

ACTIVIZENSHIP

CIVIC SPACE WATCH REPORT 2021 | STORIES OF HOPE IN DARK TIMES

HUNGARY

Over the last decade, the right-wing alliance of Fidesz and Christian Democratic People's Party (KDNP) has taken advantage of its parliamentary majority to consolidate political control over the judiciary, media, cultural and education institutions. At the same time, it weakened all critical voices, including local authorities, civic organisations and independent media through restrictive legislation, cuts of funding and aggressive rhetoric. The strategy of the government relies on using the fear of sanctions against critical voices and challenging the access to funding of critical civic organisations, while organisations aligned with the Government receive strong support from public organisations and companies close to the ruling Party. As a result of these political pressures and historical structural weaknesses, Hungarian civil society's capacities and sustainability is ranked lowest for several years in a row in the CSO Sustainability index, especially in the field of advocacy and financial viability. The COVID-19 pandemic further deteriorated CSOs' capacities as a consequence of the loss of income and increased powers of the public authorities. In the run-up to the 2022 elections, the Government has stated targeting of the LGBTI+ community, including through a constitutional amendment in November 2020. Nevertheless, civil society is stepping up its cooperation to multiply its voice, with some positive developments in the political and public sphere.

LGBTI+ RIGHTS UNDER PRESSURE AHEAD OF THE ELECTIONS

Positive signs on the public image of civil society emerge

By Veronika Móra, director, Ökotárs

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Since 2010, Hungary has been ruled by Viktor Orbán and the right-conservative Fidesz party, holding a two-thirds (constitutional) majority in Parliament. The party won two consecutive elections in 2014 and 2018 against a fragmented and weak opposition. This position enabled the Government to reshape the legal and institutional landscape of the country fundamentally: it eliminated most democratic checks and balances primarily by filling the institutions (such as the Constitutional Court, the media authority, the public prosecutor, the State Audit Body) with party functionaries, concentrated large parts of the economy (e.g. construction, energy production, tourism, media) in the hands of a few loyal oligarchs, and generally weakened the rule of law on a systematic level. All this made the Hungarian Government an infamous “pioneer” in the European Union, and of course

affected civil society and civic space, too, as independent civil society organisations (CSOs) have been among the last to stand up against and criticize certain detrimental governmental policies, together with the remaining independent media. In 2020, the Government utilised (or abused) the Covid-19 pandemic to advance its political goals instead of efficiently fighting against the virus. Under the guise of the emergency, a number of decrees and other measures were introduced which were not related with the health crisis, but rather further consolidated the power of Fidesz. Such measures included decisions about new, large-scale infrastructure projects from public funding awarded to friendly oligarchs in dubious procurement processes, declaring other projects as being of “national importance” with the consequence of fast-tracking their approval without any public participation and providing sizeable public funding support

to friendly sports and church organisations. At the same time, the health and education system remained seriously underfunded, while smaller businesses received little support.

THE RULE OF LAW, POLITICAL LANDSCAPE AND SAFE SPACE

The year 2021 in Hungary was dominated by two phenomena: the global coronavirus pandemic and the upcoming parliamentary elections.

Even before the second wave of the pandemic could die down, the third wave hit Hungary very heavily in mid-February. After some delay and hesitation, the Government reintroduced restrictions in early March 2021, including compulsory mask-wearing in open-air spaces, the closing of most non-essential shops, and online schooling in public education. While vaccination progressed well – with roughly 60% of the population being inoculated by the end of summer,

the number of infections only started to decrease significantly towards the end of May. By that time, the total death toll reached 30,000, the worst number in



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Europe proportional to population. The underfunded and overburdened health system was unable to deal with the wave appropriately, while the Government did little to improve the situation in the hospitals. At the same time, people who suffered the social consequences of the pandemic, such as unemployment, continued to receive only limited or no support, just like during the first waves. Many CSOs continued to play an essential role in mitigating the unfolding social crisis by providing information, relief and contributing to online schooling.

Despite the struggles to face the pandemic, the Government's popularity did not decrease significantly, not least due to the very restricted information and one-sided propaganda in the dominant pro-government media. As parliamentary elections are scheduled for spring 2022, all communication – including about the pandemic – served to gear up for the campaign. Nevertheless, the upcoming elections will take place in a markedly different situation compared to the previous ones. Learning from similar experience in the municipal elections in 2019, in spring 2021, the six main opposition parties from all sides of the political palette joined forces and agreed to organise preliminary elections in September, which were fairly successful with more than 600,000 people casting their ballot. Thus, one consensus opposition candidate will run in each district, making the election a 1-on-1 competition against the governing party, Fidesz. As the current Hungarian election regulation – in force since 2013 – strongly favours the strongest candidate, this is the only realistic chance for the opposition to be on equal footing. Current polls show that Fidesz and the united opposition are head-to-head, making it impossible to predict the election results.

