

Budapest, 9 July 2014.

Mr. Maina Kiai

UN Special Rapporteur on the rights to freedom of peaceful assembly and of association

Mr. Michel Forst

UN Special Rapporteur on the situation of human rights defenders

Office of the United Nations High Commissioner for Human Rights

United Nations Office at Geneva

Switzerland

freeassembly@ohchr.org ; urgent-action@ohchr.org

Subject: Request to Mr. Maina Kiai UN Special Rapporteur on the rights to freedom of peaceful assembly and of association and Mr. Michel Forst UN Special Rapporteur on the situation of human rights defenders to send an urgent appeal to Hungary

Dear SR Kiai and SR Forst,

As the director of programs of the Hungarian Civil Liberties Union I am writing you to raise your attention to the problems with the Hungarian government's intimidation towards independent NGOs, including human rights defenders, and its interference in their activity in terms of the freedom of association and the situation of the human rights defenders in Hungary. We respectfully request that you contribute to ensuring the independence of NGOs and respect for human rights in Hungary **by taking all the necessary action in your competence so that Hungary fulfil its international obligations concerning freedom of association.**

In my opinion the political and administrative harassment, detailed below, questioning the right to the autonomous and independent existence of civic associations, threatening their activity, and undermines the government's independency and neutrality towards the civil society as well, laid down in Article 22 of the International Covenant on Civil and Political Rights. As our appeal concerns an administrative procedure initiated June 17 2014, the violation is already ongoing, and will have a very grave consequences to the whole Hungarian civil society. **Due to the gravity of the violations described below we respectfully ask that you make a public statement in case you agree with our assessment of the situation complained of.** We believe that the public interactive dialogue could contribute to the speedy solution of the violations.

Analysis of the violation of freedom of association and intimidation of the human rights defenders

The right to association, as guaranteed in the Article 22 of the International Covenant on Civil and Political Rights and protected by many other international human rights instrument, as well as constitutions on a national level, as the Human Rights Commission is continuously stating, incorporates the associations right to be financed and the right to seek and get independent sources of funding without any unnecessary and undue interference of the state. These requirements are recognised as crucial elements of a flourishing and pluralistic society and of a democratic society. Therefore every constraint imposed by the state could be justified only on that strict human rights requirements. The HCLU believes that the recent actions taken by the Hungarian government targeting defined actors of the Hungarian civil society lack any reason and even any legal ground. In the following, we will demonstrate also that these recent government measures are the next step in a chain of events related to unconstitutional and undemocratic developments since 2010.

Background

After the widespread criticism due to the elimination of independent institutions, the dismantling of the framework of parliamentarianism,¹ the opening of the second term of the Orban government in 2014 has seen even more challenges: new impetus was given to questioning the credibility and hindering the independent financing of autonomous civil organizations representing a counterbalance to the government. Only a day after its massive re-election victory the Hungarian government launched its attack against the Norwegian Civic Fund (NCTA). Since April 7 the Hungarian government has led an escalating campaign accusing the four NGOs of political meddling that helped Norway disburse the grants. The accusation is that through the four foundations, Norway is trying to influence Hungarian politics. Norway firmly denied the accusations.

The Norway Financial Mechanism (Norway Grants) is part of an agreement between the EU and Norway, Iceland and Lichtenstein about funding projects in less-developed European economies, and the NCTA is a small portion of the Norway Grants. NCTA is distributed by a consortium of four Hungarian foundations (Ökotárs Alapítvány, Autonómia Alapítvány, Demokratikus Jogok Fejlesztéséért Alapítvány, Kárpátok Alapítvány-Magyarország), which have previously administered the grants with success. The Financial Mechanism Committee, located in Brussels, established by the donor states and empowered by all the contracting parties, has the right to audit the distribution of the NCTA with the full assistance of the authorities of the beneficiary state.

