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(Final version)

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

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A. Draft Resolution

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, as well as 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. Their respect 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 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, as well as 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.

Amendment 4

Tabled by Mr Zsolt CSENGER-ZALÁN, Mr Zsolt NÉMETH, Mr Valeriu GHILETCHI, Mr Tobias ZECH, Mr Attila TILKI

In the draft resolution, paragraph 2, after the words "European Court of Human Rights", insert the following words: " - in particular its findings in the case of Magyar Helsinki Bizottság v. Hungary (application no. 18030/11) - ".

Amendment 5

Tabled by Mr Zsolt CSENGER-ZALÁN, Mr Zsolt NÉMETH, Mr Valeriu GHILETCHI, Mr Tobias ZECH, Mr Attila TILKI

In the draft resolution, at the end of paragraph 2, insert the following words: "additionally, the draft report on budgetary control of financing NGOs from the EU budget (2015/2345(INI)) processed by the Committee on Budgetary Control of the European Parliament".

Amendment 6

Tabled by Mr Zsolt CSENGER-ZALÁN, Mr Zsolt NÉMETH, Mr Valeriu GHILETCHI, Mr Tobias ZECH, Mr Attila TILKI

In the draft resolution, paragraph 4, replace the second sentence with the following sentences: "The Assembly is convinced that the transparent operation of NGOs is indispensable to preserve public trust in civil society, which can only be based on the pillars of the full disclosure of their basic information and financial resources. However, such administrative regulations shall

not reach the extent that hampers the operations of the NGOs."

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 defending human rights, and that it provides for a judicial, rather than administrative, review.

Amendment 7

Tabled by Mr Zsolt CSENGER-ZALÁN, Mr Zsolt NÉMETH, Mr Valeriu GHILETCHI, Mr Tobias ZECH, Mr Attila TILKI

In the draft resolution, paragraph 5, replace the words: ", 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" with the following words: "does not use".

6. The Assembly is concerned, however, about a number of issues that the Hungarian draft law raises with respect to freedoms of association and of expression, as well as the right to privacy, in particular as regards:

Amendment 8

Tabled by Mr Zsolt CSENGER-ZALÁN, Mr Zsolt NÉMETH, Mr Valeriu GHILETCHI, Mr Tobias ZECH, Mr Attila TILKI

In the draft resolution, delete paragraph 6.

- 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;
- 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.

Amendment 9

Tabled by Mr Zsolt CSENGER-ZALÁN, Mr Zsolt NÉMETH, Mr Valeriu GHILETCHI, Mr Tobias ZECH, Mr Attila TILKI

In the draft resolution, delete paragraph 7.

8. The Assembly notes the numerous reactions by Hungarian and international civil society, as well as 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 Act 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 by 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.

Amendment 1

Tabled by Mr Gábor HARANGOZÓ, Mr Stefan SCHENNACH, Mr Boriss CILEVIČS, Mr Yves CRUCHTEN, Ms Liliane MAURY PASQUIER

In the draft resolution, after paragraph 9, insert the following paragraph:

"The Assembly notes with concern that a similar attitude is reflected in the ongoing so-called "national consultation" targeting civil society organisations, which promotes intolerance and fear. In this context, it also firmly condemns messaging from high-ranking officials from the ruling party and government members about intentions of deliberate non-fulfillment of a recent judgment of the European Court of Human rights and the eventual need to reconsider Hungary's membership in the Convention mechanism as a whole."

10. In conclusion, the Assembly believes that recent developments in Hungary merit its close attention as well as 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:
- 10.1. 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, as well as of the Act of 4 April 2017 amending the National Higher Education Act;
- 10.2. 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;

Amendment 10

Tabled by Mr Zsolt CSENGER-ZALÁN, Mr Zsolt NÉMETH, Mr Valeriu GHILETCHI, Mr Tobias ZECH, Mr Attila TILKI

In the draft resolution, paragraph 10.2, replace the words "calls on" with the following word: "invites".

Amendment 12

Tabled by Mr Zsolt CSENGER-ZALÁN, Mr Zsolt NÉMETH, Mr Valeriu GHILETCHI, Mr Tobias ZECH, Mr Attila TILKI

In the draft resolution, paragraph 10.2, replace the words: "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" with the following words: "take into consideration its suggestions on the Act amending the National Higher Education Act and on the draft law on the Transparency of Organisations Receiving Foreign Funding".

- 10.3. 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.

Amendment 11

Tabled by Mr Zsolt CSENGER-ZALÁN, Mr Zsolt NÉMETH, Mr Valeriu GHILETCHI, Mr Tobias ZECH, Mr Attila TILKI

In the draft resolution, paragraph 10.3, replace the words "calls on" with the following word "invites".

Amendment 14

Tabled by Mr Zsolt CSENGER-ZALÁN, Mr Zsolt NÉMETH, Mr Valeriu GHILETCHI, Mr Tobias ZECH, Mr Duarte MARQUES, Mr Attila TILKI

In the draft resolution, paragraph 10.3, replace the word "engage" with the following word: "continue".

Amendment 2

Tabled by Mr Stefan SCHENNACH, Mr Boriss CILEVIČS, Mr Yves CRUCHTEN, Mr Gábor HARANGOZÓ, Ms Liliane MAURY PASQUIER

In the draft resolution, paragraph 10.3, after the words "the Council of Europe", insert the following words: ", the OSCE/ODIHR".

Amendment 13

Tabled by Mr Zsolt CSENGER-ZALÁN, Mr Zsolt NÉMETH, Mr Valeriu GHILETCHI, Mr Tobias ZECH, Mr Attila TILKI

In the draft resolution, paragraph 10.3, delete the following words: ", on both pieces of legislation and refrain from measures which might be detrimental to the development of civil society in Europe".

Amendment 3

Tabled by Mr Gábor HARANGOZÓ, Mr Stefan SCHENNACH, Mr Boriss CILEVIČS, Mr Yves CRUCHTEN, Ms Liliane MAURY PASQUIER

In the draft resolution, after paragraph 10.3, insert the following paragraph:

"urges Hungarian political actors to refrain from inflammatory rhetoric including labelling civil society organisations, protestors and opposition activists as foreign agents and traitors."

11. The Assembly resolves to continue to follow closely developments in Hungary.