

Dear Herr Müller and Herr Schult!

Let me make some remarks on your article about the Verstoß of Rechtsstaatlichkeit by Hungary (and Polen as well), concerning migration – in Der Spiegel 42/2017.

1. Hungary observes the Community law: the Dublin agreement and the Schengen agreement. The Commission with many other countries do not: they infringe these agreements.
2. The EU defines itself as a Community based on the principle of Rechtsstaat; meaning that it is functioning on the bases of agreements, commonly, unanimously and voluntarily accepted by the member states.
3. In contrast to this, the Commission bases its migration policy on a majority resolution by the Council of Ministers of Interior. This resolution contradicts to the basic EU agreements which confer nationality issues to the competency of the member states.
4. According to your article “Der Gerichtshof attestierte, das der Beschluss ordnungsgemäß zustande gekommen sei.” This is an insult to Community law and to common sense. This is a political decision, not a legal one.
5. Asselborn says that in the case of Flüchtlingskrise it is not about “Regeln” but about “Menschen”, admitting, that the Commission itself infringes the Community law.
6. After this Hungary should be blamed of lacking solidarity with the refugees, but not of infringing the law. (As a matter of fact, Hungary is readily accepting Christian refugees from the region, but not Muslims.)
7. Despite of all this, admitting that it is the Commission, which infringes the law, Mr. Asselborn demands to punish Hungary because of infringing Rechtsstaatlichkeit.
8. And on the top of everything, he demands that payments from the Structural Funds should be curtailed for Hungary. (Nota bene, payments from the Structural Funds are part of a deal: the acceding East European countries opened their markets for the Western firms in turn for subsidies from the Structural Funds.)
9. As a result, the Commission infringes the Community law, but it blames Hungary (although it observes the same) because of not demonstrating solidarity with the refugees. The Commission threatens Hungary with withdrawing support from the Cohesion Fund, infringing by this a legal obligation, against a country which observes the Community law.

Could you imagine that Hungarians with common sense can accept all this? This process does not become legal even if the European Supreme Court validates it. It is simply against common sense, it is a political, a mandatory sentence which contradicts Rechtsstaatlichkeit.

Budapest, 23d October 2017.

Friendly yours,

dr. Károly Kiss  
Budapest