



## SHRINKING SPACE FOR INDEPENDENT CIVIL SOCIETY IN HUNGARY

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The Hungarian Helsinki Committee, a human rights non-governmental organisation based in Budapest, Hungary, wishes to draw the attention of the Organisation for the Security and Cooperation in Europe (OSCE) to the alarmingly shrinking civic space and the persistent obstacles faced by human rights defenders in Hungary.

In its 2023 Rule of Law Report on Hungary<sup>1</sup>, the European Commission has found that “[t]here has been no progress in removing obstacles affecting civil society organisations, which remain under pressure”. The 2022 Rule of Law Report recommended to Hungary to remove obstacles affecting civil society organisations.<sup>2</sup> Independent domestic civil society organisations (CSOs) continue to be the targets of narrative attacks by leading government politicians.

The trend of a narrowing civil space for independent human rights watchdog and anti-corruption NGOs is also evidenced by the downward trend of the CSO Sustainability Index<sup>3</sup> in all aspects, including its legal environment, financial viability, and advocacy. CIVICUS Monitor<sup>4</sup> now ranks civil space in Hungary as “obstructed”.

Civil society organisations and rights defenders are vital for a healthy democracy and a society where people can enjoy their fundamental freedoms. To achieve this, NGOs should be able to work without fear in a supportive environment. However, Hungarian independent civil society organisations are facing an increasing number of challenges, which include regulatory constraints and difficulties in accessing funding.

In 2023, a number of laws negatively affecting civil society space continued to be in force, administrative measures designed to hamper the operation of civil society organisations continued, and organised public campaigns against NGOs receiving foreign funding intensified.

### Legislative measures exerting a chilling effect

The so-called ‘child-protection law’<sup>5</sup>, amending various laws, including the law on national public education, authorises the minister to regulate by decree the conditions of registration for CSOs that

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<sup>1</sup> European Commission, 2023 Rule of Law Report, [Country Chapter on the rule of law situation in Hungary](#), 5 July 2023.

<sup>2</sup> European Commission, 2022 Rule of Law Report, [Country Chapter on the rule of law situation in Hungary](#), 13 July 2022.

<sup>3</sup> [2021 Civil Society Organization Sustainability Index](#), January 2023.

<sup>4</sup> [CIVICUS Monitor Hungary Fact sheet](#)

<sup>5</sup> Act LXXIX of 2021 on stricter action against pedophile offenders and amending certain acts for the protection of children.

may provide sex education classes in public education institutions. No such decree has been issued ever since, thereby limiting the activity of the CSOs concerned.

As of 1 January 2023, in response to the CJEU judgment<sup>6</sup> on the ‘Stop Soros Act’, Hungary amended its legislation which criminalised the organisation of activities carried out to assist the initiation of applications for international protection that do not fulfil the national criteria for granting that protection. The modification rewrote the respective section of the Criminal Code in a manner that upholds the chilling effect on providing assistance to asylum-seekers, and, through its unclear wording, retains the possibility of arbitrarily persecuting helpers.<sup>7</sup>

A 2018 law<sup>8</sup> introducing a special 25% immigration tax applicable to financial support received by organisations carrying out ‘activities facilitating immigration’, which also raised concerns, continues to apply.

### **Intimidatory administrative measures**

In June 2020, the CJEU ruled that the LexNGO 2017<sup>9</sup> „had introduced discriminatory and unjustified restrictions with regard to both the organizations at issue and the persons granting them such support” contrary to EU law.<sup>10</sup> LexNGO 2017 was repealed in May 2021 but at the same time the Hungarian Parliament adopted Act XLIX of 2021 on the Transparency of Organizations Carrying out Activities Capable of Influencing Public Life (LexNGO 2021), which came into force as of 1 July 2021. The implementation of Lex NGO 2021 has put additional pressure on civil society organisations.<sup>11</sup>

LexNGO 2021 and its amendments subjected NGOs that operate as an association or a foundation with an annual income of at least HUF 20 million (EUR 51,000) to inspections/audits by the State Audit Office.<sup>12</sup> Under the law, the State Audit Office audits these NGOs from the aspect of lawfulness, and discloses its findings in a summary public report, the content of which cannot be challenged in court. The audit may impose excessive administrative burdens on targeted NGOs, and can extend to all documents and data, including sensitive information (e.g., personal information). Although under the Fundamental Law, the State Audit Office is mandated to audit the administration and use of public funds, the audit of NGOs encompasses all types of income of the affected organizations, regardless of their source.

In late May 2022, 3,252 NGOs falling under the scope of LexNGO 2021 received an order from the State Audit Office to submit their internal financial policies with a deadline of about 10 days. According to publicly known information, none of the NGOs had received any follow-up requests from the State Audit Office by the end of 2022. The State Audit Office’s summary report, published in December 2022, found that out of the 3,252 audited organizations, "219 NGOs did not comply with one or more

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<sup>6</sup> Judgment of the Court of Justice of the EU in Commission v. Hungary, Case C-821/19, 16 November 2021. For further information on the legislation, see: Hungarian Helsinki Committee: [Hungarian Government marks World Refugee by passing law to jail helpers](#), 20 June 2018.

