



Resolution 2162 (2017)¹

Alarming developments in Hungary: draft NGO law restricting civil society and possible closure of the European Central University

Parliamentary Assembly

1. Concerned by recent developments in Hungary, the Parliamentary Assembly recalls its [Resolution 2096 \(2016\)](#) “How can inappropriate restrictions on NGO activities in Europe be prevented?” and reiterates the importance of the role of a dynamic civil society for the good functioning of democracy.
2. Freedom of association, freedom of expression and the right to privacy are fundamental rights and freedoms guaranteed by the European Convention on Human Rights (ETS No. 5), vital to the proper functioning of civil society. The respect for these rights should be effectively ensured by all States Parties to the Convention, in the light of the case law of the European Court of Human Rights, Committee of Ministers [Recommendation CM/Rec\(2007\)14](#) on the legal status of non-governmental organisations in Europe and the Joint guidelines on freedom of association, adopted in December 2014 by the European Commission for Democracy through Law (Venice Commission) and the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR).
3. In recent years, the Assembly has repeatedly denounced the dramatic deterioration of the situation of civil society in certain Council of Europe member States, in particular following the adoption of restrictive laws and regulations regarding registration, operating and financing. In its [Resolution 2096 \(2016\)](#), the Assembly explicitly criticised the so-called “foreign agents law”, modifying the Russian legislation on non-commercial organisations, and changes to the legislation on non-governmental organisations (NGOs) in Azerbaijan imposing inappropriate restrictions on their activities.
4. Regrettably, this alarming trend seems to be spreading in Europe. Today, the Assembly is thus concerned with developments in Hungary and in particular the proposal for a draft law on transparency of organisations receiving foreign funding. The Assembly agrees that NGOs must be transparent about their sources of funds, but cannot accept the allegations that civil society organisations serve foreign interest groups, rather than the public interest, and may endanger the national security and sovereignty of a country simply because they receive foreign funding over a certain yearly threshold.
5. The Assembly notes that the Hungarian draft law, although inspired by the corresponding Russian law, does not include some of the latter’s elements criticised by the Venice Commission, such as the use of the controversial term “foreign agent” or the specific and thus discriminatory reference to NGOs which defend human rights, and that it provides for a judicial, rather than administrative, review.
6. The Assembly is concerned, however, about a number of issues that the Hungarian draft law raises with respect to freedom of association and of expression and the right to privacy, in particular as regards:
 - 6.1. the lack of public consultation prior to its submission to parliament;
 - 6.2. the obligation for NGOs receiving foreign funding to indicate this on all the materials published or distributed;

1. *Assembly debate* on 27 April 2017 (16th Sitting) (see [Doc. 14298](#), report of the Committee on Political Affairs and Democracy, rapporteur: Mr Mogens Jensen). *Text adopted by the Assembly* on 27 April 2017 (16th Sitting).



- 6.3. the obligation for NGOs to submit detailed personal data of foreign donors, including private individuals;
 - 6.4. the gravity of the sanctions provided in the draft, including ultimately the dissolution of the association for non-compliance with administrative obligations;
 - 6.5. the scope of application of the draft law, which applies to certain associations and excludes others, such as sports and religious organisations.
7. The Assembly also regrets the overall accusatory and labelling rhetoric by Hungarian public officials surrounding the drawing up and discussion of the draft law, which raises doubts about the real aims of the proposed legislation.
8. The Assembly notes the numerous reactions of Hungarian and international civil society, and of intergovernmental organisations raising concerns about the proposed draft. These include the Council of Europe Conference of International Non-Governmental Organisations which, on 24 April 2017, called on the Hungarian authorities not to adopt the draft law on the transparency of organisations receiving foreign funding in view of its incompatibility with international and European standards.
9. The Assembly is all the more concerned about developments in Hungary in light of the recent vote of the Hungarian Parliament on amendments to the National Higher Education Act, which could, according to the Central European University – founded by George Soros in 1991 and operating in Budapest – lead to the termination of its activities.
10. The Assembly notes that the European Commission decided, on 26 April 2017, to take legal action on the act amending the Hungarian National Higher Education Act, based on its conclusion that “the law is not compatible with the fundamental internal market freedoms, notably the freedom to provide services and the freedom of establishment, but also with the right to academic freedom, the right to education and the freedom to conduct a business, as provided by the Charter of Fundamental Rights of the European Union”.
11. In conclusion, the Assembly believes that recent developments in Hungary merit its close attention and the mobilisation of Council of Europe expertise to help the Hungarian authorities ensure compliance with relevant Council of Europe and international standards in the field of freedom of association and expression. The Assembly therefore:
- 11.1. requests the opinion of the Venice Commission on the compatibility with Council of Europe standards of the Hungarian draft law on the transparency of organisations receiving foreign funding, and of the Act of 4 April 2017 amending the National Higher Education Act;
 - 11.2. calls on the Hungarian authorities to co-operate with the Venice Commission and suspend, pending the adoption of the latter’s opinion, the implementation of the act amending the National Higher Education Act and the parliamentary debate on the draft law on the transparency of organisations receiving foreign funding;
 - 11.3. calls on the Hungarian Government to engage in an open dialogue with civil society and international human rights NGOs, as well as the Council of Europe and other intergovernmental organisations, on both pieces of legislation and refrain from measures which might be detrimental to the development of civil society in Europe.
12. The Assembly resolves to continue to follow closely developments in Hungary.