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Attacks against civil society in the framework of building an "illiberal democracy" in Hungary

About the Hungarian context

The building of an "illiberal democracy" in Hungary

Gaining a landslide victory in 2010 and using its constitutional supermajority, the populist, right wing Fidesz-KDNP government started to systematically and consciously undermine the system of checks and balances by weakening, eliminating or occupying those institutions and actors that can exercise any form of control over the executive branch of power:

- **State institutions:** There are several examples of steps aimed at taking over state institutions playing an important role in checking the executive branch. For instance, by amending the previously existing consensual provisions for nominating Constitutional Court judges, the ruling majority packed the Court with loyal people, including former government ministers or MP's of the ruling party.¹ After voicing criticism of certain government measures, the President of the Supreme Court was removed from his position. Although the European Court of Human Rights concluded that this had amounted to a violation of his freedom of expression and right to a fair trial, he was never reinstated.² In an attempt to get rid of public servants whose loyalty to the ruling coalition was questionable, thousands of public servants were also dismissed after a legislative amendment authorized government agencies to fire their employees without any justification.³ The most recent step falling into this series of measures was the government's attempt to set up a separate administrative court system. Administrative courts in Hungary try several politically sensitive cases from taxation through public procurements to demonstrations and police complaints. Ordinary courts are structurally independent from the executive branch, however, the Minister of Justice was envisaged to have a key role in the administration of the new administrative courts, including a decisive say on the recruitment and promotion of judges as well as the nomination of senior court officials.⁴ Under heavy international criticism, the launching of the new system was postponed, but not taken off the agenda.⁵
- **The economy:** Through rigged public procurements and state-forced redistribution of profitable businesses (such as licenses for selling tobacco), the ruling party's leadership created a circle of loyal oligarchs. By way of example, the Prime Minister's childhood friend became from a small business owner Hungary's richest person in a matter of less than nine years.⁶ At the same time, the most powerful

¹ For more details see: https://www.helsinki.hu/wp-content/uploads/Hungary_NGO_Fact_sheets_February2012.pdf

² See: <http://hudoc.echr.coe.int/eng?i=002-11088>

³ <https://www.helsinki.hu/en/dismissal-without-justification-violates-the-convention/>

⁴ <https://www.helsinki.hu/wp-content/uploads/Blurring-the-Boundaries-Admin-Courts-HHC-20181208-final.pdf>

⁵ https://index.hu/english/2019/07/10/laszlo_kover_administrative_courts_rule_of_law/

⁶ See: https://bbj.hu/business/meszaros-becomes-richest-hungarian_159451. For a more detailed description, see: https://www.helsinki.hu/wp-content/uploads/AnIlliberalState_online_final.pdf

oligarch of the first government cycle (2010-2014) ceased to win public tenders after his conflict with the Prime Minister, and was eventually forced to give up and sell all his companies.⁷

- **The media:** Through channeling advertising by government agencies, state-owned companies and ventures of government-linked oligarchs into loyal media outlets, the ruling elite starved, strangled and eventually bought up several independent media organs. While for some time at least the pretense of the independence of these was maintained, finally, in the fall of 2018, several government-linked oligarchs announced that they would "donate for free" their media portfolios to one mammoth media holding, the Central European Press and Media Foundation headed by government-loyalists.⁸ In order to exempt the transaction uniting 476 media outlets in one holding from inspection by the competition and the media authorities, the government issued a decree declaring it to be a "merger of strategic importance at a national level", and citing "public interest" to justify the decision, without any further explanation.⁹ In addition, as a 2019 report on media freedom in Europe states, "the few independent outlets that remain face a host of obstacles, including lack of advertising revenue, a restrictive regulatory environment, and public campaigns to discredit independent journalists".¹⁰
- **Elections:** Electoral rules were also amended in favor of the ruling party, which amplified the distorted media landscape's impact on the fairness of the elections. In relation to the 2014 general elections the OSCE/ODIHR Limited Election Observation Mission concluded in its mission report that "the main governing party enjoyed an undue advantage because of restrictive campaign regulations, biased media coverage and campaign activities that blurred the separation between political party and the State". Furthermore, a number of key amendments to the electoral system "negatively affected the electoral process, including the removal of important checks and balances."¹¹ In 2018, the mission's conclusion was similar: "the 8 April parliamentary elections were characterized by a pervasive overlap between state and ruling party resources, undermining contestants' ability to compete on an equal basis. Voters had a wide range of political options but intimidating and xenophobic rhetoric, media bias and opaque campaign financing constricted the space for genuine political debate, hindering voters' ability to make a fully-informed choice."¹²
- **The academia:** In addition to the legislative amendments that eventually forced the American branch of the George Soros-founded Central European University out of Hungary,¹³ in the summer of 2019, the legislature voted to remove 15 academic research institutes from the Hungarian Academy of Sciences and place them in a newly established state research network supervised by a board dominated by the Ministry of Innovation. This puts research under government control, with the executive having a decisive say as to the type of research that gets funded.¹⁴