<sup>7</sup> Hungarian Helsinki Committee, [Criminalisation Continues - Hungary fails to implement CJEU judgment](#), 21 December 2022

<sup>8</sup> European Commission for Democracy through Law (Venice Commission) – OSCE Office for Democratic Institutions and Human Rights (ODIHR), Hungary – [Joint Opinion on Section 253 on the Special Immigration Tax of Act XLI of 20 July 2018 Amending Certain Tax Laws and Other Related Laws and on the Immigration Tax](#), CDL-AD(2018)035, 17 December 2018.

<sup>9</sup> Act LXXVI of 2017 on the Transparency of Organisations which Receive Support from Abroad.

<sup>10</sup> Judgment of the Court of Justice of the EU in Commission v. Hungary, Case C-78/18, 18 June 2020.

<sup>11</sup> Civilizáció Coalition, [Repealing the Lex NGO: important step, but more is needed](#), 21 April 2021.

<sup>12</sup> Hungarian Helsinki Committee, [LexNGO 2021 - a look into Hungary’s second anti-NGO law on its first anniversary](#), 12 May 2022.

provisions of the Accounting Act."<sup>13</sup> The report did not disclose specifically which organisations were not operating properly, hence it could unfairly tarnish the reputations of prudently managed organisations.

### **Stigmatisation and securitisation**

The stigmatising spirit of LexNGO 2017 still determines the government's approach to independent civil society and fuels the security-centric discourse on Hungarian NGOs' foreign funding. Moreover, independent NGOs engaged in areas deemed politically unwanted by the Fidesz-led government, such as those working on the gender and LGBTQ+ rights, refugees, the Roma minority, or anti-corruption continue to be stigmatised by leading politicians and pro-government media.

The ongoing cycle of coordinated attacks on NGOs, already heavily dependent on private, including international donors due to the biased distribution of domestic civil society funds<sup>14</sup>, exerts a chilling effect on many independent human rights watchdog, anti-corruption, and environmental NGOs, which are particularly vulnerable because of their work on politically sensitive issues.

The public vilification and stigmatisation of NGOs that receive foreign funding have intensified in 2023.

The financing of civil society activity from EU funds has become the subject to organised public attacks that target NGOs receiving grants from the European Commission's Citizens, Equality, Rights and Values Programme (CERV).<sup>15</sup> In the course of the Hungarian government's efforts to regain access to EU cohesion funds, which had been suspended in December 2022, the attacks against NGOs using EU grants are meant to discredit the EU's rule of law conditionality mechanism which ties the disbursement of Hungarian cohesion funds to the implementation of a set of anti-corruption and rule of law milestones and to compliance with the Charter of Fundamental Rights of the EU.

Public campaigns against civil society actors and media outlets that receive financial support from the U.S. Agency for International Development (USAID) or the National Endowment for Democracy (NED) have intensified in 2023.<sup>16</sup> The securitisation of civil society is not only endorsed, but directly incentivised by senior government officials.

In May 2022, after Prime Minister Viktor Orbán's re-election, Máté Kocsis, leader of the Fidesz party's faction in parliament, stated in the parliamentary national security oversight committee, during the hearing of the newly appointed minister in charge of supervising national security services,

*"[...] there are NGOs involved in Hungarian domestic politics that are funded from abroad and yet carry out their domestic political activities here, or there are media outlets that are clearly in the service of foreign countries. Identifying these, or at least being aware of them, will be essential if we are to talk about the defense of sovereignty."<sup>17</sup>*

Then in June 2022 in a short interview Mr Kocsis further added,

*"This is a suggestion that came up back in 2018 in connection with the "Stop Soros" legislation. And we are serious about it too – namely, that organisations which are being financed by money from foreign governments and this is an important detail: using money received from another state to*

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<sup>13</sup> Final report of the State Audit Office, [A közélet befolyásolására alkalmas tevékenységet végző civil szervezetek értékelése](#), 2 December 2022, p. 12.

<sup>14</sup> European Commission, 2022 Rule of Law Report, [Country Chapter on the rule of law situation in Hungary](#), 13 July 2022, p. 30.

<sup>15</sup> See [magyarnemzet.hu](#), [Money from Brussels to replace funds from Soros](#), 7 September 2023.

<sup>16</sup> [magyarnemzet.hu](#); [Washingtoni dollármilliókkal is kitömik a Soros által támogatott NGO-kat](#), 24 April 2023.

<sup>17</sup> [Minutes of the Parliamentary Committee on National Security](#), 18 May 2022, p. 12.

