



## **INDEPENDENT CIVIL SOCIETY UNDER ATTACK IN HUNGARY** **Statement by Hungarian NGOs**

**OSCE HDIM 2017**

**Working session 2: Fundamental freedoms I.**

**Freedom of peaceful assembly and association – National human rights institutions and the role of civil society in the protection of human rights**

**Tuesday, 12 September 2017**

**The undersigned civil society organisations from Hungary wish to draw the attention of the Organisation for the Security and Cooperation in Europe (OSCE) to the alarmingly shrinking civic space for civil society and the growing obstacles faced by human rights defenders in Hungary.**

### **The Law on the Transparency of Organisations Receiving Foreign Funds (Anti-NGO Law)**

The Law on the Transparency of Organisations Receiving Foreign Funds (Anti-NGO Law) was adopted on 13 June 2017 by the governing majority of the Hungarian Parliament, despite repeated domestic and international objections.<sup>1</sup>

The law is part of a series of measures that began in 2013 designed to discredit and silence civil society organisations that are trying to hold the government to account to its obligations concerning anti-corruption, environmental protection, fundamental rights, democracy and the rule of law.<sup>2</sup> Other measures include unfounded allegations by members of the Hungarian government, misleading reporting from government-friendly media, the terms of the ‘Let’s Stop Brussels’ so-called consultation, as well as a series of unjustified investigations in 2014 against NGOs that had received funds from the EEA Grants NGO Programme.

Under the Anti-NGO Law, any civil society organisation that receives over about USD 28,000 per year from foreign sources should register as an “organisation receiving foreign funds” in a state register, and should display this stigmatising label on all of its publications. Failure to comply with the law could lead to a judicial procedure that could impose fines or even result in the court dissolving the organisation.

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<sup>1</sup> Act LXXXVI of 2017 on the Transparency of Organisations Receiving Foreign Funds:

[http://net.jogtar.hu/jr/gen/hjegy\\_doc.cgi?docid=A1700076.TV](http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1700076.TV) (Hungarian);

[http://www.venice.coe.int/webforms/documents/?pdf=CDL-REF\(2017\)031-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2017)031-e) (English)

<sup>2</sup> Timeline of governmental attacks on Hungarian NGOs: <http://www.helsinki.hu/en/timeline-of-governmental-attacks-against-ngos/>

The ability to seek, receive and use funding is inherent to the right to freedom of association and essential to the existence and effective, independent operations of any organisation. Labelling NGOs or mandating separate registration for NGOs that receive foreign funding will likely single out and therefore stigmatize NGOs that receive such funding and has been seen as hampering their work, including ability to access and raise resources also domestically.

### **Grave concerns by international actors**

Many international bodies and human right institutions have expressed grave concerns about the draft of the Anti-NGO Law.

After a country visit to Hungary in January 2016, the UN Special Rapporteur on the situation of human rights defenders, Michel Forst expressed concern in March 2017 about the continued stigmatization of human rights defenders in Hungary and about the chilling effect of the inflammatory language used by senior government officials on the public perception of the value of civil society.<sup>3</sup> The Council of Europe President of the Conference of INGOs and the President of the Expert Council on NGO Law issued a statement on 7 March 2017 to urge politicians to refrain from using accusatory and labelling rhetoric and to respect some key principles to ensure that fundamental rights are not infringed.<sup>4</sup>

The EU Fundamental Rights Agency<sup>5</sup> and the Council of Europe Commissioner for Human Rights<sup>6</sup> also expressed their concern about the compatibility of the draft law with European fundamental rights standards. The Parliamentary Assembly of the Council of Europe requested the Hungarian government to suspend the national parliamentary debate on the draft law pending the opinion of the Venice Commission.<sup>7</sup> The Government of Hungary was requested to withdraw the draft law, outright, by European Parliament Resolution of 17 May 2017 on the situation in Hungary.<sup>8</sup>

The European Commission for Democracy through Law (Venice Commission) issued a final opinion on the draft Law on 16 June.<sup>9</sup> The Venice Commission stressed that the legitimate aim of ensuring transparency of civil society organisations in order to prevent undue foreign

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<sup>3</sup> UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights defenders on his mission to Hungary, 19 January 2017, A/HRC/34/52/Add.2, <http://www.refworld.org/docid/58ada5344.html>

<sup>4</sup> Statement by the President of the Conference of INGOs and the President of the Expert Council on NGO Law, 7 March 2017 <http://www.coe.int/en/web/ingo/-/statement-by-the-president-of-the-conference-of-ingos-and-the-president-of-the-expert-council-on-ngo-law>

<sup>5</sup> FRA expresses concern over threats to civil society and freedom of education in the EU, 10 April 2017

<http://fra.europa.eu/en/news/2017/fra-expresses-concern-over-threats-civil-society-and-freedom-education-eu>

<sup>6</sup> Council of Europe Commission for Human Rights: Human Rights Comment: The Shrinking Space for Human Rights Organisations, 4 April 2017 <https://www.coe.int/hu/web/commissioner/-/the-shrinking-space-for-human-rights-organisations>

<sup>7</sup> Parliamentary Assembly of the Council of Europe Resolution 2162 (2017): Alarming developments in Hungary: draft NGO law restricting civil society and possible closure of the European Central University <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=23715&lang=en>

<sup>8</sup> European Parliament resolution of 17 May 2017 on the situation in Hungary (2017/2656(RSP)) <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2017-0216+0+DOC+XML+V0//EN&language=EN>

<sup>9</sup> Venice Commission - CDL-AD(2017)015-e Hungary - Opinion on the Draft Law on the Transparency of Organisations receiving support from abroad, 20 June 2017 [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)015-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)015-e)

political influence, the fight against money laundering and the financing of terrorism cannot be used as a pretext to control NGOs or to restrict their ability to carry out their legitimate work. The Venice Commission expressed concerns that the Law will cause a disproportionate and unnecessary interference with the freedoms of association and expression, the right to privacy, and the prohibition of discrimination.