On May 30, 2014, an article was published stating that the government blacklisted independent Hungarian civil organizations that have benefitted from the Norwegian Civic

¹ See more about the constitutional de-constructing: <http://tasz.hu/en/news/hclu-hungarian-example>

Fund (NCTA) on the basis of their alleged political affiliation.² This list includes groups advocating environmental concerns, equality and anti-corruption, and the HCLU as well. In an emailed statement to Reuters on this day, the government said it had no intention of fighting individual NGOs, but it repeated the charges that the grants sought to exert political influence. Next day another article stated that persons who took part in the decision-making process of the NCTA are also blacklisted besides NGOs by the government.³

On June 2 the Hungarian government sent agents of the Government Control Office to audit the NCTA's administering organizations. (The GCO is a governmental inspection authority in the field of public finances, controlled directly by the prime minister.⁴) It was said that day that GCO would audit Ökotárs, the consortium leader NGO, but GCO agents was sent to two other partner organizations as well. The foundations were threatened with the suspension of their tax number if refused cooperation. The legal basis of the audit is impugned by the administering organizations of the consortium. (Ökotárs also pressed a criminal charge for the blacklists.)

On June 12 the high-level representatives of the three donor countries, Iceland, Liechtenstein and Norway and the Hungarian government have met in Brussels where the donors made it clear that the responsibility for the programme and any potential audits lies with the donor states (actually the Financing Mechanism Committee) and that this is clearly stated in the agreement with the Hungarian government. It was also added that Hungary must meet the requirements stipulated in the agreement, which means that the audit should be halted.⁵ This was reiterated later by the FMC in its letter addressed to the Hungarian government.⁶ However, the Hungarian government still insists on the national audit, operated by governmental authorities,⁷ moreover the Deputy of the Chief State Secretary expressed the government's view that newly appeared information on irregularities in the previous grant period, reported by the audit of the Ernst & Young,⁸ might raise the suspicion of having committed an offence by the NGO-consortium.⁹

(On the same day the HCLU with other NGOs organized an international solidarity action,¹⁰ in which more than 60 organizations from 20 countries expressed their support for Hungarian civil society organizations against the actions of the government.¹¹)

² <http://444.hu/2014/05/30/itt-a-kormany-listaja-a-szervezetekrol-akik-miatt-nekimentek-a-norveg-alapnak/>

³ <http://444.hu/2014/05/31/titkos-nevsort-adott-ki-a-kormany-hogy-megmondja-kivel-van-baja/>

⁴ <http://kehi.kormany.hu/welcome>

⁵ <http://eeagrants.org/News/2014/Norwegian-authorities-issue-a-press-release-on-problems-concerning-Hungarian-authorities-and-the-EEA-Norway-Grants>

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<http://eeagrants.org/content/download/9021/116527/version/1/file/Letter+to+Prime+Minister%E2%80%99s+Office%2C+25+June+2014.pdf>

⁷ <http://www.kormany.hu/en/prime-minister-s-office/news/the-norwegian-ngo-fund-should-be-used-free-from-party-politics-with-the-broad-support-of-the-civil-society>

⁸ <http://issuu.com/bodoky/docs/ey-ngo-fund/1?e=6572205/8455399>

⁹ <http://www.kormany.hu/hu/miniszterelnokseg/hirek/elo-kozvetites-csepreghy-nandor-sajtotajekoztatoja-a-norveg-alapokkal-kapcsolatban>

¹⁰ <http://tasz.hu/en/news/international-solidarity-action-stop-targeting-hungarian-ngos>