This new situation also mobilised many CSOs. Based on the experience of the municipal elections in 2019, they see the preliminaries and the campaign as an opportunity to spotlight their issues, such

as local environmental conflicts related to infrastructure development projects, to mobilise and activate citizens and later to engage in election monitoring. Of course, government officials and media often labelled these organisations as being “political” and not truly civic – however, the intensity of such smear campaigns has in 2021 decreased compared to earlier years. One of the reasons may be that civil society is still largely viewed as positive by the public, also thanks to the visible efforts to face the pandemic, especially during the first wave. While there is no fresh data on public perception of civic organisations, the latest results of the 1% personal income tax assignments support this hypothesis: in 2021, after several years of steady decline, more taxpayers directed their support to civil society, including to organisations most harassed by to Government. For example, ‘Háttér’ Association, a leading LBGTQI group, tripled (!) its income from this source.

SAFE SPACE

As part of the electoral campaign, the Government named a new target for its hatemongering: sexual minorities. In June, anti-paedophilia legislation was introduced to Parliament, and through last-minute amendments, it was hijacked to ban “homosexual propaganda to minors,” i.e. the appearance of LBGTIQ people in media and schools. In spite

MANY CSOS CONTINUED TO PLAY AN ESSENTIAL ROLE IN MITIGATING THE UNFOLDING SOCIAL CRISIS BY PROVIDING INFORMATION, RELIEF AND CONTRIBUTING TO ONLINE SCHOOLING

ORGANISATION

Ökotárs – Hungarian Environmental Partnership Foundation aims at contributing to the development of a democratic, sustainable and equitable society and an institutional system based on citizen participation by supporting community initiatives. The foundation promotes the development of the environmental movement through providing grants, training, fellowships and technical assistance where necessary.

of domestic and international protest, the law was approved with the amendments, although it left many questions regarding its exact definitions and applicability unanswered. However, reports from affected organisations show that the number of – especially verbal – attacks on and conflicts with LGBTIQ people has increased in the months since then. The Government’s narrative harmfully blends gender and sexual orientation with the abuse of children, while framing the law as targeting “the sexual education of children to LGBTIQI activists”. As a consequence, sensitisation and citizen education programs carried out by CSOs are eliminated as schools are afraid to cooperate with them.

THE REGULATORY ENVIRONMENT FOR AND IMPLEMENTATION OF CIVIC FREEDOMS

The two major pieces of legislation governing civil society operation in Hungary are the Civil Code (2013) and the Act on the Right to Association, Public Benefit Status and the Operation of and Support to Civic Organizations (2011, the Non-profit Act for short). They generally conform with relevant international standards: the former regulates the fundamental legal forms of organisations

– associations and foundations, while the latter provides for the freedom of association, public benefit status and rules of operation. Under these laws, anyone can register a CSO at the administrative courts (and with the introduction of an electronic system a couple of years ago, this process has become easier, though geographic differences among courts still prevail), and the organisations can freely operate. However, current regulation and oversight are placing unnecessary administrative burdens on smaller organisations, while larger organisations, especially those with public benefit status (20% of all) and those receiving public funding, must meet rigorous reporting obligations. They must annually and publicly report separately on their accounts and activities, on the collection of donations and the use of the 1% personal income tax assignments – but thereby, their transparency is guaranteed as well.

The infamous Act on the Transparency of Organisations Supported from Abroad of 2017, stigmatising CSOs based on their funding sources, was found by the European Court of Justice in June 2020 to breach EU law on several counts, including restrictions on the freedom of assembly, the right to privacy, and the free movement of capital in the EU. Hungarian legislators moved very slowly and only repealed the act in April 2021. However, it

was replaced with similarly worrying new clauses that affect organisations “capable of influencing public life,” i.e. those with an annual budget above 20 million HUF (~€60,000), making them subject to inspection by the State Audit Body. As this law will apply first to the current financial year, its practical consequences are yet to be seen, but at a minimum, new administrative burdens and perhaps new inspections are expected.

The Government also used the pretext of the pandemic in 2021 to limit avenues of participation or the expression of dissent by extending the deadline for response to freedom of information requests from 15 to 45 days and introducing a total ban on peaceful assemblies. These restrictions remained in place until mid-May 2021, and were criticised by human rights organisations as unjust, disproportional and discriminatory, especially as certain larger gatherings were permissible, such as for religious purposes. Back in 2020, when two independent members of Parliament (MPs) organised a series of vehicle demonstrations with cars circling and honking in a downtown roundabout, the police reacted by sanctioning participants with significant fines of up to 750,000 HUF (~2100 Euro), citing either traffic rules or emergency restrictions.¹ This disproportionate reaction induced a chilling effect and made everyone else cautious to organise public protests as long as the ban was in effect. However, the first major demonstration was held just a week after the ban was lifted, with many thousands of people protesting against a planned Budapest campus of the Chinese Fudan University (supported by the Hungarian Government). This and other protests, including the Budapest Pride, took place without atrocities.

IN 2021, AFTER SEVERAL YEARS OF STEADY DECLINE, MORE TAXPAYERS DIRECTED THEIR SUPPORT TO CIVIL SOCIETY, INCLUDING TO ORGANISATIONS MOST HARASSED BY TO GOVERNMENT

¹ Horn Gabriella, Car honking protests cancelled due to astronomical fines handed out by Budapest police, <https://english.atlatszo.hu/2020/05/25/car-honking-protests-cancelled-due-to-astronomical-fines-handed-out-by-budapest-police/>, Atlatzso, (25 May 2020).