*acquire political influence in Hungary which is not based on democratic legitimacy, needs to be investigated. This is a simple matter of protecting Hungary's sovereignty.*"<sup>18</sup>

Later in 2022, the National Information Centre (*Nemzeti Információs Központ*, NIK), a new all-powerful intelligence agency that had been set up after the 2022 national elections, investigated the financial management of opposition political actors that had received foreign funding from the US-based private donor organisation, Action for Democracy, during the 2022 general election campaign.<sup>19</sup> In its declassified but redacted report, the NIK dedicated a chapter to a number of independent NGOs, think-tanks and media outlets that have received grants from the German Marshall Fund (GMF) and the National Endowment for Democracy, portraying them in the context of threats to national security and sovereignty, thereby exerting a serious chilling message to these organisations.<sup>20</sup> The declassified NIK report referred to financial information about these NGOs that was not made publicly available and could only have been obtained through covert means of information gathering.

In August, the Fidesz parliamentary leader stated that a 'defense of sovereignty' bill will be submitted to parliament for adoption during the autumn legislative term, and will aim to "annoy leftist journalists, fake NGOs and dollar politicians" who "want to gain political power by serving the interests of American Democrat billionaires or multinational companies from Brussels."

The continued stigmatisation of civil society organisations that monitor the government's performance in politically sensitive areas, such as human rights, rule of law, corruption, and environmental matters hampers their ability to seek, receive and use funding, which is inherent to the freedom of association and essential to the existence and effective, independent operations of civil society organisations.

### **Funding government-friendly civic space**

Three financial instruments provide grants from public sources to civil society organisations in Hungary. In 2023, the National Cooperation Fund distributed HUF 7,8 billion (EUR 20.1 million), while the Village Civic Fund and the Urban Civic Fund disbursed HUF 4,8 billion each (EUR 12.3-12.3 million). The operation of these funds is non-transparent, and while independent CSOs are not excluded from applying for public funding per se, they rarely have a chance to secure a grant.<sup>21</sup> In 2021 and 2022, anti-corruption journalists revealed that about half of the biggest beneficiaries of the Urban Civic Fund were organisations directly controlled by local governing party politicians or their affiliates.<sup>22</sup>

In 2019, the Fidesz-led government established a new type of foundation, the "public interest asset management foundation performing public duty" (KEKVA)<sup>23</sup>. These private entities can perform both public functions and business activities and have benefitted from the transfers of extreme amounts of public assets in recent years. The government has successfully used the KEKVA concept<sup>24</sup> to instrumentalise public assets in building up a network of GONGOs<sup>25</sup> (government-organised non-

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<sup>18</sup>telex.hu: [Fidesz group leader urges secret service to monitor NGOs and media platforms funded from abroad](#), 14 June 2022,

<sup>19</sup> atlatzo.hu, [Leftist propaganda machinery received the lion's share of US democracy support in the run-up to this year's elections](#), 25 November 2022,u

<sup>20</sup> NIK Summary report: [Foreign interference in the 2022 parliamentary elections in Hungary](#), 21 June 2023.

<sup>21</sup> European Commission, 2023 Rule of Law Report, [Country Chapter on the rule of law situation in Hungary](#), 5 July 2023. p. 37.

<sup>22</sup> atlatzo.hu, [How public funds built a propaganda media empire for Orbán's allies in Pécs](#), 3 June 2022.

<sup>23</sup> Sándor Léderer and Miklós Ligeti, [New types of foundations for the preservation of power](#). In: *Hungary Turns its Back on Europe 2. Dismantling culture, education, science, and the media in Hungary, 2020–2021*, Human Platform – Hungarian Network of Academics, Budapest, 2022, pp. 18-23.

<sup>24</sup> atlatzo.hu, [A treasure trove of public money secretly given to Fidesz-controlled trusts ahead of elections](#), 18 March 2022.

<sup>25</sup> atlatzo.hu, [Up to a million euros was spent on Budapest CPAC, financed by the Hungarian taxpayer](#), 9 August 2022.

government organisations), think-tanks<sup>26</sup> and research institutes<sup>27</sup> designed to strengthen the anti-Western, anti-migration and anti-LGBTQ+ ideas in education, the academic sector and civil society and to craft an alliance of illiberal civic and political actors globally.<sup>28</sup>

## RECOMMENDATIONS

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

1. Continue monitoring the situation of human rights defenders 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 by political leaders and in the media.
3. Call on the Government of Hungary to refrain from introducing any further legislation that limits the freedom of association in any way.
4. Ensure non-politicized access to domestic public funding for all civil society organisations, including those working to promote democracy, fundamental rights, and the rule of law.
5. Encourage the Government of Hungary to strengthen the dialogue between the Government and civil society, such as practices that have been re-established in accordance with the remedial measures adopted under the Rule of law Conditionality Mechanism of the European Union.

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<sup>26</sup> Politico.eu, [Viktor Orbán-funded think tank vows to shake up Brussels](#), 1 November 2022.

<sup>27</sup> New York Times, [Campus in Hungary is Flagship of Orbán's Bid to Create a Conservative Elite](#), 28 June 2021.

<sup>28</sup> Heinrich Böll Stiftung - Political Capital: [The building of Hungarian political influence – The Orbán regime's efforts to export illiberalism](#), December 2022. pp. 9-11.