Human rights watchdogs, anti-corruption and environmental NGOs, especially those that have the knowledge and resources enabling them to take issues outside the borders of the country where the means of asserting rights are increasingly limited, can exercise a certain degree of control over the executive (e.g. by making complaints to international bodies, litigating before international judicial forums, or simply by providing information to the international community). For this reason, the attack on independent civil society (described in more detail below) is a logical step in this process.

The smoke screen of hate propaganda

The above described process of taking over all the existing control mechanisms was carried out behind a smoke screen of propaganda depicting Hungary and its government at war against different external forces trying to damage the country. Starting from 2015, this external threat has been – Muslim – immigration: during the 2015 migration crisis, the Hungarian government started an intensive campaign vilifying migration, migrants and their

⁷ <https://tldr.444.hu/2019/04/22/the-rise-and-fall-of-the-man-who-created-viktor-orbans-system>

⁸ https://index.hu/english/2018/11/28/fidesz_media_unification_meszaros_habony_vajna_liskay/

<https://english.atlatszo.hu/2018/11/30/data-visualization-this-is-how-the-pro-government-media-empire-owning-476-outlets-was-formed/>

⁹ https://index.hu/english/2018/12/05/propaganda_hungary_media_national_interest_competition_authority_exempt_viktor_orban/

¹⁰ <https://rm.coe.int/annual-report-2018-democracy-in-danger-threats-and-attacks-media-freed/1680926453>, pp. 25-26.

¹¹ <https://www.osce.org/odihr/elections/hungary/121098?download=true>, p. 1.

¹² <https://www.osce.org/odihr/elections/hungary/377410?download=true>, p. 1.

¹³ <https://www.nytimes.com/2018/12/03/world/europe/soros-hungary-central-european-university.html> and

<https://www.theguardian.com/world/2018/dec/03/dark-day-freedom-george-soros-affiliated-central-european-university-quits-hungary>

¹⁴ <https://www.dw.com/en/hungary-parliament-puts-academy-of-sciences-institutes-under-government-control/a-49440144>

helpers, which has been going on ever since. Some elements of the hate propaganda against migrants were the following:

In May 2015, the government started a so-called national consultation (questionnaires sent out to the adult population, but collected and processed in an unregulated and non-transparent manner) on immigration.¹⁵ The questionnaire contained biased questions placing migration in a clearly threatening context, connecting migrants to terrorism or depicting them as people who jeopardise the livelihood of Hungarian people:

- "According to some, the migration mishandled by Brussels is connected to the extension of terrorism. Do you agree?"
- "According to some, economic migrants endanger the employment and livelihood of Hungarian people. Do you agree?"
- "Do you agree with the Government of Hungary that instead of immigration, support should go to Hungarian families and children to be born?"
- Did you know that economic migrants enter into Hungary illegally?"

The Prime Minister's letter attached to the questionnaire in fact answered some of the questions in a manner evidently biased against migrants:

- „An unprecedented act of terror shocked Europe at the beginning of the year. In Paris, innocent people were murdered in cruelly cold blood and with horrendous brutality. [...] At the same time, this horror that is difficult to grasp for a reasonable person, has demonstrated that Brussels and the European Union is not capable of adequately address the issue of immigration.
- „Economic migrants enter into Hungary illegally, and while they pretend to be refugees, they really come for social benefits and work. [...] This is a new type of threat that we must stop.”
- „We will not allow economic migrants to endanger the work and livelihood of Hungarian people.”