IT HAS BEEN SHOWN THAT THE DISTRIBUTION OF PUBLIC FUNDING LACKS TRANSPARENCY AND IS POLITICALLY BIASED AGAINST INDEPENDENT ORGANISATIONS

THE FRAMEWORK FOR CIVIC ORGANISATIONS' FINANCIAL VIABILITY AND SUSTAINABILITY

According to the latest official statistics, the total income of associations and foundations is ~HUF 900 billion (€2.6 billion). Of this, somewhat less than 40% comes from public funding, around 20% from private sources, with the rest originating from generated own income and a variety of other sources.² However, this income is very unevenly distributed across the sector, with more than 70% of all CSOs operating on an annual budget of less than 5 million HUF (~€16,000). Also, it has been shown that the distribution of public funding lacks transparency and is politically biased against independent organisations. For example, in 2021, a new 'City Civil Fund' was opened – following the Village Civil Fund in the previous year, but as investigative journalists revealed,³ about half of its biggest beneficiaries are organisations directly controlled by local Fidesz politicians or their affiliates. While independent CSOs – e.g. those engaged in human rights or LGBTIQ issues – are not excluded from

² See: https://www.ksh.hu/stadat_eves_3_2

³ <https://telex.hu/belfold/2021/07/28/fideszes-vezetesu-civil-szervezeteket-tamogat-a-magyar-allam-egy-uj-palyazati-alapbol> <https://atlatszo.hu/2021/08/11/fideszes-politikusok-altal-iranyított-szervezetek-nyertek-a-norveg-alap-helyen-felállított-civil-programon/>

applying for public funding *per se*, but they rarely have a chance to secure a grant. These organisations remain dependent on international philanthropic and institutional donors – of which fortunately more and more are active, and individual giving. The latter has steadily increased over the past years with an unprecedented surge observed during the first wave of the pandemic in spring 2020: the most popular crowdsourcing platform (adju-kossze.hu) reported a ten-fold increase in the amounts collected in March and eighteen-fold in April compared to the year before. CSOs themselves are also becoming more and more professional in collecting donations, especially online, and through other creative tools, such as collections by “ambassadors,” Giving Tuesday, etc. At the same time, domestic institutional philanthropy (grant making foundations) remains very underdeveloped.

In spring 2020, several organisations conducted surveys among CSOs to gather information about the impacts of the pandemic. According to these, approximately three-quarters of respondents suffered income losses in the short term and expected further decrease in their budget in the longer run. The Government did not provide any additional funding or relief to CSOs in response to the effects of the pandemic on the sector. In 2021, a major development affecting CSO funding was the unsuccessful conclusion of the negotiations concerning the third period of the EEA & Norway Grants. While the donors and the Hungarian Government signed a Memorandum of Understanding (MoU) in late 2020, and the open call to find a Fund Operator managing the Active Citizens Fund – the allocation for supporting CSOs – was announced, eventually the parties could not come to the required consensus to select a mutually acceptable candidate (based on the expert assessment). According to the MoU, if no agreement is reached in in this respect

in seven months after signing, the whole support to Hungary becomes void. This deadline was passed at the end of July, and thus, as the Norwegian Foreign Minister announced, “no programmes will be implemented in Hungary under the EEA and Norway Grants scheme during this period”. This situation is exceptional: out of the fifteen eligible countries, Hungary is the only one not able to benefit from the programme. For civil society, it means a loss of 10 million € for the coming years.

THE RIGHT TO PARTICIPATION AND DIALOGUE BETWEEN THE SECTOR AND GOVERNING BODIES

The Hungarian legislation from 2011 provides for public participation in law-making. Nevertheless, in practice, decisions are often made behind closed doors, without any involvement by the affected stakeholders. The Government often circumvents existing consultation mechanisms, e.g. through submitting significant bills by individual governing party MPs or abolishing or not convening in a timely manner existing consultative bodies and committees. In 2020, the Parliament adopted 159 government-submitted laws, but only one was published for commenting on the Government's dedicated webpage. Even when drafts are circulated, deadlines allowing for comments are often exceedingly short, in some cases not more than a few hours.

IN PRACTICE, DECISIONS ARE OFTEN MADE BEHIND CLOSED DOORS, WITHOUT ANY INVOLVEMENT BY THE AFFECTED STAKEHOLDERS

Besides, both the central Government and Parliament routinely ignore CSOs pleas and petitions for dialogue in many areas and remain unresponsive—or often downright hostile—to any criticism or proposals coming from “outside.” Thus, traditional channels of CSO advocacy – both formal (such as consultative bodies and processes) and informal (petitions and signature collections) – ceased functioning years ago.

During the pandemic, in the absence of other options, online petitions were increasingly used, especially through the ahang.hu platform. Nevertheless, despite collecting as many as 100,000 signatures in response to some major national issues, especially against the emergency restrictions adversely impacting rule of law standards, such as the ban on assemblies, these petitions had little or no effect on decision-makers.

The Government used the pretext of the pandemic to obstruct participation through other measures too. For example, many questionable investment projects were declared of “national strategic importance” by decree, thereby legally completely exempting them from public oversight or control. A recent example was the contested industrial investment planned in Göd, a small town near Budapest, which drew much popular protest. Under these circumstances, CSOs’ advocacy efforts rarely bring results: the few successful cases of the past years involved multi-year concentrated campaigning, broad coalitions, and popular mobilisation, as was recently the case with a planned experimental oil drilling project in the Western border area.

