

An update on developments regarding civic space in the EU and an overview of the possibilities for human rights defenders to enter EU territory

Hungary

2022

Contractor: Milieu Law and Policy Consulting SRL

Authors: Dr. Júlia Mink

DISCLAIMER:

This document was commissioned under contract as background material for comparative analysis by the European Union Agency for Fundamental Rights (FRA) for the project 'Update on developments regarding civic space in the EU'. The information and views contained in the document do not necessarily reflect the views or the official position of the FRA. The document is made publicly available for transparency and information purposes only and does not constitute legal advice or legal opinion.

Table of Contents

1.	Civic space developments in 2022	3
1.1.	The “Soros-list” case.....	3
1.2.	Teachers’ protest movement.....	4
1.3.	State Audit Office monitoring of NGOs	6
2.	Promising practice in 2022	8
2.1.	Civilians and elections project	8
3.	Visa for human rights defenders.....	9
3.1.	Entry and stay for human rights defenders (HRDs) at risk.....	9

1. Civic space developments in 2022

1.1. The “Soros-list” case

Area	Safe space and protection
Topic	Intimidation, negative narrative, smear campaigns, disinformation campaigns Verbal attacks, online harassment
Impact	Major

The Municipal Court rendered its first instance judgment in September 2022¹ in the so-called “Soros-list” case. The case concerned the publication of an article by the *Figyelő* newspaper after the 2018 elections. The article contained a list of 200 private individuals and public figures, many of whom were working for NGOs, and deemed these individuals to be associated with George Soros, labelling them as “Soros’ mercenaries” who commit treason against the nation. According to the judgment, the listing of the persons concerned was not only unlawful but also intimidating. The court maintained, in particular, that in view of the historic context of listing Jews prior to the Holocaust or the listing of people after WWII, such a “listing” not only damages the public opinion of the affected persons but is also menacing. The fact that someone works for a non-governmental organisation does not imply that it may be stated that “he or she is an enemy of the nation.” The judgment concerns 34 persons. The publisher of the since terminated *Figyelő*, which is part of the government related KESMA Mediaworks, has to pay HUF 200.000 (cc. € 510) for damages to public figures and HUF 500.000 (cc. € 1280) to non-public figures.²

¹ Municipal Court, Decision 39.P.22.816/2021/20., 28 September 2022.

² Szabad Európa (2022), ‘Court finds Figyelő’s listing unlawful and intimidating ([Joqsértő és félelemkeltő volt a Figyelő listázása a bíróság szerint](#)), 28 September 2022.

1.2. Teachers' protest movement

Area	Safe space and protection
Topic	Intimidation, negative narrative, smear campaigns, disinformation campaigns Verbal attacks and harassment Administrative harassment Other: Harassment and repressive measures by the public employer
Impact	Major

A series of demonstrations and walk-outs have been re-started in September 2022 by teachers' trade unions, associations and teaching teams, parents, and students in a growing number of public and church-maintained schools in protest, among others, of the severe underfunding, restrictive and non-inclusive nature, and dysfunctionality of the public education system which they deem to be at a risk of a complete collapse. The participants demonstrate, among others, against their exceedingly high workload and the humiliatingly low salaries in the sector, the recent legislative amendments rendering teachers' right to strike meaningless and the intimidation of those teachers who stand up for their rights. The educational system is also regarded as incapable of diminishing the social gap or preventing early school leaving and unsuitable to ensure competence development, defying major EU goals in the field of education.³

The government insists on deeming the demonstrations exclusively related to wage claims and considers the strikes illegal. Accordingly, the government – through the

³ Horváth Kávai, A. (2022), '[The 8 most important things you should know about the Hungarian teachers' protests](#)', *Telex*, 5 December 2022; Csapó, B., Fejes, J. B., Kinyó, L. and Tóth, E. (2019), '[Educational Achievement in Social and International Contexts](#)' *Hungarian Social Report*, pp.317-236, [Civil Közoktatási Platform](#) (*Civil Public Education Platform*). Telephone interviews: Tanítanék Movement (*Tanítanék Mozgalom*), 19 December 2022 and Association of Teachers of Hungarian (*Magyartanárok Egyesülete*), 24 January 2023.