In October 2016, a national referendum was held. The question to be answered the following: "Do you want the European Union to be able to mandate the obligatory resettlement of non-Hungarian citizens into Hungary without the approval of the National Assembly?" In the run-up to the referendum, public spaces and the media were inundated with messages in the form of government-sponsored billboards and advertisements, such as:

- Did you know that the Paris terror attacks were carried out by immigrants?
- Did you know that nearly one million immigrants want to come to Europe from Libya alone?
- Did you know that since the start of the immigration crisis, harassment of women has increased in Europe?¹⁶

The government of Hungary has also sent 4.1 million, full-colour booklets to Hungarians at home and abroad making the government's case for why Hungarians should vote "no" in the national referendum. Some of the statements appearing in the booklet were as follows:

- "We have a right to decide who we want to live with."
- "The Paris and Brussels attacks proved that there is a very close relationship between immigration and terrorism. Exhibit: January 2015, Paris, 17 dead + 22 wounded; November 2015 Paris, 130 dead + 368 wounded; March 2016, Brussels, 32 dead + 340 wounded; July, Nice, 86 dead + 303 wounded."
- "Forced settlement endangers our culture and our customs.
- "Obligatory resettlement would change Europe and Hungary's ethnic, cultural and religious composition. Illegal immigrants don't respect our laws, and they don't want to share in our common cultural values."
- "If we don't take action, in a couple of decades we won't recognize Europe."
- "Illegal immigrants do not respect European norms, among others the rights of women. Since the immigrant crisis began the number of assaults on women has grown by leaps and bounds."

¹⁵ <https://ec.europa.eu/migrant-integration/news/hungary-governments-national-consultation-on-immigration-and-terrorism-creates-widespread-debate>

¹⁶ Nick Thorpe: Hungary poster campaign pokes fun at migrant referendum. BBC, 10 September 2016. See (also for photographs): <http://www.bbc.com/news/world-europe-37310819>

- “The so-called “no-go” zones are areas of cities that the authorities are unable to keep under their control. Here the recipient society’s written or unwritten norms do not apply. In those European cities, where immigrants live in great numbers, several hundred ‘no-go’ zones exist.”¹⁷

Anti-immigrant and anti-Muslim statements have also been made regularly by high ranking politicians, including the Prime Minister:

- November 2015, Prime Minister Viktor Orbán said to Politico that “Of course it’s not accepted, but *the factual point is that all the terrorists are basically migrants. The question is when they migrated to the European Union* [emphasis added].”¹⁸ The article continues to state that “thinking of Paris and its aftermath, the Hungarian leader posits an ‘overwhelming logical’ connection between terrorism and the movement of Muslims into Europe — in the last few months as well as over recent decades — that to him and many Europeans is ‘an obvious fact,’ whether ‘you like it or not.’ [...] ‘All of them [asylum seekers] present a security threat because we don’t know who they are. If you allow thousands or millions of unidentified persons into your house, the risk of [...] terrorism will significantly increase.”¹⁹
- July, 2016, Prime Minister Viktor Orbán at a press conference after his meeting with Austrian Chancellor Christian Kern said: “According to the Hungarian stance, *all migrants present a terror risk* [emphasis added].”²⁰
- September 2016, Prime Minister Viktor Orbán at the opening session of the Hungarian Parliament said: “Terror and violence have become the parts of everyday life in Europe.” What happened in Belgium, Germany and France can happen anywhere. If European politics continues as it is now, “the numbers of Muslims will keep growing, and we will hardly recognise Europe”.²¹

Public opinion polls show the damaging impact of this propaganda on Hungarian society. According to a survey comparing 2015 and 2016, in spite of the fact that in 2015, tens of thousands of asylum seekers travelled through Hungary, whereas by late 2016, the number of asylum seekers had dropped radically, xenophobia significantly increased in this period. In September 2015, 52% of the respondents said that asylum seekers deserved more humane treatment, and 64% stated that it was out duty to help them, in August 2016, only 44 and 35 percent of the respondents held these views. In 2015, 56% of the respondents expressed solidarity with the migrants, by the summer of 2016 this had decreased to 21%.