CIVIL SOCIETY’S RESPONSES TO CHALLENGES

In early 2017, in reaction to the first news about the then-planned legislation on foreign-funded organisations, around 30 prominent CSOs came together to brainstorm about possible action and

CIVIL MINIMUM 2022 IS A SET OF 13+1 MEASURES IN FOUR AREAS – LEGISLATION, FUNDING, DIALOGUE AND SOCIAL SUPPORT – THAT SHOULD FORM THE BASIS OF A FUTURE GOVERNMENTAL CIVIL SOCIETY STRATEGY

protest. Out of this series of discussions the Civilization coalition was born, which remains the major (informal) coalition that defends civil space up to this day (read the interview for more information). Civilization is a platform of solidarity, of mutual help and defence that regularly speaks out on issues affecting civil space and conducts campaigns to improve the positive image of civil society in Hungary.

In 2021, Civilization dealt with – among others – the lack of participation in the preparation of the Hungarian National Recovery and Resilience Plan and the new legal provisions replacing the foreign-funded law (see above). Most recently, it has compiled the Civil Minimum 2022, a set of 13+1 measures in four areas – legislation, funding, dialogue and social support – that should form the basis of a future governmental civil society strategy. Parties and candidates running for the next elections were asked to include these in their programs and to commit themselves to adopt and implement such a strategy should they achieve a position to do so. To date, three main opposition parties and their Prime Minister candidates made public commitments, and Civilization will continue to campaign for more in the months until the elections,

thereby putting the issue of shrinking civil space once again on the political agenda in Hungary.

RECOMMENDATIONS

What measures should the Government carry out to ensure an enabling civic space?

The 13+1 steps included in Civil Minimum 2022 summarise the main measures that any future government needs to take:

On legislation:

1. commit to adhere to international standards in legislating civil society matters and abolish any restrictive provisions;
2. in consultation with civil society, review existing legislation in order to guarantee the full exercise of the freedom of association and to decrease the administrative burdens of CSOs;
3. encourage, e.g. through special tax incentives, the development of domestic philanthropic foundations;

On funding:

4. award service contracts in open, competitive and sector-neutral processes enabling CSOs to tender;
5. support CSOs in an unbiased, transparent and accountable manner, involving representatives of the sector in the decision-making;
6. provide for meaningful CSO participation in the Monitoring Committees of EU funds;

On dialogue:

7. fully and appropriately implement existing legislation providing for participation;
8. develop transparent plans for dialogue in main policy and strategy procedures, including feedback to stakeholders;

- 9. guarantee the freedom of information without undue obstacles to requests for access;
- 10. re-join the Open Government Partnership;

On social support:

- 11. encourage individual giving through reintroducing personal tax benefits;
- 12. re-organise the system of corporate tax benefits to encourage business giving;
- 13. provide for balanced reporting on CSOs in its media policy and regulation;
- +1 encourage the direct participation and activism of individual citizens.

What actions should the EU institutions take to support civil society in the country?

Instead of viewing CSOs as instruments to achieve specific policy goals and addressing shrinking space issues in a reactive and piecemeal manner, the European Commission should adopt and implement a comprehensive European civil society strategy acknowledging the role CSOs play in upholding European values in accordance with Article 2. of the Treaty, and thereby putting civil society on the policy agenda.

Such a strategy should address:

1) The right to entry (freedom of association and assembly) – legal environment:

- ▶ convene a working group to develop guidelines for the statutory legislation of associations and foundations as well as for the tax treatment of cross-border activities of public benefit and philanthropic entities across the EU, based on best practices of the Member States;
- ▶ develop and pass legislation on European Statute for Associations and Foundations;

CIVILISATION IS A PLATFORM OF SOLIDARITY, OF MUTUAL HELP AND DEFENCE

- ▶ integrate the CoE Convention on the recognition of civil society organisations into European law.

2) The right to freedom of peaceful assembly:

- ▶ monitor and regularly report on the state of and potential restrictions on freedom of assembly across Member States, highlighting practices that contravene relevant international law.

3) The right to operate free from unwarranted state interference and state duty to protect:

- ▶ cover civil society in the annual Rule of Law reports in a structured and detailed manner;
- ▶ continue the regular FRA data collection and monitoring of the state of civil society;
- ▶ continue using infringement and legal procedures in case of legislation restricting legitimate civil society action;
- ▶ create an alert system to report attacks on civic space;
- ▶ condemn instances of harassment and attacks on civil society at the political level;
- ▶ continue acknowledging the contribution of civil society to the European project.

4) The right to free expression:

- ▶ encourage balanced reporting about and giving more space to civil society in the media during the implementation of the European Democracy Action plan and the Media Plan;

- ▶ fully implement and use the CoE charter and framework for citizen education; create European best practice and a separate agency devoted to the subject.