In July 2017, the European Commission launched an infringement procedure on account of the law on foreign-funded NGOs.<sup>10</sup> The Commission found several violations of EU law, namely that the Law interferes unduly with fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union, in particular the right to freedom of association. The Commission concluded that the new law could prevent NGOs from raising funds and would restrict their ability to carry out their work. The new registration, reporting and publicity requirements foreseen by the law are discriminatory and create an administrative and reputational burden for these organisations. These measures may have a dissuasive effect on the funding from abroad and make it difficult for the concerned NGOs to receive it.

### **The Anti-NGO Law is unnecessary, stigmatising and harmful**

To date, 233 Hungarian NGOs<sup>11</sup> have publicly condemned the Anti-NGO Law as we believe it is unnecessary, stigmatising and harmful. Unnecessary, because Hungarian civil society organisations are already transparent in their operations, provide accurate information about their donors and finances in annual reports and carry out their activities before the public. Stigmatising, because the law implies that organisations which work for the benefit of Hungarian society by receiving international grants for their work pose a threat to the country. Harmful, because it undermines mutual trust in society and questions the right to freedom of expression.

There is a reason to fear that the newly adopted law will not be the endpoint of the several years long governmental campaign to denounce Hungarian civil society organisations. On the contrary, this is a new step in a long process that aims at fully discrediting civil society organisations. However, there can be no real democracy and civil liberties without independent and critical thinking and a strong civil society.

The undersigned Hungarian NGOs reaffirm that the Law on the Transparency of Organisations Receiving Foreign Funds is unnecessary in a democratic society and should be repealed.

After the Anti-NGO Law came into force at the end of June 2017, 23 civil society organisations filed a joint complaint to the Constitutional Court of Hungary as we allege the law breaches constitutionally protected rights to a good reputation, privacy, freedom of expression and freedom of association.

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<sup>10</sup> European Commission - Press release: Infringements - Hungary: Commission launches infringement procedure for law on foreign-funded NGOs [http://europa.eu/rapid/press-release\\_IP-17-1982\\_en.htm](http://europa.eu/rapid/press-release_IP-17-1982_en.htm)

<sup>11</sup> For a full list of Hungarian NGOs protesting against the Anti-NGO Law, see: <http://bit.ly/2xZ1GjF>

## RECOMMENDATIONS

### We call on the OSCE and OSCE Participating States to:

1. Continue monitoring the situation of human rights defenders and independent civil society organisations in Hungary and intensify efforts to empower and support them, including through political, legal and financial assistance.
2. Urge the Government of Hungary to fully implement the OSCE Guidelines on the Protection of Human Rights Defenders. Most notably, the government should be urged to refrain from using accusatory and labelling rhetoric against human rights defenders and independent civil society organisations; instead, it should be encouraged to take proactive steps to counter discrediting of human rights defenders and independent civil society organisations by political leaders and in the media.
3. Engage with the Government of Hungary to encourage meaningful dialogue between the Government and civil society, in order to ensure that institution-building, development and other programmes are human rights compliant.
4. Explore and strengthen non-governmental, alternative sources and means of funding for independent civil society, with a view to ensuring free and non-politicized access to funding for all civil society organizations.
5. Monitor the impact of legislation as well as other measures and related actions (including communication) by state actors and the media targeting the funding and operations of civil society organisations in Hungary.

### Signed by the following Hungarian civil society organisations:

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| 1. AKUT Egyesület / Community-based Research for Sustainability Association | 19. Közélet Iskolája / School of Public Life                               |
| 2. Amnesty International Hungary  | 20. Kreatív Egyesület  |
| 3. Artemisszió Foundation   | 21. Levegő Munkacsoport / Clean Air Action Group                           |
| 4. Autonomia Foundation   | 22. Magyarországi Európa Társaság / Hungarian Europe Society               |
| 5. Civil Kollégium Alapítvány / Civil College Foundation                    | 23. MENŐK – Magyar Európai Nők   |
| 6. DélUtán Alapítvány   | 24. Mental Disability Advocacy Centre                                      |
| 7. Eleven Emlékmű   | 25. Nő az Esély Egyesület  |
| 8. Eleven Gyál  | 26. Ökotárs / Hungarian Environmental Partnership Foundation               |
| 9. Eötvös Károly Institute  | 27. Oktatói Hálózat / Hungarian Network of Academics                       |
| 10. Golem Theatre   | 28. Pedagógusok Demokratikus Szakszervezete / Democratic Union of Teachers |
| 11. Hálózat a Tanszabadságért   | 29. Rights Reporter Foundation   |
| 12. Háttér Society  | 30. Szegedi LMBT Közösségért Csoport                                       |
| 13. Hívatlanul Hálózat  | 31. Védegylet / Protect the Future   |
| 14. Human Platform Association  |  |
| 15. Hungarian Civil Liberties Union   |  |
| 16. Hungarian Helsinki Committee  |  |
| 17. Hungarian Women's Lobby   |  |
| 18. Igazgyöngy Alapítvány / Real Pearl Foundation                           |  |