The acceptance of different groups was tested through the question whether the respondents would accept members of a certain group as neighbours. Only 21% said that they would accept someone from Syria (the acceptance of migrants from black Africa was somewhat higher: 24%). According to the researchers 79% of the respondents could be characterised as anti-asylum seeker, and 78% said that it would be best if asylum-seekers would not settle in Hungary at all.²²

A July 2016 survey by the Pew Research Center presented Hungary among the most xenophobic country among the ten in which the research was carried out. One of the research’s conclusions was that on several questions “included on the poll, Greece, Hungary, Italy and Poland often stand out for expressing greater concern and more negative views about refugees and minority groups”.²³

¹⁷ Source (also containing full text and a reproduction of the booklet): “We must stop Brussels!” referendum booklet warns Hungarians. The Budapest Beacon, 7 September 2016. Available at: <http://budapestbeacon.com/featured-articles/we-must-stop-brussels-referendum-booklet-warns-hungarians/38777>

¹⁸ Matthew Kaminsky: ‘All the terrorists are migrants’ Viktor Orbán on how to protect Europe from terror, save Schengen, and get along with Putin’s Russia. Politico, 23 November 2015. See: <http://www.politico.eu/article/viktor-orban-interview-terrorists-migrants-eu-russia-putin-borders-schengen/>

¹⁹ Ibid.

²⁰ <http://www.origo.hu/itthon/20160726-orban-viktor-christian-kern-migrans-bevadorlas.html>

²¹ <http://index.hu/belfold/2016/09/12/orban-viktor-beinditja-a-politikai-oszt/>

²² http://vasarnapihirek.hu/fokusz/kozosen_gyulolunk_publicus-vh_kvotanepszavazas

²³ Richard Wike – Bruce Stokes – Katie Simmons: Europeans Fear Wave of Refugees Will Mean More Terrorism, Fewer Jobs. Sharp ideological divides across EU on views about minorities, diversity and national identity. 11 July 2016. Available at: <http://www.pewglobal.org/2016/07/11/europeans-fear-wave-of-refugees-will-mean-more-terrorism-fewer-jobs/>

A 2018 research showed that Hungarians were the most hostile towards migrants in Europe, with 48% of the population categorized as such, whereas in Estonia, the second country in the list, this proportion was only 29%.²⁴

The attacks on civil society organizations

The government has attempted to stifle civil society organizations in basically three ways: (i) conducting a smear campaign; (ii) denying access; and (iii) hostile legislation threatening NGOs and their staff members with severe sanctions.

Smear campaign and rhetorical attempts of intimidation

The campaign against NGOs started in August 2013, with an article in one of the pro-government papers listing NGOs "serving foreign interests" and being secretly linked to opposition political parties.²⁵ While – playing on the anti-Semitic sentiments of some parts of Hungarian society – the role of George Soros in financing these NGOs was emphasized from the very beginning, the first such statements did not make the connection between NGOs and migration. In this phase, the main charge against government-critical NGOs was that they serve the hidden political agenda of external powers and that they want to interfere with political matters without any legitimacy, since "no one elected them".

The programmatic statement in this regard was the Prime Minister's infamous "illiberal democracy" speech in the summer of 2014, when he said that: "If we look at civil organizations in Hungary, [...] then what I will see is that we have to deal with paid political activists here. And these political activists are, moreover, political activists paid by foreigners. Activists paid by definite political circles of interest. It is hard to imagine that these circles have a social agenda. It is more likely that they would like to exercise influence through this system of instruments on Hungarian public life. It is vital, therefore, that if we would like to reorganize our nation state instead of the liberal state, that we should make it clear, that these are not civilians coming against us, opposing us, but political activists attempting to promote foreign interests. Therefore, it is very apt that a committee was being formed in the Hungarian parliament that deals with constant monitoring, recording and publishing foreign attempts to gain influence, so that all of us here, you as well, will know who the characters behind the masks are."²⁶

Later on, the campaign against NGOs was increasingly linked to the anti-migrant propaganda through the allegation that as part of his plan of flooding Europe with Muslim migrants in order to undermine Christian and European values, George Soros finances "fake" NGOs which under the disguise of human rights activities work only to realise his intentions. In his "state of the nation" speech in February 2017, the PM summarised it as follows: "in 2017 we will also need to take up the struggle against international organisations' increasingly strong activists. [...] So the question is whether we should yield to covert foreign attempts to exert influence. We are not talking [here] about non-governmental organisations fighting to promote an important cause, but about paid activists from international organisations and their branch offices in Hungary. [...] The organisations of George Soros are working tirelessly to bring hundreds of thousands of migrants into Europe".²⁷

In the spring 2017, another national consultation campaign was launched. The government sent a national consultation questionnaire to 8 million citizens, which – among others – asked:

- By now it has become clear that, in addition to the smugglers, certain international organizations encourage the illegal immigrants to commit illegal acts. What do you think Hungary should do? (a) Activities assisting illegal immigration such as human trafficking and the popularization of illegal immigration must be punished. (b) Let us accept that there are international organizations which, without any consequences, urge the circumvention of Hungarian laws.