school and school district managements – soon responded with repressive measures and attempts to intimidate participating teachers by negative narrative, smear campaigns, verbal attacks or harassment, and by issuing threatening employer’s warnings and dismissing several teachers concerned.⁴ The EU Commission follows the developments closely and groups of teachers and students were also invited to the European Parliament.⁵ The teachers’ pay raise remains uncertain despite the government previously linking any pay rise in the sector to the approval of Hungary’s national recovery and resilience plan, on which an agreement has been reached recently.⁶ The new teacher’s evaluation system planned by the government introduces new self-assessment burdens and “punishes” inadequate performance with pay deduction.⁷ From mid-January it is also possible to dismiss teachers for grievous misconduct till 1 August 2023, irrespective of its date of knowledge.⁸ Teachers’ NGOs claim these may be new methods of holding teachers at bay and the former governmental measures have already had a considerable deterrent effect.⁹

⁴ Horváth Kávai, A. (2022), [‘The 8 most important things you should know about the Hungarian teachers’ protests’](#), *Telex*, 5 December 2022.

⁵ Bene, B. (2022), [‘Call from Brussels to Hungary over Teachers’ Protests’](#), *Hungary Today*, 6 December 2022; Arató, L. (2022) ‘MEP’s shocked by the state of Hungarian public education and the operation of the system’ ([Sokkolták az EP-képviselőket a magyar oktatási közállapotok és a rendszer működése](#)), *Szabad Európa*, 30 November 2022.

⁶ Telex.hu, [‘EU funds on the horizon, but Hungarian teachers’ pay raise still uncertain: the protests set to continue’](#), 14 December 2022.

⁷ Hungary Posts English [‘The teachers’ performance evaluation system will begin to be tested in February’](#) 15 February 2023.

⁸ [Government Decree 4/2023 \(I.12\) on the state of crisis regulations concerning the operation of institutes of public education \(4/2023. \(I. 12.\) Korm. rendelet a köznevelési intézmények működését érintő egyes veszélyhelyzeti szabályokról\)](#).

⁹ Telephone interviews: Tanítanék Movement (*Tanítanék Mozgalom*), 19 December 2022 and Association of Teachers of Hungarian (*Magyartanárok Egyesülete*), 24 January 2023.

1.3. State Audit Office monitoring of NGOs

Area	Safe-space and protection
Topic	Administrative harassment
Impact	Major

As of July 2021, the State Audit Office of Hungary (*Állami Számvevőszék*, hereinafter: SAO) must prepare an annual summary report on the associations and foundations covered by a new law on the transparency of civil organisations capable of influencing public life.¹⁰ Accordingly, in May 2022, the SAO started the audit of thousands of NGOs. The new legislation was widely criticised for not specifying well-enough the term ‘capability to influence public life’, leaving space for arbitrary decision-making on the basis of which NGOs could be controlled¹¹. In practice, NGOs seem to be selected randomly for the “preliminary” monitoring process. Going through the SAO auditing process has, reportedly, been cumbersome, especially for smaller NGOs as it required a lot of extra work and the submission of enormous amounts of data.¹²

The financing of civic activity from independent (foreign) sources remains subject to controversies, e.g. the leader of the Fidesz faction asked the new minister responsible for secret services to monitor NGOs receiving foreign funding, deeming that this is necessary for the protection of Hungary’s sovereignty in their case.¹³ Meanwhile, state funding is mostly available to government-related “civic” NGOs, which results in the

¹⁰ Act XLIX of 2021 on the transparency of civil organisations capable of influencing public life ([2021. évi XLIX. törvény a közélet befolyásolására alkalmas tevékenységet végző civil szervezetek átláthatóságáról](#)).

¹¹ N, S. (2022), ‘[State Audit Office Begins Examining NGOs That “Impact Public Life”](#)’, *Hungarian Politics*, 24 May 2022.

¹² Information provided by the Hungarian Helsinki Committee, Telephone interview, 4 January 2023.

¹³ Fábíán, T. (2022), ‘[Fidesz group leader urges secret service to monitor NGOs and media platforms funded from abroad](#)’, *Telex*, 13 June 2022.

increasing dependence of the non-profit sector.¹⁴ As the EEA and Norway Grants ceased their operation in Hungary, the Citizens, Equality, Rights and Values Programme (CERV) of the European Commission may provide a rare opportunity for NGOs to have access to independent funding.

NGOs found the SAO monitoring activity troubling as they still consider Act XLIX of 2021 to be a potential continuation of the abrogated legislation¹⁵ on foreign funding¹⁶. The Constitutional Court rejected to render a decision on the abrogated legislation in 2022¹⁷, while in relation to Act XLIX of 2021 a constitutional complaint, which considers the new monitoring competences of the SAO to be in contradiction with its general mandate, is still pending¹⁸.

