



HELSINKI COMMISSION HEARING

UNITED STATES COMMISSION ON
SECURITY AND COOPERATION IN EUROPE

Testimony :: Mr. Brent Hartley

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Statement of Brent Hartley
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Hearing before the U.S. Commission on Security and Cooperation in Europe
March 19, 2013, 3:00 P.M.

Thank you, Chairman Cardin and members of the Commission, for inviting me to join you today. Mr. Chairman, I am well aware of - and appreciate - your continued interest in events in Hungary. I believe your interest is warranted. Hungary remains a strong ally of the United States. Hungary is a member of two bedrock transatlantic organizations - the OSCE and NATO - which define and defend democracy in Europe and beyond. However, in the last two years we have been open about our concerns regarding the state of checks and balances, and independence of key institutions, in Hungary. The United States has not been alone in this regard, as the Council of Europe, the European Commission, other friends and allies of Hungary, and civil society organizations have expressed similar views. If the Government of Hungary does not address these concerns, not only will the lives of Hungarian citizens be affected, but it will also set a bad precedent for OSCE participating States and new members and aspirants to NATO.

Last year marked the 90th anniversary of U.S.-Hungarian diplomatic relations: relations which remain strong, based on a common security architecture as NATO allies, a deep economic partnership, and what we believe are fundamental values shared by the American and Hungarian people. Hungary plays an active and positive role in international fora, leading the way towards goals compatible with ours on a wide range of issues.

U.S.-Hungarian security cooperation, especially with respect to military, law enforcement, and counter-terrorism issues, is exceptionally robust. We have enjoyed warm relations with each and every Hungarian government since the transition from Communism over 20 years ago. This underscores a point that we always stress with our Hungarian friends: our expressions of concern over the last two years should be taken in the proper spirit because they come from a strong friend of Hungary, and friends should be able to speak truth to friends. Our concerns do not arise from any hostility toward Hungary, ignorance of the specifics of the laws, or from a partisan slant against its current leadership. They are a sincere expression of what we and other friends of Hungary in Europe see as troubling trends in laws passed in the last few years.

Before former Secretary Clinton visited Hungary in June 2011, we took notice of Hungary's controversial media law and a new constitution - which in Hungarian is called the Fundamental Law - portions of which also raised concerns among impartial observers. In both cases, we had concerns about the content as well as the process by which they were passed. Due to the mechanics of the electoral system, the current government gained a two-thirds majority of Parliament based on winning 52 percent of the vote in free and fair elections in 2010. This gave it the authority to pass new laws, and indeed a new constitution. As we have often said, Hungarian laws should be for Hungarians to decide. But for something as fundamental as a constitution or a law impacting freedom of the press, the process must lead to a consensus built from a broad cross-section of society, rather than reflect only the opinions of the ruling coalition. The speed with which these laws were drafted and then passed, and the lack of serious consultation with different sectors of society, did not honor the democratic spirit that the people of Hungary have long embraced.

That is why when Secretary Clinton visited Budapest in 2011, she called for Hungary to show "a real commitment to the

independence of the judiciary, a free press, and governmental transparency."

Since then, the Hungarian parliament has passed scores of laws at an accelerated pace. Most of these laws were unobjectionable and aimed at addressing issues that had not been addressed in the early days after Hungary's democratic transitions in 1989. But more than a few of these laws posed threats to systemic checks and balances and the independence of key institutions that are the bedrock of mature democracies. Privately and publicly, we expressed our concern to the Government of Hungary, as did several European institutions and governments. Our message to our Hungarian allies is that all democracies have a duty to safeguard institutional checks and balances. Unfortunately, in many respects our message went unheeded.

My colleague Deputy Assistant Secretary Thomas O. Melia, whose experience in Hungary goes back to 1989, has described the root of our concerns with key Hungarian laws as the concentration of too much power into too few hands.

When Hungary's Constitutional Court struck down a law on fiscal issues, the parliament swiftly passed another law taking away the Court's competency to decide cases based on fiscal matters. The government also expanded the Constitutional Court from 11 to 15 members, allowing the current administration to select the additional justices and thereby alter the Court's juridical balance. The new laws created a Media Council and gave it significant powers to oversee broadcast media, including the right to fine media for "unbalanced coverage," an unsettlingly vague term. Unlike similar media bodies in other democracies, such as our Federal Communications Commission, no opposition parties are represented on Hungary's new Media Council. The Council members have nine-year terms, and cannot be removed without a two-thirds vote of parliament. The long length of these terms ensures that these political appointees will remain in place well past the next planned parliamentary elections in 2014. This would tie the hands of the next government should it have anything less than a two-thirds majority.

