

The Fight for Minority Rights in the EU Continues at the Court of Justice

Introduction

After the General Court of the European Union, on 9 November 2022, confirmed the Commission's decision refusing to take any action in the *Minority SafePack Initiative*, the organisers, on 23 January 2023, filed an appeal with the Court of Justice of the EU. The organisers keep fighting for the legislative package, affecting almost 50 million citizens in the EU, which aims to promote minority rights, language rights and the protection of their cultures in the Union. Will the EU institutions ever take the fundamental values of the EU seriously and respect the rights of persons belonging to (national) minorities?

History of the case

The *Minority SafePack Initiative* (MSPI) is a European Citizens' Initiative (ECI) that was launched in 2013 asking for EU-level protection and promotion of their languages, cultures and rights. Even though the European Commission initially refused the registration of the initiative, the organisers successfully challenged this decision at the General Court in 2017.¹ After this, the MSPI was finally registered and the organisers could start collecting the supportive signatures.

In a Europe-wide campaign, 1,123,422 validated statements of support were collected by April 2018. Later on, the MSPI also obtained the support of the Bundestag,² the Hungarian Parliament,³ the lower chamber of the Dutch Parliament, many regional parliaments and the European Parliament,⁴ too, which adopted a supportive resolution in December 2020 with an overwhelming majority.

¹ TÁRNOK 2017: 79–94.

² FUEN 2020.

³ FUEN 2021.

⁴ European Parliament 2020.

The Fight for Minority Rights in the EU Continues at the Court of Justice

The European campaign and the initiative itself is coordinated by the Federal Union of European Nationalities (FUEN).

Despite this, the European Commission decided to reject the package in its entirety in January 2021 and not to propose any legal act or other action based on its proposals.⁵ On 24 March 2021, the organisers of the MSPI filed an application at the General Court of the EU requesting the annulment of the European Commission's decision on the initiative. The organisers argued that the European Commission infringed its legal obligation to state reasons and committed manifest errors of assessment.

The General Court's judgment

On 9 November 2022, the General Court confirmed the Commission communication refusing to take the action requested in the MSPI.⁶ According to the General Court, "the action already taken by the European Union to emphasize the importance of regional or minority languages and to promote cultural and linguistic diversity is sufficient to achieve the objectives of that initiative".

The organisers argued that the Commission failed to provide sufficient reasoning for its decision, and thus, violated the law. Even though the Commission is not obliged to submit a proposal for a legislative act following a successful ECI, adequate justification must be provided if the Commission decides not to submit a legal proposal. In its judgment, the General Court found that the Commission clearly and sufficiently explained the legal and political reasons for which it decided to reject the initiative. The General Court also stated that the Commission cannot be expected to respond to all written or oral comments related to the initiative in its communication.⁷

The organisers also argued that the Commission violated the principle of equal treatment because while the representatives of the European Commission met the organisers of other ECIs several times, they only met the representatives of the MSPI once, which is the minimum requirement. In this respect, the General Court found that the Commission is not required to organise an identical number of meetings with the organisers of every ECI because the

⁵ TÁRNOK 2021.

⁶ Judgment of the General Court in Case T-158/21, *Minority SafePack – One Million Signatures for Diversity in Europe v Commission*.

⁷ Judgment of the General Court in Case T-158/21, *Minority SafePack – One Million Signatures for Diversity in Europe v Commission*.

number of meetings may vary depending on the nature or complexity of the respective initiative.⁸

Finally, the organisers argued that the Commission commit a manifest error of assessment as regards the examination of four proposals of the package, namely the first (Council recommendation for the protection of cultural and linguistic diversity), third (linguistic diversity center), sixth (equal treatment between stateless persons and EU citizens) and the eighth proposal (abolition of *geo-blocking*). The General Court examined the merits of the Commission's responses to these proposals and concluded that the European Commission did not make an error of assessment when it rejected these proposals.⁹

In its challenged communication, the European Commission referred to the Council of Europe several times, arguing that the existence of its documents and institutions are sufficient to achieve the objectives of the initiative. This was the case, for example, when the organisers required a recommendation of the Council of the EU on the protection of cultural and linguistic diversity. The General Court ruled that even though the EU itself and several of its member states are not party to the European Charter for Regional or Minority Languages of the Council of Europe, the EU regularly refers to the Charter as the legal instrument defining the guidelines for the promotion and protection of regional and minority languages, and thus, such references are capable of contributing to the attainment of the objectives pursued by the initiative. Among EU member states, however, Belgium, Bulgaria, Estonia, France, Italy, Latvia, Lithuania, Malta, Greece, Ireland and Portugal did not sign or ratify the Charter. Therefore, it is not clear on what basis the General Court came to the conclusion that purely political references to the Charter, that has absolutely no binding effect in almost half of the EU member states, can actually promote the protection of cultural and linguistic diversity in the EU.

