

Open Government Partnership
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Washington, DC 20005
United States

Letter of Concern¹

Dear Members of the OGP Steering Committee,

We are writing to you as individuals who represent civil society organisations that have serious concerns about the deterioration of the space for civil society in Hungary over the last few years and to draw your attention to these worrisome developments. We believe the actions of the Hungarian government undermine the values and principles expressed in the Open Government Declaration and in the Articles of Governance of the Open Government Partnership, which the Hungarian government endorsed when it joined the OGP in 2012.

We are asking you to take action in relation to Hungary under the Policy on Upholding the Values and Principles of OGP, as articulated in the Open Government Declaration (OGP response policy), which you adopted on 25 September 2014. The aims of the OGP response policy are “to help re-establish an environment for government and civil society collaboration” and to “[s]afeguard the Open Government Declaration and mitigate reputational risks to OGP”. We believe that the situation in Hungary warrants OGP attention based on both of these aims. Specifically, we call on the OGP Steering Committee to launch a thorough investigation into the situation in Hungary, with a view to helping to re-establish a positive environment for government and civil society collaboration.

The rule of law, democracy, pluralism, human rights and the role of independent institutions as checks and balances on political power have been systematically undermined in Hungary since the current government came to power in 2010 with the backing of a two-thirds supermajority in Parliament.² Particularly troublesome from the perspective of the OGP are the government’s actions to reduce the space for non-governmental organisations to work independently, voice critiques and receive funding from international sources.

The trend on the part of the Hungarian government to increasingly view members of civil society which are critical of it as its enemies has been documented in both the IRM report on Hungary³

¹ This Letter should be read in conjunction with the Chronology of Attacks on Civil Society which provides more detail about the events detailed herein.

² See: http://helsinki.hu/wp-content/uploads/Disrespect_for_values-Nov2014.pdf.

³ See:

http://www.opengovpartnership.org/sites/default/files/Hungary%20IRM%20Report%20Pub%20Comm%20version_Hun.pdf.

and assessments conducted by independent domestic watchdog organisations.⁴ Severe concerns about civic space and media freedom in Hungary have been voiced by national and international watchdog organisations⁵. The Hungarian government's systematic attempts to attack some non-governmental organisations which are critical of it – through smear campaigns, police raids, criminal investigations and charges, and even suspension of the all-important tax identification of NGOs – represent a clear breach both of the administration's commitment to the core principles and values of the OGP and of international human rights standards.

Since the summer of 2013, Hungarian government officials have been engaging in a smear campaign against many of the country's independent NGOs. This has involved different officials making public comments about how these groups have 'leftist political ties' and are fronts for political activists who are paid by foreign interest groups which wish to exert influence over political life in Hungary. These accusations have even been levelled at foreign governments, most notably that of Norway, which has been accused of interfering in the internal politics of the country by giving grants to NGOs which counter or are critical of certain moves and decisions of the government.⁶ Many of these allegations have been directed at the very transparency and human rights groups which have been most actively engaged in the OGP process in the country.⁷

Over time, the allegations have been followed by more direct action on the part of the government. In May 2014, the Government Control Office (GCO) began an audit of the four organisations which participate in the consortium which runs the EEA/Norway Grants NGO Fund (NGO Fund), as well as a number of organisations which have received support from this Fund. It remains unclear who actually initiated the GCO investigations.

The crackdown has sparked criticism from all over the world, which has grown in volume and intensity since July 2014 when the Hungarian Prime Minister, Viktor Orbán, said that NGOs funded from abroad should be considered as foreign agents which needed to be monitored.⁸ The Norwegian government remains firm in its view that GCO has no power or right to audit the NGO Fund or those running it, as that is ruled out by an international agreement. Norway has

⁴ See, for example, the report prepared by the Eötvös Károly Policy Institute, Hungarian Helsinki Committee, Hungarian Civil Liberties Union and Mérték Media Monitor, which has been endorsed by a number of other Hungarian watchdogs. Available at: http://helsinki.hu/wp-content/uploads/Disrespect_for_values-Nov2014.pdf. See also the report prepared by Eötvös Károly Policy Institute, Transparency International Hungary, Hungarian Civil Liberties Union and Hungarian Helsinki Committee. Available at: <http://www.osce.org/odihr/124145?download=true>.

⁵ See: <https://www.hrw.org/news/2015/02/18/hungary-outstanding-human-rights-concerns>.

⁶ As part of an agreement with the EU and several of its member states, the Norway Financial Mechanism funds projects in less developed European countries. More information is available at: <http://eeagrants.org/>.

⁷ See: <http://www.source.ly/10VCv#.VMa0sWTF-PI>.

⁸ See:

<http://www.bloomberg.com/news/articles/2014-07-28/orban-says-he-seeks-to-end-liberal-democracy-in-hungary>.

made it clear that it regards these moves as "unacceptable" and representing a form of "harassment" of civil organisations.⁹

A criminal investigation has been initiated based on the findings of GCO's audit into EEA/Norway Grants recipient NGOs. A spectacular police raid in September 2014 against two of the NGOs running the NGO Fund, involving dozens of riot police, was particularly threatening. The offices of Ökotárs and DemNet were raided, with the police allegedly looking for evidence of embezzlement and the unauthorised granting of loans to NGOs.¹⁰ The police seized laptops and documents, and prevented staff from making phone calls.¹¹ In a recent ruling, a court held that the police raid was unlawful as charges of embezzlement or unauthorised banking activities had not been established at the time.¹² Although the police investigations are ongoing, no concrete evidence of criminal behaviour has so far been revealed.

