one has to add that it can be questioned, why these issues are being examined that thoroughly right before the EP elections? Why only Hungary?

In our opinion, the basic question is not primarily whether Article 7 will be triggered, and the procedure launched but rather how this will reshape power relations within the European Union. The EP decision on the Sargentini report merely opened the door to an investigation by the General Affairs Council into Hungary's suspected infringements. After that decision, it will be a long time before Hungary's voting rights in the EU are suspended. Firstly, a four-fifths majority, then a unanimous vote is needed in the Council, which according to voices is near impossibility since Poland has already expressed it will stand by Hungary and will not let the seventh article go through. Some analysts suggest that such reports are more of a problem than solving the issues. It might deepen the gap between the Visegrad-countries and the other EU Member States, which endangers the future of the EU.