²⁴ <https://qubit.hu/2018/03/02/a-magyarok-gyulolnek-a-legjobban-mindenki-mast-europaban>

²⁵ <http://valasz.hu/itthon/soros-felmilliar-dot-adott-orban-ellenfeleinek-67174>.

²⁶ <https://budapestbeacon.com/full-text-of-viktor-orban-s-speech-at-baile-tusnad-tusnadfurdo-of-26-july-2014/>

²⁷ <https://www.kormany.hu/en/the-prime-minister/the-prime-minister-s-speeches/prime-minister-viktor-orban-s-state-of-the-nation-address-20170214>

- A growing number of organisations funded from abroad operate in Hungary with the aim of interfering in the internal affairs of our country in a non-transparent manner. The work of these organizations could jeopardize our independence. What do you think Hungary should do? (a) Require them to register and to reveal on behalf of which country or organisation they work and what objectives they pursue. (b) Allow them to continue their risky activities without any supervision.²⁸

The Prime Minister's letter accompanying the print version of the questionnaire used the Russian "foreign agent" terminology when it claimed that "[s]ince the Government wants greater transparency regarding agent organisations supported from abroad, we must expect harsh attacks in this area too".²⁹

As an organization providing legal assistance to asylum seekers, the HHC became an ideal target for the government's hate propaganda. In September 2017, another national consultation was launched on the "Soros Plan". Citizens with suffrage were asked to let the government know whether or not they support the different elements of the – imaginary – "Soros Plan". Some of these elements according to the government were the following:

- Together with officials in Brussels, George Soros is planning to dismantle border fences in EU Member States, including in Hungary, to open the borders for immigrants.
- The goal of the Soros Plan is to push the languages and cultures of Europe into the background so that integration of illegal immigrants happens much more quickly.
- It is also part of the Soros Plan to initiate political attacks against those countries that oppose immigration, and to severely punish them.³⁰

All questions were augmented by explanatory texts. The text attached to question number 5 ("Another goal of George Soros is to make sure that migrants receive milder criminal sentences for the crimes they commit") made an explicit reference to the HHC. "George Soros, with significant amounts of funding, supports numerous organizations that assist immigration and defend immigrants who have committed unlawful acts. One example, the Hungarian Helsinki Committee, argued with regard to the prohibited crossing of the border that 'the application of strict legal consequences with regard to unlawful entry are concerning'."

The HHC was also specifically mentioned by numerous high-ranking politicians as one of the most prominent agents of George Soros in Hungary. For instance, in March 2018, Bence Tuzson, Secretary of State Responsible for Government Communication said the following: "what we have already known and suspected will become obvious: the clear aim of the Helsinki Committee is to settle migrants in Hungary [...]" He added that the organisations funded by George Soros work to change Hungary and turn it into an immigrant-country and "if at the general elections of 8 April the 'people of Soros' seize power, they will accomplish [their plan of] settling [migrants in Hungary] and "will settle migrants in apartments owned by the state, municipalities and private persons".³¹

But not only the rhetoric of smearing and defamation, but also the language and symbolic acts of intimidation were applied.

On 10 January 2017, Szilárd Németh, Vice President of Fidesz stated that "the fake NGOs that make up the Soros Empire operate in order to compel national governments to serve the interests of global big capital and to succumb to the values of political correctness. These organisations must be forced to back down at any price, and I believe we need to sweep them out. My sense is that international developments provide us with an opportunity to do so." He then added: "They want to intervene in grand politics without any sort of legitimating participation [sic]."³²

In March 2018, less than a month before the general elections, the Prime Minister promised to get even with whom he regarded as his opponents: "We are a tame and jovial people, but we are neither blind nor [gullible]."