The appeal against the first instance judgment

On Monday, 23 January 2023, the organisers of the MSPI filed an appeal with the Court of Justice of the European Union in the context of the annulment

⁸ Judgment of the General Court in Case T-158/21, *Minority SafePack – One Million Signatures for Diversity in Europe v Commission*.

⁹ Judgment of the General Court in Case T-158/21, *Minority SafePack – One Million Signatures for Diversity in Europe v Commission*.

The Fight for Minority Rights in the EU Continues at the Court of Justice

proceedings brought by the MSPI against the European Commission.¹⁰ Thus, the process continues at the second instance court.

According to the FUEN's press statement, the organisers in their twenty-five-page submission cite as an example of institutional bias the fact that the European Commission officials met with representatives of the ECI entitled *End the Cage Age* on seven occasions, and only once with representatives of the MSPI, as required by the Statute.¹¹ Reference to the Council of Europe institutions and legal instruments will likely be part of the legal reasoning, too.

"In the reasoning of the tribunal, we did not receive a satisfactory answer to all our questions and arguments, and the claim that the EU had already done everything possible to protect minority languages and cultures as set out in the MSPI cannot be legally supported", said Loránt Vincze, President of FUEN. According to the organisers, the Court of Justice of the EU is expected to rule on the case within two years.

25 January 2023

References

- European Parliament (2020): *European Parliament Resolution of 17 December 2020 on the European Citizens' Initiative 'Minority SafePack – One Million Signatures for Diversity in Europe'*. P9_TA(2020)0370. Online: www.europarl.europa.eu/doceo/document/TA-9-2020-0370_EN.html
- FUEN (2020): *The German Bundestag Appeals in a Resolution to the European Commission to Implement the Minority SafePack Initiative*. 27 November 2020. Online: <https://fuen.org/en/article/The-German-Bundestag-appeals-in-a-Resolution-to-the-European-Commission-to-implement-the-Minority-SafePack-Initiative>
- FUEN (2021): *The Hungarian Parliament Adopts a Resolution in Support of the Minority SafePack Initiative*. 28 April 2021. Online: <https://fuen.org/en/article/The-Hungarian-Parliament-adopts-a-resolution-in-support-of-the-Minority-SafePack-Initiative>
- FUEN (2023): *Appeal Filed against the Lower Court Decision on the Minority SafePack*. 23 January 2023. Online: <https://fuen.org/en/article/Appeal-filed-against-the-lower-court-decision-on-the-Minority-SafePack>
- Judgment of the General Court in Case T-158/21, *Minority SafePack – One Million Signatures for Diversity in Europe v Commission*. Online: <https://curia.europa.eu/juris/document/document.jsf?jsessionid=97833CD86847E6D9BDEA9884120C7719?text=&docid=267915&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=3500888>

¹⁰ FUEN 2023.

¹¹ Judgment of the General Court in Case T-158/21, *Minority SafePack – One Million Signatures for Diversity in Europe v Commission*.

Balázs Tárnok

- TÁRNOK, Balázs (2017): European Minorities Win a Battle in Luxembourg – The Judgment of the General Court in the Case Minority SafePack European Citizens’ Initiative. *Journal on Ethnopolitics and Minority Issues in Europe*, 16(1), 79–94. Online: www.ecmi.de/fileadmin/downloads/publications/JEMIE/2017/Tarnok.pdf
- TÁRNOK, Balázs (2021): The European Commission Turned Its Back on National and Linguistic Minorities. *Europe Strategy Research Institute*, 20 January 2021. Online: <https://eustrat.uni-nke.hu/hirek/2021/01/20/the-european-commission-turned-its-back-on-national-and-linguistic-minorities>