The new laws also created a National Judicial Office and gave it a powerful, politically-appointed President with a nine-year term and the authority to assign cases to any court she sees fit. This enables the office-holder to engage in "venue shopping" by steering specific cases to specific judges – a recipe for potential abuse.

Another new law stripped over three hundred religious congregations or communities of their official recognition. To be clear, non-recognized religious groups are still free to practice their faith in Hungary. However, they do not enjoy certain tax benefits and subsidies that recognized religious groups do. In order to regain recognition, religions will have to be approved by a two-thirds vote of parliament, an onerous and unnecessarily politicized mechanism. While we understand that the new religion law was adopted to stop fraud, we have urged the Hungarian Government to seek a less onerous and less politicized procedure to weed out malfeasance.

In mid-2012, as expressions of concern from the United States and Europeans mounted, the Hungarian Government began responding in constructive ways. The government voluntarily submitted many laws for review by the legal experts of the Council of Europe's Venice Commission. In some cases, though by no means all, the government modified laws to take into account specific concerns expressed by the Commission. While some important issues remained unresolved, we were heartened that Hungary was engaging in dialogue, recognizing the merits of concerns expressed by the United States and others, and taking steps to address them.

We were further heartened when, early this year, Hungary's Constitutional Court issued several rulings striking down controversial legislation. This demonstrated that the Court could serve as an effective check on government. Unfortunately, the reaction by the Hungarian government again called into question its commitment to checks and balances and institutional independence. The government drafted and swiftly passed a new constitutional amendment, parts of which reinstated laws that had just been struck down by the Court. Again, the process was rushed and lacking in broad societal consultation. Moreover, the Hungarian Government ignored pleas from the State Department, European Commission, and Council of Europe – as well as several respected, non-partisan Hungarian NGOs – to engage in a more careful, deliberative process and allow for the Venice Commission's experts to review the amendment. This has prompted renewed expressions of concern from the Council of Europe, the President of the European Commission, and other allied governments, including the United States. While the Government of Hungary has now submitted the amendment to the Venice Commission, this is the opposite of the normal procedure, whereby the Commission reviews laws before they are passed, not after passage.

I would like to address one other area that has provoked much concern: the rise of extremism in Hungary. This phenomenon is, sadly, not unique to Hungary. The rise in Hungary of the extremist Jobbik party as one of the largest opposition groups in parliament, and Jobbik's affiliated paramilitary groups that incite violence, are clear challenges to tolerance.

Let me be clear: the ruling Fidesz party is not Jobbik. Fidesz' ideology is within the mainstream of center-right politics, and its platform is devoid of anti-Semitism or racism. In 2012, the Government of Hungary used the centenary of Raoul Wallenberg's birth to promote tolerance. Moreover, we have seen a growing willingness by Hungarian government leaders to condemn anti-

Semitic and racist acts and expressions. However, such condemnation is not always swift or resolute. The Hungarian Government can and must do more to foster tirelessly a climate of tolerance. One concern is that some local governments in Hungary have, with little objection from the governing party, erected statues and memorials to tainted figures from Hungary's past. And some of these figures have been re-introduced into the national educational curriculum. As the Department's former Special Envoy to Monitor and Combat Anti-Semitism said last year, "the recent rehabilitation of figures from Hungary's past who are tainted by their support for Fascism and anti-Semitism contributes to a climate of acceptance of extremist ideology in which racism, anti-Semitism, and other forms of intolerance can thrive."

We also call upon Hungarian leaders to do more to defend Romani Hungarians, who – like Romani in many other European countries – face discrimination, racist speech and violence that too often goes unanswered, just as in the United States leaders from both parties routinely speak out against racism. We urge that perpetrators of violent attacks against Roma – in Hungary as well as elsewhere in Europe – will be arrested and prosecuted as swiftly as those who commit anti-Semitic attacks.

In conclusion, the United States has long enjoyed and benefitted from its strong alliance with Hungary and its people. Just as we continue to do hard work together in Afghanistan and other danger spots around the world, so too will we continue to have a sincere – and at times difficult – dialogue on the importance of resolutely upholding the fundamental values that bind us.

Thank you, Mr. Chairman, for allowing me to express the State Department's views on these important issues.