²⁸ <https://budapestbeacon.com/lets-stop-brussels-new-national-consultation/>

²⁹ https://www.helsinki.hu/wp-content/uploads/PM_letter_LetsStopBrussels_2017.jpg

³⁰ <https://budapestbeacon.com/soros-plan-national-consultation-questions/>

³¹ <https://www.kormany.hu/hu/miniszterelnoki-kabinetiroda/kormanyzati-kommunikacioert-felelos-allamtitkar/hirek/a-soros-halozat-mar-lakasokat-keres-a-migransok-betelepitesehoz>

³² <https://444.hu/2017/01/10/nemeth-szilard-minden-eszkozzel-el-kell-innen-takaritani-a-civil-szervezeteket>.

Naturally, after the elections, we will get our satisfaction – moral, political, and legal satisfaction – but we cannot waste our energy or time with this right now.”³³

Just four days after the elections (bringing another constitutional majority for the ruling party), pro-Fidesz print weekly, Figyelő (one of the media outlets later donated to the centralized media holding) published a list of George Soros’s “people”, that is, a list of employees of those organizations that received some kind of support from Soros’s various foundations, without any sorting.³⁴ All staff members of the HHC were also listed irrespective of what role they play in the organization, i.e. even HHC’s administrative employees were listed – practically as enemies of the Hungarian state.

On 27 June 2018, the spokesperson of Fidelitas (the youth branch of Fidesz) placed a sticker with the text "Organisation supporting immigration" on the door of the building where HHC is seated. He said that "the Helsinki Committee and several other organisations work to turn Hungary into an immigrant country" and "Europe into an immigrant continent".³⁵

Denial of access

The HHC has always believed that meaningful human rights work includes cooperation and dialogue with state authorities. One particularly important form of cooperation was constituted by the cooperation agreements the HHC concluded in the late 1990’s, early 2000’s with the police, the penitentiary administration and the border guards to monitor and document the enforcement of human rights in detention facilities systematically. The cooperation agreements ensured direct contact with potential clients and served the interests of both the national authorities and the detainees or asylum seekers by reducing the risk of ill-treatment, contributing to the improvement of detention conditions and thus reducing tensions in places of detention. However, after decades of fair and constructive cooperation, all the concerned state authorities terminated the agreements in the summer-fall of 2017, depriving HHC of direct access to the vulnerable communities it has pledged to serve.³⁶

Following this wave of terminations, the previously functional cooperation and dialogue with other authorities, including the prosecutor’s office, ministries and the judiciary also came to a halt. These actors with important roles in the implementation of human rights stopped responding to HHC’s requests for meetings and discussions and rejected invitation to participate in conferences, workshops and research projects.

The latest such instance was when high-ranking judicial official sent a circular to judges warning them not to attend HHC’s European Union-funded training on accessible language use in criminal proceedings and to report to him any approach the HHC may make to individual judges trying to invite them.³⁷

Threatening legislation

The foreign-funded NGO law

Building on the rhetoric that NGOs are paid by foreign powers to serve their interests under the disguise of doing human rights work, in the summer of 2017, the Hungarian Parliament adopted the **law on the transparency of foreign-funded organisations**,³⁸ which mirrors the Russian foreign agent law. The Preamble to the law echoes the government propaganda, emphasising that “funding from unknown foreign sources to organisations established based on the freedom of association might enable foreign interest groups to enforce their own interests instead of public interest in the political and social life of Hungary, through the societal influence of these organisations” and “this may endanger the political, economic interests of the country as well as the operation of statutory institutions without undue influence”.

³³ <https://budapestbeacon.com/orban-promises-to-exact-vengeance-after-general-election/>

³⁴ <https://budapestbeacon.com/pro-fidesz-print-weekly-figyelo-publishes-list-of-soros-mercenaries/>

³⁵ <http://polgarportal.hu/fidelitas-a-magyar-helsinki-bizottsag-bevandozlast-tamogato-szervezet/>

³⁶ <https://www.helsinki.hu/wp-content/uploads/termination-of-agreements-summary.pdf>

³⁷ https://index.hu/belfold/2019/05/24/obh_helsinki_bizottsag_hando_tunde_gerber_tamas_kepzes/

³⁸ Act LXXVI of 2017 on the Transparency of Organisations Receiving Support from Abroad