In a move that puts their very existence at risk, the tax identifications of the four organisations which run the NGO Fund were suspended in September 2014. This deprives the organisations of their eligibility to handle foreign grants and is a clear sign that the government is ready to administratively hinder the operation of civil society groups with a critical approach to its performance.

Hungarian NGOs which participated in the development of the country's OGP Action Plan were very critical of the process, claiming that no real consultation or meaningful discussion took place between the government and civil society. From the very beginning of the process of drafting the second OGP Action Plan, participating NGOs have repeatedly asked the government to take the necessary measures to restore trust and collaboration with civil society. Among other things, a coalition of participating NGOs¹³ has called on the government to review the laws which restrict access to information and transparency. The Hungarian government has so far never responded to these requests. Instead, the government's newly adopted anti-corruption action plan envisions the obligation of NGO leaders to declare their private assets. Moreover, the government, in its latest attempt to restrict freedom of information, adopted a bill that obliges the refund of costs triggered by the servicing of public interest information requests. Setting new barriers to accessing public data restricts the degree to which this fundamental right can be enjoyed and further hinders civil society in fulfilling its watchdog role.¹⁴

⁹ See: https://norvegcivilalap.hu/en/government_attacks_hungarian_NGOs and <http://www.ft.com/intl/cms/s/0/2234f99a-2942-11e4-8b81-00144feabdc0.html#axzz3Q9CFbIJU>.

¹⁰ See: <http://hungarytoday.hu/cikk/police-raids-eanorway-grants-foundation-okotars-114>.

¹¹ See: <https://euobserver.com/political/125537>.

¹² See: <http://www.politics.hu/20150129/court-condemns-police-crackdown-on-okotars-headquarters/>.

¹³ The HCLU, K-Monitor and Transparency International Hungary.

¹⁴ Some of the major concerns with the adopted amendments include that anonymous FOI requests cannot be submitted anymore; FOI requesters have to pay a fee not only for copying or scanning costs, but also for the workforce of the state agency, and the amount of fee is absolutely arbitrary; FOI request can be denied on the basis they are considered preparatory documents for any future hypothetical decision which is such a broad term that can

In addition to complaints from Hungarian civil society, hundreds of leading national and international civil society organisations from around the world have expressed publicly their concerns about the targeting of NGOs and called on the Hungarian government to stop.¹⁵ A high-profile example of this was when U.S. President Barack Obama highlighted Hungary as a country where “endless regulations and overt intimidation increasingly target civil society.”¹⁶

The attacks on civil society and the failure of the government to consult properly in relation to OGP processes has now reached a breaking point, to an extent that the ability of the country to engage in a meaningful way in the OGP process became questionable. In light of this, we ask the OGP Steering Committee to take action under the OGP response policy to help re-establish the necessary space for civil society actors to play their democratic role, including by contributing to the development and monitoring the implementation of Hungary’s OGP Action Plans. Specifically, we urge the Committee to call on the Hungarian government to take the necessary steps to achieve the following:

- Ensure that Hungary’s second Action Plan includes the necessary commitments to improve significantly the ability of not-for-profit civil society organisations to operate freely and independently.
- Implement the recommendations of the OGP Independent Reporting Mechanism relating to public participation, freedom of information and transparency when developing and implementing its second Action Plan.
- Make credible efforts to restore an environment in which civil society’s criticism is taken into account by government, and a meaningful dialogue between state organs and non-governmental groups is possible. The harassment of watchdog NGOs by GCO and the tax authorities should stop. Among other things, this should also include:
 - Stopping the public attacks on civil society organisations, including those NGOs which have been particularly targeted by government criticism.
 - Bringing to an end any actions based on the findings and conclusions of the audit process launched by the GCO.
 - Disclosing information about who initiated the GCO’s investigation, and which non-governmental organisations were investigated.
 - Terminating the criminal investigations against the organisations which run the NGO Fund and others.
 - Allowing the NGO Fund to operate as intended, without government interference and overseen as envisaged in the original design.

be applied in any case. See more at:

http://index.hu/belfold/2015/06/26/itt_az_uj_sarc_az_allam_az_adatigenylore_terheli_a_koltsegeket/.

¹⁵ See: <http://www.politics.hu/20140612/international-solidarity-action-stop-targeting-hungarian-ngos/>.

¹⁶ See: <http://www.budapest.eu/2014/09/obama-accuses-hungary-of-clamping-down-on-civil-society/>.

We look forward to a clear action by the OGP to help restore democracy and the space for civil society actors to operate freely in Hungary. We note that this is precisely why the OGP response policy was put in place. We would be happy to provide any additional information or contacts that might help the OGP move forward on this issue.

Respectfully yours,

Fanny Hidvegi, Hungarian Civil Liberties Union
Sandor Lederer, K-Monitor Watchdog for Public Funds
Miklos Ligeti, Transparency International Hungary
Julia Keseru, Sunlight Foundation (Former employee of K-Monitor)