5) The right to cooperation and communication – participation:

- ▶ develop inter-institutional guidance for structured dialogue with civil society;
- ▶ improve the accessibility and the impact of the European Citizens Initiative;
- ▶ develop binding rules for delegating civil society members to the 3rd group of the EESC;
- ▶ encourage consultation with and participation of civil society on the national and local levels;
- ▶ monitor national-level consultation processes in the programming of EU funds under shared management.

6) The right to seek and secure resources – funding:

- ▶ in consultation with civil society experts, develop transparent, flexible and user-friendly grant mechanisms in the CERV programme to decrease administrative burdens on applicants, also taking into account capacity building and institutional development needs of target CSOs;
- ▶ increase the accessibility of other centrally managed funding programs to CSOs (through simplifying procedures and/or capacity building of applicants);
- ▶ monitor the accessibility of funds under shared management for CSOs and step up in case of deficiencies observed. ■

The Civilization coalition was established to enable more civil society organisations to support one another in fighting for a common cause that promotes collective care, protection of disadvantaged people and preservation of nature. The coalition's work in campaigning against the abusive and stigmatising LexNGO law, which violated fundamental freedoms of association and the protection of personal data, is a historic moment for European civil society. This award celebrates the coalitions' efforts, which span over 3 years, in fighting the LexNGO, ultimately resulting in the repeal of the law. Their work was able to put an end to an unnecessarily damaging and stigmatising civil society law in Hungary, but the fight for civic space in the country is not over!

THE POWER OF COALITIONS

Civic actors together stand up for one another

Interview with Veronika Móra

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How did Civilisation Coalition start and how did it evolve in the past 4 years?

In spring 2017, the news that the Government would target foreign-funded organisations sparked a series of discussions among 30+ major civil society organisations (CSO) from Hungary. After a couple of discussions, we started to get together and plan joint actions to respond to the upcoming draft legislation. Civilisation was officially established in March 2017 when we came out with our founding declaration. That spring, we organised a couple of spectacular actions like the civic heart demonstration on Heroes' Square and a silent protest in the Parliament. At the demonstration, the civic heart as a symbol was born and it became so popular that we decided to keep it. That was the beginning of the story.

During the summer of 2017, we had our first strategic meeting where we laid down

the basic rules for cooperation and started planning our strategy in the longer term. Since then, the Civilisation coalition has been working together continuously. Civilisation is not a legally registered organisation but an informal coalition. However, we formalised our relations by drafting mutually accepted rules of operation. By now, we have almost 40 members in the “inner circle” composed of active organisations which meet monthly. We have active working groups organising the actions. The communication working group meets most regularly and is composed of communication officers from different organisations. We also have roughly 300 organisations that gravitate in the “outer circle”; these are organisations with whom we have regular contact via our newsletter and joint actions.

What is the added value of coalition building to respond

to shrinking civic space in the country?

Individual CSOs are most often not strong enough to defend themselves in the face of attacks, and also easily become afraid and insecure if they feel isolated. Cooperation and networking are the main way to counter this: civic actors together can stand up for one another, express solidarity and support those most in need. Also, together as a coalition they can

**CIVIC ACTORS TOGETHER
CAN STAND UP FOR
ONE ANOTHER,
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WE DO SEE A POLARISATION OF CIVIL SOCIETY LINKED WITH THE WAY THE GOVERNMENT VIEWS THE ROLE OF CIVIL SOCIETY

show and communicate better and louder why and how civil society is important for us all and what organisations do for the public good. So, coalition building is absolutely essential in the situations of shrinking space.

Cooperation among Hungarian NGOs was limited before the Civilisation Coalition was created. How did the cooperation within the sector evolve? Has there been more collaboration beyond resisting to the shrinking civic space?

Civilisation was unique, as it is the first long-term cooperation among organisations from different backgrounds and

CIVILISATION WAS UNIQUE, AS IT IS THE FIRST LONG-TERM COOPERATION AMONG ORGANISATIONS FROM DIFFERENT BACKGROUNDS AND WORKING ON DIFFERENT AREAS

working on different areas such as human rights, environmental issues or community organising. The key to Civilisation's longevity is the boundaries that we established: we limit our structured cooperation to horizontal issues that concern civil society as a whole. We do not interfere with what the member organisations do or the way they do it. We must acknowledge that members of Civilisation are very different not only in terms of areas of work but also in their capacity. We accept that everybody contributes according to their capacity while ensuring that we are all on equal footing.

Indeed, cooperation within Hungarian civil society has always been an issue. Some sectors organise themselves well; in particular environmental NGOs have a long-standing cooperation network. In other areas, there have been less sustainable efforts. In that sense, Civilisation is quite unique. Around 2014, at the start of the controversy between the EEA & Norway grants,¹ there were attempts to form a similar structure to Civilisation. Those efforts were unsuccessful, but we learned from the experience and avoided some of the same pitfalls when we started Civilisation. Recently, CSOs but also trade unions and movements working in the

field of education have been cooperating quite well. Also, organisations working on housing and homelessness started to come together and build a structure similar to Civilisation. They organised a big-scale campaign against Government's attacks on the social housing system in the spring. The Government wanted to reduce social housing drastically by selling out the properties, but CSOs organised protests which mobilised almost all organisations active in the field. Since then, they are trying to structure and consolidate this cooperation. It is less formalised, but they are trying to meet regularly, introduce basic cooperation mechanisms, find common grounds on certain aspects.