The foreign-funded NGO law requires that any foundation or association that receives any type of foreign funding (including funding from natural persons, charities and the European Commission) over about USD 25,000 per year, for any purpose whatsoever, must register at court as a "foreign-funded organisation." The registration list is public and these NGOs must also display the label of "foreign-funded organisation" on their website and on all of their publications. Foreign funded NGOs are also obliged by the law to inform the state authorities about each and every donor (including natural persons) who donate more than USD 1,700 in the given year. Failure to register and comply with other obligations imposed by the law is sanctioned with a fine initially, however, it will ultimately result in the NGO's dissolution through a simplified termination procedure by the court.³⁹

It must be emphasized that the law was not necessary to guarantee the transparency of the concerned NGOs funding structure, as under the previously existing laws, NGOs were already required to submit to the state authorities as a part of the annual report and publish their financial data, also indicating the sources of support. For instance, since 2003, The HHC has fulfilled in each year its legal obligations to submit annual public benefit reports to the court and has published these reports on its website. Without an exception, all its – foreign, as well as domestic – donors can be found in the annual reports, along with the exact amounts of their donations and descriptions of how we used these funds.⁴⁰

Therefore, the law does not serve the otherwise legitimate aim of safeguarding transparency, so it violates – without being necessary to achieve a legitimate goal – the freedom of expression in a discriminatory manner. Compelling NGOs to use negative labels on their publications causes that their opinions will be handicapped: they will be always coupled with the discrediting message stating that the source of the opinions expressed are serving other interests than those of the Hungarian nation and society. The law also violates the right to privacy of their private donors, as the list of individuals providing financial support to certain NGOs is a list of identifiable people indicating their affiliation, opinions and beliefs, which may have a strong chilling effect on them, thus also interfering the NGOs right to association.⁴¹

This analysis was shared by several international actors, including three special rapporteurs of the United Nations (the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, and the Special Rapporteur on the situation of human rights defenders) who on 9 May 2017, jointly addressed a letter to the Hungarian government expressing their concerns. Among others, they were of the view that since the law applied selectively to some NGOs, and because those organizations would undoubtedly face public stigmatization by being associated with foreign funders, their expressions of peaceful dissent would likely be chilled. They were concerned that the sanctions imposed were not proportionate.⁴²

The criminalization of organizing assistance to asylum seekers

On 20 June 2018, the Hungarian Parliament adopted a legislative package under the name "Stop Soros",⁴³ which inserted Section 353/A into the Criminal Code ("Facilitating or supporting illegal immigration"). The provision renders punishable anyone who engages in organising activities in order to facilitate (a) the initiation of asylum proceedings in Hungary by persons who are not persecuted in their country of origin or in the country through which they arrived to Hungary, or whose reason to fear direct persecution is not well-founded, or (b) the initiation of a procedure aimed at acquiring a title of residence by persons entering or staying illegally in Hungary. The offence is punishable with confinement (up to 90 days), or – if certain aggravating factors are in place – imprisonment up to one year. A person who provides material resources for this offence is also punishable with imprisonment for up to one year.

³⁹ For an analysis of the law, see: <https://www.helsinki.hu/wp-content/uploads/NGO-Bill-HU-short-analysis-0411-final.pdf>

⁴⁰ See: <https://www.helsinki.hu/kik-vagyunk/rolunk-mondtak/eves-jelentes/>

⁴¹ For a detailed analysis see: <https://www.helsinki.hu/wp-content/uploads/What-is-the-Problem-with-the-Law-on-Foreign-Funded-NGOs.pdf>

⁴² For further criticism of the law by international organizations see: <https://www.helsinki.hu/wp-content/uploads/What-is-the-Problem-with-the-Law-on-Foreign-Funded-NGOs.pdf>

⁴³ Act VI of 2018

The law does not define what organizing activities are, but gives an exemplificative list, including (i) the organizing of border monitoring; (ii) preparing or distributing information materials; (iii) building or operating a network. These activities show a stunning coincidence with the types of activities that the HHC had been carrying out in the past 25 years in the field of asylum: the creation of a network (of lawyers), border monitoring and the preparation of information materials.

The explanatory memorandum of the Stop Soros law again echoes the hate propaganda of the previous months: "At the 8 April elections and in the course of the national consultations [...] the Hungarians [...] have made it clear: they do not want Hungary to turn into an immigrant country. [...] It is our firm stance that immigration poses serious risks, and is therefore an issue of national security. The Hungarian people rightly expect the government to take action against illegal migration and the actions facilitating it. This is the aim served by the Stop Soros legislative pack that renders the organisation of illegal immigration punishable. The law is aimed at preventing Hungary from becoming an immigrant country. [...]"

