

HUNGARY: OPEN LETTER TO THE MEMBERS OF PARLIAMENT

Paris-Geneva, June 8, 2017

Re: Call to vote down the proposed “Law on the Transparency of Organisations Receiving Support from Abroad” (Hungarian Parliament Bill T/14967)

Excellencies,

The Observatory for the Protection of Human Rights Defenders, a partnership of FIDH and the World Organisation Against Torture (OMCT), expresses concerns over the draft “Law on the Transparency of Organisations Funded from Abroad” (T/14967) to be voted by the Hungarian National Assembly on June 13 afternoon, within the framework of a plenary seating that is taking place from June 12 to 15, 2017.

If adopted, the current text would force Hungarian non-governmental organisations (NGOs) receiving more than 7.200.000 HUF (approx. € 24,000) per year from abroad to re-register as “civic organisations receiving foreign funding” and to add this label on all their publications and websites. The bill also establishes sanctions in case of failure by NGOs to comply with the new requirements, which could go up to their dissolution¹. As such, this law would severely threaten civil society organisations in Hungary undermine their independence and obstruct their work. It would not only violate the international and regional obligations undertaken by Hungary, but also infringe upon the provisions laid out in the Hungarian Constitution.

We would like to recall in particular that the right of NGOs to freedom of association is a fundamental and universal right enshrined in numerous international instruments, such as Article 22 of the International Covenant on Civil and Political Rights (ICCPR) and the United Nations Declaration on Human Rights Defenders. This includes the ability for civil society organisations to “access funding and other resources from domestic, foreign and international sources”². While this right may be restricted, especially for purposes of transparency and good governance, as in any other sector of society, and to prevent crime, including money laundering and terrorism financing, any restrictions must always be “prescribed by law”, be “necessary in a democratic society” and respect the primacy of general interest as well as the principle of proportionality (Article 22.2 of ICCPR and case-law of the United Nations Human Rights Committee). Restrictions should never be used as a pretext to control NGOs and restrict their ability to carry out their legitimate work.

The United Nations, the European Parliament as well as other institutions³ such as the Council of Europe’s Venice Commission have already expressed their concerns over the draft law under consideration and its consistency with international and European human rights standards, particularly on freedom of assembly and association and non-discrimination.

On May 15, 2017, the United Nations Special Rapporteur on the situation of human rights

¹ For a more detailed analysis of the content of the bill, see Press Release of the Observatory, April 14, 2017, available at: <https://www.fidh.org/en/issues/human-rights-defenders/hungary-new-bill-hampers-ngos-access-to-funding-and-seriously>

² <http://freeassembly.net/reports/funding-report/>

³ http://europa.eu/rapid/press-release_SPEECH-17-1118_en.htm and http://europa.eu/rapid/press-release_SPEECH-17-966_en.htm

defenders, Mr. Michel Forst, and the Special Rapporteur on the promotion and protection the right to freedom of opinion and expression, Mr. David Kaye, urged the Hungarian government to withdraw the bill⁴. The United Nations Special Rapporteur on Human Rights Defenders, in his report A/HRC/34/52/Add.2, issued in January 2017 following his mission to Hungary in February 2016, had also recommended that the Hungarian government shall avoid adopting new laws requiring already registered organisations to re-register, and that registration of associations shall be made simpler, non-onerous and expeditious. The proposed law runs counter to these recommendations, by imposing unnecessary additional administrative burdens on NGOs.

On May 17, 2017 the European Parliament adopted a resolution on the situation in Hungary, which urges the Hungarian government to withdraw the proposed act, as it would represent a serious breach of Article 2 of the Treaty on European Union (TEU) and warrant resort to the mechanism laid down in Article 7 TEU potentially leading to sanctions in light of Hungary's repeated breaches of the EU founding principles.

In a preliminary opinion issued on June 2, 2017, the Council of Europe's Venice Commission also expressed concerns at the draft law, notably at the obligation it introduces for civil society organisations to label themselves as 'organisations receiving foreign funds' in all their press products and publications, which the Venice Commission deems excessive, and at the sanctions imposed in case of non-compliance, particularly dissolution, which the Commission considers should respect the principle of proportionality. The Venice Commission also recommended that a public consultation be held on the draft law before its adoption.

We would like to also draw your attention to the fact that the current legislation regulating civil society organisations already provides for sufficient mechanisms to guarantee that these organisations conduct their work in a transparent, lawful and accountable manner.

The new law – which is unprecedented in an EU member state - would severely constrain the space of independent civil society organisations, which play an essential role in a democratic society in ensuring respect for the rule of law and human rights and accountability for public action. This is particularly important at a time when other checks and balances have already been significantly weakened in Hungary.

Based on these concerns, we urge the Hungarian Parliament to reject the bill.

Rather than stigmatising and hindering the work of civil society by progressively shrinking its space through an unnecessary and harmful piece of legislation, we urge the authorities of Hungary to ensure an enabling environment for civil society, so that human rights defenders can pursue their legitimate work freely and without hindrances.

Your vote against the current bill would represent a crucial occasion for Hungary to express its commitment to ensuring respect for its obligations under international and European law, including the EU's founding principles of respect for democracy, the rule of law and human rights as enshrined in Article 2 TEU.

We stand ready to provide any further information you may require.

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FIDH Secretary General

Gerald STABEROCK
OMCT Secretary General

⁴ See <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21617&LangID=E#sthash.f1IVUYyK.dpu> at: f