What are the most significant civil society movements challenging the deterioration of rights and the rule of law in Hungary? And what is the biggest challenge for civil society actors in Hungary?

Civilisation is undoubtedly part of these movements. Trade unions are also becoming more active: just this week, a big demonstration initiated by the trade union of health workers took place also supported by other trade unions. Organisations working on public education issues have also been quite active over the past years. More recently, LGBTI organisations have also played a significant role in challenging the status quo.

¹ See e.g.: https://norvegcivilalap.hu/sites/default/files/anyagok/ncta_book_angol_epdf.pdf pages 27-29.

The biggest challenge for CSOs is the fact that the Government treats critical organisations as enemies and tries to limit and tarnish their image and make their functioning difficult. This is rooted in the context of a larger democratic backsliding and the elimination of checks and balances in Hungary.

How did the polarisation of civil society led by the Government’s narrative changed civil society landscape? Is the rise of conservative civil society a challenge for democratic civil society?

The situation in Hungary is different from that of Poland: conservative civil society is not necessarily an issue in Hungary. There are a number of GONGOs (government-organised non-governmental organisations) that mirror real civil society organisations, such as the Civil Unity Forum and the Fundamental Rights Centre, a right-wing so-called fundamental rights organisation. All know the conservative NGOs to be GONGOs created to support government policies in the given areas and serve as a counterweight to democratic ones. For example, they regularly appear on pro-government media.

However, we do see a polarisation of civil society linked with the way the

Government views the role of civil society. Civil society should limit itself to the very traditional, charitable and leisure activities: feeding the poor is acceptable but speaking up or advocating for them is not. The Government divides or polarises CSO by dividing them between “good” organisations that are very traditional and do not engage in any advocacy or criticism, and the “bad” organisations that do. That is a real issue for us because organisations considered as good from the Government’s perspective are often unwilling to engage with actions that could be construed as political or controversial. They keep their distance from organisations considered as bad by the Government. They often refrain from speaking up even when they experience problems locally as they are afraid to lose their funding or dialogue channels with the local authorities.

This polarisation is quite visible in terms of funding. Recently the Government opened more funding sources, in particular one big fund for organisations working in small villages under 5000 inhabitants and another for organisations working in larger towns. It was shown that organisations that have been founded or led by local Fidesz functionaries were awarded most of the funds.²

² <https://telex.hu/belfold/2021/07/28/fideszes-vezetesu-civil-szervezeteket-tamogat-a-magyar-allam-egy-uj-palyazati-alapbol> <https://atlatszo.hu/2021/08/11/fideszes-politikusok-altal-iranyitott-szervezetek-nyertek-a-norveg-alap-helyen-felallitott-civil-programon/>

THE GOVERNMENT USES FUNDING TO KEEP TRADITIONAL ORGANISATIONS SILENT AND STARVE THE CRITICAL ORGANISATIONS

The Government uses funding to keep traditional organisations silent and starve the critical organisations.

In this sense, CSOs in the countryside are generally weaker and more dependent on local authorities, but regional differences exist. There are several major urban centres around, such as Pécs and Szeged – where there is visible civic activism, but there are other areas where it is feeble.

How did you manage to mobilise European attention and action to the situation in Hungary?

We managed to mobilise European attention and action with the help of European networks. This issue first received international attention in 2014, around the time of the EEA & Norway grant controversy.

[hu/2021/08/11/fideszes-politikusok-altal-iranyitott-szervezetek-nyertek-a-norveg-alap-helyen-felallitott-civil-programon/](https://atlatszo.hu/2021/08/11/fideszes-politikusok-altal-iranyitott-szervezetek-nyertek-a-norveg-alap-helyen-felallitott-civil-programon/)

17 FEBRUARY 2017: The bill to ensure the transparency of the Hungarian branches of international organisations is announced.

17 MARCH 2017: Almost 300 organisations sign a joint statement responding to the government’s restrictive and stigmatizing attitude against CSOs and create the Civilization coalition.

7 APRIL 2017: The ‘NGO Bill’ is submitted to the Parliament: associations and foundations receiving more than 724,000 EUR per year from abroad must register at the court as ‘foreign funded organisations’ and must use this label on their websites and publications.

12 APRIL 2017: Tens of thousands of people gather in Heroes’ Square in Budapest to protest against the new NGO Bill.

17 MAY 2017: The European Parliament condemns the NGO Bill in a resolution, and the Venice Commission also criticises it in its preliminary opinion.

13 JUNE 2017: The Parliament adopts the NGO Bill.

13 JUNE 2017 — 12 JULY 2017: About a dozen affected NGOs publicly declare that they would not register as “organisations receiving foreign funds”.

13 JULY 2017: The European Commission launches an infringement procedure against Hungary concerning the Lex NGO, claiming that the Act does not comply with EU law.

28 AUGUST 2017: 23 organisations cooperating in the Civilization coalition submit a joint complaint to the Constitutional Court of Hungary against the Lex NGO.

18 DECEMBER 2017: As a reaction to the attacks on CSOs by the local governments in Kaposvár, Miskolc and Pécs, 118 CSOs declare in a joint resolution that the affected CSOs working for the local communities deserve support and not vilification.