In the process leading up to the passing of the law, the government made it clear whom the legislation targets: on 21 March 2018, the government's press office issued a press release stating that "the operation of Soros organisations *must be banned* [emph. added], the operation of organisations focusing on immigration must be made dependent on the permission of the state, and the Stop Soros legislative package [...] must be passed by the Parliament immediately after the elections".⁴⁴

The law has been criticized by various international bodies, including the Council of Europe's constitutional advisory body, the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights, which concluded in a joint report that Article 353/A "infringes upon the right to freedom of association and expression and should be repealed", as "it criminalises organisational activities which are not directly related to the materialization of the illegal migration" and "are fully legitimate including activities which support the State in the fulfilment of its obligations under international law". The Commission found that as the law "criminalises the initiation of an asylum procedure or asserting other legal rights on behalf of asylum seekers, it entails a risk of criminal prosecution for individuals and organisations providing lawful assistance to migrants". Finally, the body emphasized that "only intentionally encouraging migrants to circumventing the law could give rise to criminal prosecution", but "assistance by NGOs of asylum seekers in applying for asylum and lodging appeals cannot be regarded as such circumvention".⁴⁵

The special immigration tax

On 20 July 2018, a month after the adoption of the Stop Soros law, another piece of legislation targeting NGOs dealing with migration related matters was passed.⁴⁶ Article 253 of this law stipulates the special tax on immigration: a 25% tax is imposed on financial support provided for any "immigration supporting activity" in Hungary or for the operations of any Hungarian organization "that carries out activities to promote migration." Immigration supporting activity" is "any programme, action or activity that is directly or indirectly aimed at promoting immigration" and is realized by (i) carrying out media campaigns, media seminars and participating in such activities, (ii) organising education, (iii) building and operating networks or (iv) propaganda activities that portray immigration in a positive light. The primary taxable entity is the funder (only legal persons), who is obliged to declare and pay 25% of the support provided to the organization performing immigration supporting activities, and also notify the grantee of this fact. If the funder fails to do so, the grantee becomes obliged to pay the tax after the costs incurred in the course of performing the immigration supporting activities. Potential sanctions for failure to comply with the obligation to declare and pay this tax include a tax fine up to 200% of the tax deficiency and probably even imprisonment (up to 10 years depending on the concerned amount) for tax fraud.

Government statements made before and after the passing of the law also left no doubts that the legislation targeted organizations supported by funders affiliated with George Soros. On 22 July 2018, István Hollik, MP of KDNP, the smaller party of the ruling coalition said at a press conference that the immigration tax is in fact a

⁴⁴ <http://www.kormany.hu/hu/miniszterelnoki-kabinetiroda/hirek/reagalas-a-migration-aid-mai-nyilatkozatarra>

⁴⁵ [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2018\)013-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2018)013-e)

⁴⁶ Act XLI of 2018 on the Amendment of Certain Tax Laws and Other Related Laws and the Special Tax on Immigration

"Soros tax" providing a new layer of protection for Hungary. He added that the "Soros organizations" must pay if they wish to carry out any activity supporting immigration or accept support for such activities. He stated that the objective of Soros organizations is to turn Hungary into an immigrant country.⁴⁷ Máté Kocsis, leader of the Fidesz faction was reported to have said that "the state imposes a tax on organizations that aid immigration or accept funding for this purpose. [...] The 'Soros-organizations' are known to carry out such activities and are not willing to give them up."⁴⁸

This law was again criticized by international bodies, including the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights, which concluded that "the special tax on immigration constitutes an unjustified interference with the rights to freedom of expression and of association of the NGOs affected. The imposition of this special tax will have a chilling effect on the exercise of fundamental rights and on individuals and organisations who defend these rights or support their defence financially. It will deter potential donors from supporting these NGOs and put more hardship on civil society engaged in legitimate human rights' activities. For all these reasons, the provision as examined in the present opinion should be repealed."⁴⁹

However, none of the controversial laws have been amended or repealed to date.

⁴⁷ https://alfahir.hu/2018/07/22/soros_ado_bevandorlas_hollik_istvan

⁴⁸ <http://propeller.hu/itthon/3365757-kocsis-mate-nyar-vegen-johet-soros-ado>

⁴⁹ [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2018\)035-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2018)035-e)