¹¹ <http://tasz.hu/en/news/speakupforhungary-successful-international-action>

On June 19 GCO launched a financial audit procedure against 58 NGOs, including the HCLU, all grantees of the EEA Civil Grant. NGOs were requested to provide all the documentation of two EEA-grants, one has closed already and the other one is ongoing. Some NGOs, including the HCLU, explicitly impugned the legal basis and therefore refused to cooperate with the GCO. The HCLU has decided to publish the full documentation of its projects under investigation to make it available to the public. At the same time, the HCLU expressed that it does not wish to cooperate with the GCO. Maintaining that GCO is unauthorized to conduct direct investigations, the HCLU passed on its reservations regarding the legal basis of the investigation to the Office. Furthermore, as the GCO, even though declaring the principles of transparency, has so far failed to disclose the identity of the person or organization who ordered the investigation, or to tell how many persons paid from public funds are involved in it, the HCLU submitted a freedom of information request.¹² As a further reaction to the GCO's request on 23 June the HCLU digitalized the whole file containing the documents related to the Norway NGO Fund: from contracts, through reports and bills, to letters, and uploaded the whole documentation concerning the tenders to its homepage. Beside this, the HCLU has declared again that it is convinced that the GCO has no scope of authority for this particular audit and considers the attempts by the GCO to audit the programs financed by the Norway NGO Fund a politically motivated attack,¹³

Taking these steps together, the only tangible reason to be found is that the Hungarian government doesn't approve of funding being distributed to organizations, which it has not control over. As things stand, the organizations that are receiving or have received a grant are likely to face investigations by the authorities, with the declared intent to decide whether they were legitimate recipients of the Norwegian tax-payers' money, or whether they were handpicked to represent a niche political interests that go against the will of the Hungarian government.

Summary

These are steps in a series of government actions aiming to silence people, from ordinary citizens through the press to civil society, and prevent them from voicing any criticism against the government. An examination of government actions since 2010 shows that the elimination of independent institutions, the dismantling of the frameworks of parliamentarianism and the silencing of opposition voices already started during the previous government cycle. Such measures include the Media Law, curtailing the powers of the Constitutional Court, the elimination of the institution of the independent Data Protection Ombudsman, the transformation of the election system and the adoption procedure and the content of the Fundamental Law.

Advocacy opportunities and the room to act for civil society are shrinking. Furthermore, media publications may be henceforward constrained to exercise self-censorship because regulations of the media law curtailing the freedom of speech and judicial practices would hold them back from publishing articles criticizing the government. The struggle has not just started. In the past years, NGOs, especially those critical of or countering the ideology of the government groups) were subjected to defamatory attempts.¹⁴ After demolishing the

¹² <http://tasz.hu/en/news/authorities-keep-threatening-ngos-hungary>

¹³ <http://tasz.hu/en/about-us/hclu-accounts-public-not-gco>

¹⁴ See for example the press conference held by Péter Hoppál, spokesperson of the governing FIDESZ-party, where he stated that the only task of the NGOs sponsored by George Soros is to attack

system of checks and balances, and parallel to silencing the media, now the Hungarian government is trying to undermine the independent and autonomous civil society.¹⁵ Since its re-election, the Hungarian government launched a campaign attacking the credibility of Hungarian NGOs and are striving to gain controlling power over their funding distributed independently from the government. The political bias of the inspection seems unquestionable, so this present attack on NGOs can be characterized as the next battle against those who are not controlled by the government. I believe that a dynamic and independent civil society plays a fundamental role in a democratic society, as it is one of the key checks and balances to governing power, and I believe that you share my belief.

Yours sincerely,



Máté Dániel Szabó
Director of Programs
Hungarian Civil Liberties Union

The **Hungarian Civil Liberties Union** (HCLU) is a law reform and legal defence public interest NGO in Hungary, working independently of political parties, the state or any of its institutions. HCLU's aim is to promote the case of fundamental rights and principles. It strives to educate citizens about their basic human rights and freedoms, and takes stand against undue interference and misuse of power by those in positions of authority. Generally HCLU has the goal of building and strengthening the civil society and rule of law in Hungary and the CEE region.

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the Hungarian government and the prime minister in any field.

<http://archiv.fidesz.hu/index.php?Rovat=10030&Media=15694&Tol=5>

¹⁵ See more here: <http://www.liberties.eu/en/news/hungary-ngo-war>