JANUARY 2018: “Stop Soros” Bill is presented: any organisation that receives more foreign than domestic funds would be deprived of the public benefit status.

It was such a unique and unheard-of event to happen in the EU that it immediately received attention internationally and made headlines. As a consequence, civil society mobilised. At the time, all big international and inter-governmental organisations dealing with human rights and democracy paid attention because what happened was unprecedented. The European institutions came to us.

What effects did the Court of Justice if the European Union ruling produce in Hungary?

The Hungarian Government and Parliament were slow in implementing the CJEU ruling; they finally repealed the law in April this year. However, they replaced it with other provisions that give cause for concern. The new legislation would come into effect next year and give the State Audit Body power to audit organisations with an annual income of over ~66.000 euros.

It is important to stress that while the foreign funding legislation was enforced, it did not directly affect the organisations that it targeted. A number of Civilisation members publicly boycotted the legislation, and none of us suffered sanctions or consequences: we continued receiving

money from abroad to pursue our activities. The chilling effect resulting from the law was felt primarily by organisations in the countryside and smaller organisations, which became more cautious about their actions and their funding sources. Additionally, some funders also became overly cautious about their activities in Hungary.

What were the effects of four years of implementation of the LexNGO on civil society? What changed with the retraction?

As the Government's approach did not change, the withdrawal of the law did not have a direct impact on the day-to-day operations of civic organisations. Organisations that were afraid still are; those that were not afraid are still not. In this respect, the law achieved its primary goal, that is, to divide the sector and frame civic organisations as entities that should be controlled. Regardless of the retraction, it should not be forgotten that the Hungarian Government has continued its campaign to vilify and discredit CSOs during the past years. Other restrictive pieces of legislation and discriminatory practices are still in place. The lack of change in the Government's approach

THE CHILLING EFFECT RESULTING FROM THE LAW WAS FELT PRIMARILY BY ORGANISATIONS IN THE COUNTRYSIDE AND SMALLER ORGANISATIONS

is illustrated by the adoption of a short-lived decree obligating for CSO to publish the names of all donors without exception. This decree was retracted two weeks after it was published, and the retraction might be linked to the fact that church-based and other major charities would also have been subjected to this legislation. But this suggests that the Government continues to look for ways to restrict civil society.

What about at the European level? The CJEU ruling declaring the LexNGO contrary to EU law was the first EU ruling

4 JUNE 2018: CSOs present their position on the "Stop Soros" Bill and express their protest at a spectacular action in front of the Parliament organized by Amnesty International.

20 JULY 2018: The third draft of the "Stop Soros" law package is eventually approved, after the government propaganda repetitively attacked CSOs working with asylum seekers and refugees during the run-up to the general elections in April 2018.

AUGUST 2018: In addition to the act penalising aid to refugees and asylum seekers, a new 25% tax is introduced, which can be imposed firstly on the donors of a CSO that "support immigration" and secondly, in case of non-compliance, to the CSO itself.

12 SEPTEMBER 2018: The European Parliament votes to start proceedings against Hungary under Article 7 of the Charter of Fundamental Rights of the Union referring to the systemic threat to the core values of the EU.

15 DECEMBER 2018: The decision of the European Commission for Democracy through Law confirms the strong criticism of the Hungarian Helsinki Committee and other CSOs on the "special immigration tax", to be considered as an arbitrary punishment that has been imposed on CSOs and their supporters.

28 FEBRUARY 2019: The Constitutional Court of Hungary states that the Criminal Code amendment by the "Stop Soros" law package is constitutional.

14 MARCH 2019: The Civilisation coalition releases its manifesto, calling the Hungarian government to preserve civic freedoms.

25 JULY 2019: The infringement procedure initiated concerning the "Stop Soros" package reaches its final stage: the Court of Justice of the European Union.

18 JUNE 2020: The Court of Justice of the European Union (CJEU) echoes the Hungarian civil society's opinion of past years, ruling that the Lex NGO is stigmatising, harmful and goes against EU law.

29 OCTOBER 2020: The Tempus Public Foundation, the Hungarian operator of Erasmus+ Grants, changes the criteria and excludes NGOs solely because they have not registered as 'foreign funded organisations' according to the Lex NGO.



explicitly referring to freedom of association. Do you think it provides a good basis for other NGOs to act at the European level?

Indeed. For instance, a similar proposal for legislation on foreign funding also came up in Poland and Bulgaria, but authorities decided not to pursue the process. The court of justice’s ruling sent a strong message: “do not try this at home”. The ruling also proves that the Government’s narrative about the transparency was just a pretext, not a real issue. The law was not about transparency, rather about controlling the narrative on civil society and their work. In all European societies, raising awareness about the work of civil society, their importance, and their role in a democratic society is paramount. I think this awareness was missing in Hungary. For this reason, the Civilisation coalition, beyond reacting to events and legislation, also put substantial effort to raise awareness and highlight the activities that our members carry out to create our narratives as civil society. The aim is to help shape a favourable public opinion.

It seems that this is like the Hydra: if you cut one head, two grow back instead. Do you

see to break this cycle at the national level in the long term?

