

WHAT'S AT STAKE?



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BACKGROUND

On 13 June 2017, Hungary's Parliament adopted the Law on the Transparency of Organisations Supported from Abroad (i.e., foreign funded organisations), legislation widely viewed by intergovernmental and civil society organisations (CSOs) as a major obstacle to the work of Hungarian CSOs and their interactions with civil society domestically and internationally.

The Law introduces a new status of "organisation supported from abroad," which applies to all Hungarian associations and foundations that receive funding from any foreign sources (e.g., individuals, foundations, government aid agencies, direct EU funding) above 7,2 million HUF (approx. €23,500) in a tax year. Such organizations must notify the court to be registered as "organisation supported from abroad". The organizations will also be publicly labelled: they must indicate their status on their web site, publications, press materials, and the status will be published on the [CSO Registry](#) and on the [electronic portal](#) of the Ministry of Human Capacities. CSOs will be burdened with additional reporting requirements on their foreign resources – e.g., they have to report on each transaction they have had with donors who have contributed at least 500,000 HUF (approx. €1,600) per tax year, and provide donor's names, location, etc. Failure to comply with the law (e.g., to notify the court) will result in high fines and possibly termination.

This is the first law of its kind in a European Union (EU) country. There is concern about what this new Law foreshadows: in other regions, similar laws have resulted in limited access to funding – not only because of the laws, but also due to parallel negative campaigns by governments, condemning foreign funding recipients. Such an environment also makes the labelled CSOs vulnerable to further restrictive legal measures. Below, ECNL highlights five key concerns about the new Law:

1 A THREAT TO CIVIL SOCIETY'S SURVIVAL

If an organisation fails to register and meet requirements under the Law, it may be fined up to 900,000 HUF (approx. €3,000) and terminated. Under international law, dissolution of a CSO is a measure of last resort, to be used only in cases of serious misconduct. The Law leaves room for broad interpretation due to unclear provisions regarding disclosure requirements, the scope of what is considered foreign funding, and more; thus, even CSOs that aim to comply with the provisions of the law remain at risk of being sanctioned. Further, CSOs will need to monitor foreign funding on a daily basis so as not to miss the threshold and violate the law.

2 STIRRING DISTRUST AND SUSPICION

The new categorization and labelling, coupled with the government's broader negative campaign against foreign funded groups, opens the door for stigmatization. Foreign funded organisations are likely to be seen by the public as threat to national security and sovereignty, and a conduit for money laundering and terrorism financing – even without any concrete evidence of such risks. Ultimately, this might jeopardize the ability of these CSOs to operate. In other countries with similar legislation, the stigmatization of being forcibly branded "foreign funded" has led to CSOs being unable to deliver their services because their beneficiaries, donors, partners were more cautious about continued cooperation.

3 THREATENING SERVICES FOR THOSE MOST IN NEED

Whilst the Law has been adopted in an atmosphere where human rights groups are particularly targeted, it will likely have an effect on civil society broadly, including organisations working on social service delivery, humanitarian aid, and environmental protection – all of whom also receive foreign funds. Moreover, CSOs do not even need to receive foreign funding directly to be affected. According to the law, it appears that even if a domestic CSO disburses foreign-source funds it receives to another CSO, the latter will also become subject to the law. This means the Law will likely add administrative burdens and stigmatize even small community based organisations who fundraise domestically; this will be detrimental for their work and for the communities which depend on them.

4 IS IT REALLY ABOUT TRANSPARENCY?

No. Hungarian CSOs are already subject to [stringent transparency requirements](#) which are in line with international standards. CSOs' annual financial reporting documents include all information on their operations and assets necessary for the government and public to determine whether the organisations comply with their missions and the law. The reports are publicly accessible at the [court registry](#) and on CSO web sites.

5 THE LAW AND INTERNATIONAL STANDARDS

In recent months CSOs from Hungary and Europe, and the international community (e.g., [Venice Commission](#), [CoE Conference of INGOs Expert Council on NGO Law](#); [EU Parliament](#); [UN Special Rapporteurs](#)), have warned that the Law violates international standards. The introduction of the new foreign funded status – along with registration and labelling requirements and the termination penalty – is perceived as violation of the rights to freedom of association and expression. The fact that only associations and foundations that receive foreign funding are singled out is also discriminatory; similar entities receiving foreign resources or investments such as businesses, religious organisations and sport clubs are exempted. The Law also [likely violates](#) donors' right to privacy, and the free flow of capital and services within the EU.

WHAT'S NEXT FOR HUNGARIAN CIVIL SOCIETY?

The Law will come into effect within a week. The Law requires CSOs to notify the court of their foreign-funded status within 15 days of reaching the threshold during the tax year. In addition, they need to disclose this immediately on their website, all press materials and publications. The civil society sector is currently evaluating options for their [response to the Law](#), including boycott, compliance and litigation. Considering that some provisions of the Law are vaguely drafted, there is a need to monitor closely how they will be interpreted by courts and applied.

ECNL continues to cooperate with Hungarian CSOs in this post-enactment phase to respond to the law in line with their respective organisational strategies, and will provide support from legal and comparative experiences of dealing with similar situations. We continue to collaborate with European CSO partners and institutions on actions to prevent spill-over effects, as we already see early warning signs of similar initiatives in neighbouring EU countries.