

# ARTICLE 7

## The EU's 'Nuclear Option'



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Article 7 of the Treaty on EU (TEU) sets up a procedure to **guarantee the protection of EU fundamental values**, with an early warning system in case of a risk of breaches, and a sanctioning mechanism in the event of a serious and persistent breach by a Member State.

It was introduced by the Treaty of Amsterdam in 1997 (1999), and later amended by the Nice Treaty in 2001 (2003) and the Lisbon Treaty in 2007 (2009).

### Step-by-step procedure

#1

Determination of a  
**CLEAR RISK OF A  
SERIOUS BREACH**  
of the values.

**Proposal**, by either of the following:

- ONE THIRD of the Member States
- The European Commission
- TWO THIRDS of the European Parliament<sup>1</sup>

**Decision** by the **FOUR FIFTHS**<sup>2</sup> of the Council<sup>3</sup> - issues a formal warning

*In case the violating Member State ignores the formal warning and continues with the practices contravening the basic values, it can lead to...*

#2

...a determination of the existence of a  
**SERIOUS AND  
PERSISTENT BREACH**  
of the values.

**Proposal** by either of the following:

- ONE THIRD of the Member States
- The European Commission

**UNANIMOUS decision**<sup>4</sup> of the European Council<sup>5</sup>

#3

**SUSPENSION**  
of certain rights, including voting rights, of a Member State.<sup>6</sup>

**Decision** made by the **QUALIFIED MAJORITY**<sup>7</sup> of the Council

EU fundamental values are specified in Article 2 of the TEU:

"The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail."



**POLAND**

20 December 2017

**For the first time in history, the EU activated Article 7 procedure against its Member State.**

**Summary:** In its reasoned proposal, the **European Commission** presented its concerns as regards judicial independence, the separation of powers and legal certainty in Poland.

**Issues of Concern:** the lack of an independent and legitimate constitutional review; and the adoption by the Polish Parliament of new legislation relating to the Polish judiciary which raises grave concerns as regards judicial independence and increases significantly the systemic threat to the rule of law in Poland.

**Current status:** Decision by the Council is pending.



**HUNGARY**

12 September 2018

**After the members of the European Parliament had rejected the calls to initiate Article 7 procedure in 2015, they took an affirmative stance just three years later.**

**Summary:** The **European Parliament** expressed concerns relating to twelve areas of rule of law in Hungary.

**Issues of Concern:** The functioning of the constitutional and electoral system; the independence of the judiciary; corruption and conflicts of interest; privacy and data protection; freedom of expression; academic freedom; freedom of religion; freedom of association; the right to equal treatment; the rights of persons belonging to minorities, including Roma and Jews; the fundamental rights of migrants, asylum seekers and refugees; and economic and social rights.

**Current status:** Decision by the Council is pending.

*\*The views expressed in this Infographic are the sole responsibility of the author.*

1. The situation is assessed by the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE), after the European Parliament (EP) passes a resolution calling it draw a specific report. Later, the EP votes on LIBE's draft resolution and officially triggers Article 7.

2. After the member states' ambassadors to the EU examine the issue in the COREPER II, the decision on how to address the issue at hand is made by the General Affairs Council (GAC). This Council configuration is headed by the rotating Member States of the Council of the EU, upon whom depends whether and when the Article 7 issue will be put on the agenda. Before making a final decision, the GAC hears the Member State in question and may address recommendations to it.

3. After obtaining the consent of the European Parliament.

4. The Member State in question does not participate in the vote.

5. After obtaining the consent of the European Parliament.

6. There is no provision which would enable exclusion of a Member State from the EU.

7. Qualified Majority Voting (QMV) system requires 55% of the Member States and 65% of the EU population.

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