In this political environment, it does not seem possible to change the cycle. However, we are being proactive about the change, and we have several ideas on what should be done to improve the environment for civil society. Ahead of the 2022 general elections, Civilisation made a list of demands to the parties and the candidates, outlining 13+1 points needed to improve the situation of civil society (see the case study above). It includes measures and steps that political authorities should take regarding the legal environment, funding, civil dialogue and public support or image. We are promoting this among the parties and the prime minister candidates, asking

EUROPEAN INSTITUTIONS SHOULD CLEARLY STATE IN WORDS AND ACTIONS THAT HUNGARY'S SITUATION IS UNACCEPTABLE AND IT GOES AGAINST EU FOUNDING TREATIES

them to commit to implementing this set of measures if they come to power. We will continue this campaign in the coming months.

How can the EU support civil society avoid the reappearance of laws and other mechanisms targeting NGOs and their work?

There are two things that the EU can do. First, European institutions should clearly state in words and actions that Hungary’s situation is unacceptable and it goes against EU founding treaties. This also requires taking steps in the form of infringement procedures and decisions of the European Court of Justice or EU funding conditionalities. This would also show that no Member State should take similar actions.

Second, the Commission should adopt a European civil society strategy and treat civil society as a valuable sector in itself. It should identify steps and measures that the EU could take to support CSOs financially and through EU legislation. We realise the challenge as civil society is mostly a Member State competence, but that is why the Commission should develop a policy and look at the areas where it could intervene within its competencies. There are several recent and ongoing promising initiatives by the European Commission, such as planned EU legislation on SLAPPS and on whistleblower protection, showing the willingness to stretch competences in areas related to civil space.

Do you identify the weaknesses and slowness of actions at the European level as factors that allowed for the deteriorated situation that NGO face? What can European civil society and European institutions learn from the Hungarian case at the European level?

A common opinion is that the European Union thought that following the

accession process during which countries were thoroughly vetted on their level and quality of democracy and the state of human rights would not backslide after their admission as members. The EU institutions took it for granted that democracy in these countries would remain solid and human rights respected. Therefore, there were no mechanisms planned at the EU level to counter democratic backsliding and the deterioration of checks and balances. However, in 2008, nobody thought that such measures would be necessary.

Of course, the EU could have reacted faster: once Hungary entered this path and Poland followed, it took the EU quite a while before “waking up”. If that period were shorter, we would probably be in a better situation. In 2021, the EU has at its disposal the Article 7 procedure, the rule of law reporting, the rule of law conditionalities... if we had these measures in 2015 or 2016, I think it would have made a difference.

The story of the frog put in hot water versus one in cold water and slowly heated up is an essential metaphor for EU institutions. First early warning signs should not be discarded; there is a need to act before the water is boiling.

Do you have some suggestions or good examples of how not having a reacting narrative

but create your own positive narrative would like to share?

The first example started with the fact that in Hungary we can decide to give 1% of our taxes to civil society organisations. In the past years we in Civilisation were trying to create materials – videos. Facebook ads – for our members that they can use in their campaigns to collect these 1% assignments. We are not fundraising for Civilisation itself, but rather try to create a common image for CSOs and to promote their positive image. The added value was a coordinated and uniformed image and message, so that when people see the civil heart in some CSO’s communication, it clicks in their heads and they understand better what civil society and activism is about.

Later, when the recipients of these 1% tax assignments became public, we again created videos with a unified message in which the CSOs explained how they were planning to use the money, what they did the past years, why is it important and the money’s possible impact. We continued that half a year later and with this we helped the campaigns of our members to get more attention on their activities – helping tax payers finding the causes they are willing to pay for.

What is the situation of the EEA & Norway grant?

The Norwegian Foreign Minister’s recent statement made clear that Hungary will not receive funds in the present format because of the disagreement between the

donor states and the Hungarian Government about which organisation should manage to funds allocated to support civil society. She also hinted that they remain committed to support civil society in Hungary in some way. We are waiting to see what the possibilities are but I guess it will take some time. ■

The interview was carried out on 27 July 2021.

20 NOVEMBER 2020: The Parliamentary Committee of Justice Affairs submits Bill T/13631 to the Parliament proposing to abolish the Equal Treatment Authority (Hungary’s equality body) and transferring its tasks and competences to the Commissioner for Fundamental Rights (Hungary’s Ombudsperson) as of 1 January 2021.

11 FEBRUARY 2021: Members of the Civilization coalition and signatory CSOs find they are excluded from meaningful participation in the consultation process on the spending of the 51.6 billion EUR that Hungary will receive between 2021 and 2027 from the Multiannual EU budget and Recovery Fund.

21 APRIL 2021: The Lex NGO is retracted, but the Hungarian government continues its campaign to vilify and discredit CSOs, with some provisions of the new draft *Law on the transparency of civil society organisations capable of influencing public life* which give cause for concern.

30 JUNE 2021: The government issues a decree, without any consultation with the concerned stakeholders, according to which all CSOs would be obligated to name all their individual donors (regardless of the amount of funds) in their public-benefit status report from 1 July 2021 onwards (first in May 2022).

16 NOVEMBER 2021: The Court of Justice of the European Union (CJEU) finds that the Soros law threatening to imprison civilians who help refugees is contrary to EU law.