Other developments:

Further important developments include that the National Election Committee (*Nemzeti Választási Iroda*) imposed fines for prohibited campaign activity on 16 NGOs because they urged voters to cast invalid ballots at the referendum, among others, on the possibility to provide information on sexual orientation in public schools without the consent of the parents¹⁹. The request for review submitted against this decision has been rejected by the Supreme Court (*Kúria*) as being „inadequate for an assessment of the merits of the case”²⁰. The Constitutional Court also rejected the admissibility of the related constitutional complaint in April 2022.²¹

¹⁴ Bucskay, P. (2022), Even NGOs are already dependent on the state in Hungary ([Már a civil szervezetek is az államtól függenek Magyarországon](#)), *G7.hu*, 30 July 2022.

¹⁵ Act LXXVI of 2017 on the transparency of organisations which receive support from abroad ([A külföldről támogatott szervezetek átláthatóságáról szóló 2017. évi LXXVI. törvény](#)) and the related CJEU judgment in Case C-78/18.

¹⁶ Information provided by the Hungarian Helsinki Committee, Telephone interview, 4 January 2023

¹⁷ Constitutional Court, [Decision IV/01830/2017](#), 4 October 2022.

¹⁸ N, S. (2022), ‘[State Audit Office Begins Examining NGOs That “Impact Public Life”](#)’, *Hungarian Politics*, 24 May 2022.

¹⁹ National Election Committee (2022), National Referendum 3 April 2022, Aggregated results ([Összesített eredmények](#)).

²⁰ Supreme Court, [Decision Kvk.IV.39.419/2022/4](#), 13 April 2022.

²¹ Constitutional Court, [Decision 3216/2022. \(V. 11.\) AB](#), 22 April 2022.

2. Promising practice in 2022

2.1. Civilians and elections project

With the support of the EU Rights, Equality and Citizenship programme (CERV), the two-year long *Civilians and elections project* supported the 2022 parliamentary elections. The project was initiated in 2020 to conduct research on citizen's activity and on the former elections in the country, to hold public debates as well as trainings and workshops for NGO activists and citizens. The project dealt with topics such as the promotion of minority rights, social media use and NGO outreach.²²

The project also intended to promote civilian activity, mobilisation, and community building by providing citizens, activists and journalists targeted information about local, parliamentary and EU elections and on their related rights and possibilities. To achieve this, citizens, activists, and journalists were provided efficient tools, information leaflets, and know-how to participate not only in election campaigns, but also in democratic processes and community building in general. The related website was set up in 2021 and provided up-to-date information all through the 2022 parliamentary elections which was characterised by an immense civilian activity.²³

²² Ökotárs Foundation (*Ökotárs Alapítvány*), Civilians and elections (EMMM) ([Civilek és választások \(EMMM\)](#)).

²³ For further information see the web page specifically set up for this purpose at <https://valasztasz.tasz.hu/>.

3. Visa for human rights defenders

3.1. Entry and stay for human rights defenders (HRDs) at risk

Dedicated visa scheme for HRDs at risk available in your country	No
Other type of visa or alternative legal entitlement or derogation clause applied to HRDs	No

There is no dedicated visa scheme or other type of visa or alternative legal entitlement available for HRDs, and no derogation clauses are applied.²⁴ The Hungarian Helsinki Committee (*Magyar Helsinki Bizottság*) expressed their regret about the lack of such mechanisms.²⁵ The Ministry of the Interior confirmed that the introduction of such a visa scheme or other types of visas or alternative legal entitlements available for HRDs is not planned by the government. They maintained that visas are issued under the Community Code on Visas²⁶ and, in their view, visas for the above-mentioned purposes may also be issued free of charge on humanitarian grounds under Article 16(6) of the Community Code on Visas. They noted that Article 25 of the Community Code on Visas also makes the issuance of limited territorial validity visas possible “on humanitarian grounds, for reasons of national interest or because of international obligations”.²⁷

²⁴ Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals ([2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról](#)).

²⁵ Information provided by the Hungarian Helsinki Committee via email, 10 December 2022.

²⁶ [Regulation \(EC\) no 810/2009 of the European Parliament and of the council of 13 July 2009 establishing a Community Code on Visas \(Visa Code\)](#)

²⁷ Response of the Ministry of the Interior to public data request, 16 February 2023.