



Hungary

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**Submission by CIVICUS: World Alliance for Citizen Participation, NGO in
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CIVICUS: World Alliance for Citizen Participation

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1. (A) Introduction

1.1 CIVICUS: World Alliance for Citizen Participation is an international movement with almost 3,000 members in more than 170 countries worldwide. Established in 1993, CIVICUS nurtures the foundation, growth and protection of citizen action throughout the world, especially in areas where participatory democracy and citizens' freedom of association are threatened.

1.2 In this document, CIVICUS outlines concerns related to the environment in which civil society activists and journalists operate in Hungary, and highlights threats faced by them in the exercise of the rights to freedoms of association, expression and peaceful assembly.

1.3 CIVICUS is concerned by closing civic space in Hungary. Since the current government took power in 2010, this decline has been characterised by a steady erosion of respect for well established democratic principles.

1.4 CIVICUS is especially dismayed by the current government's attempts to undermine the good name of civil society, and in particular the reputation of organisations aiming to promote human rights, democracy and transparency and accountability in public life.

1.5 CIVICUS is also alarmed by the waning respect for media freedoms and free speech since Hungary's last assessment at the Universal Periodic Review.

1.6 CIVICUS is further concerned by the authorities' recent abuse of citizens and refugees' fundamental rights, in particular their right to collectively express their grievances through peaceful assemblies.

2. (B) Restrictions on freedom of association and impediments to civil society activities

2.1 The Fundamental Law of Hungary¹ and the ICCPR, to which Hungary has been a state party since 1974, guarantees freedom of association.² A new NGO act³ came

¹ English translation of the Fundamental Law of Hungary, as reproduced on the Ministry of Foreign Affairs Website, contains amendments up to 1st October, 2013. Accessed 15th September, 2015.

<http://www.mfa.gov.hu/NR/rdonlyres/8204FB28-BF22-481A-9426-D2761D10EC7C/0/FUNDAMENTALLAWOFHUNGARYmostrecentversion01102013.pdf>

² Hungary signed the International Covenant on Civil and Political Rights in 1969 and ratified it in 1974. In 1988 the Hungarian government made a declaration under article 28 of the Covenant, recognising the competence of the Human Rights Committee to 'receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant.' Information accessed on 15th September on OHCHR website here: <http://indicators.ohchr.org/>.

into force in 2012, requiring CSOs to state the purpose of their establishment, have a listed membership, be registered and report annually to a court. Although the Act was intended to simplify registration and reporting procedures through an online information system for CSOs, it is unclear whether bureaucratic hurdles for CSOs have been reduced.

- 2.2** While CIVICUS believes the law provides a good foundation for enabling free association, procedures for registration and reporting could be further simplified to align the legal regime with international best practices.⁴
- 2.3** Despite these legal foundations, CIVICUS is concerned about verbal attacks made against CSOs in Hungary, particularly by the political elite. On 26 July 2014, Prime Minister Orban made a speech in which he was quoted as saying that Hungarian CSOs were ‘paid political activists who are trying to help foreign interests’.⁵ He also said he would back legislation to ensure CSOs funded from abroad were specially registered. Other senior government officials have expressed similar sentiments.⁶
- 2.4** The government has directly targetted individual CSOs, launching an investigation and audits into a number of prominent advocacy groups funded by the Norway Grants Fund.⁷ In May 2014, the Government Control Office, launched an investigation into how funds are distributed, affecting also a number of grantees.⁸ The authorities subsequently suspended the tax registration of the four organisations responsible for implementing the Norway Grants Fund.⁹

³ The Hungarian text of the new law is available online here: (Accessed 15th September, 2015) http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100175.TV&celpara=#xcelparam . A brief commentary on the new law (from the perspective of the Hungarian government) is contained in this submission to the Office of the Commissioner for Fundamental Rights. Accessed on 15th September, 2015:

<http://www.ohchr.org/Documents/Issues/FAssociation/Responses2012/NHRI/Hungary.pdf>

⁴ Best Practices In Promoting Freedoms Of Assembly And Association (A/HRC/20/27), June 2012. Accessed 15th September 2015: <http://freeassembly.net/rapporteurreports/report-best-practices-in-promoting-freedoms-of-assembly-and-association-ahrc2027/>

⁵ ‘Orban Says He Seeks to End Liberal Democracy in Hungary’, Bloomberg News, July 28th, 2014. Accessed on 15th September, 2015: <http://www.bloomberg.com/news/articles/2014-07-28/orban-says-he-seeks-to-end-liberal-democracy-in-hungary>

⁶ <https://norvegivilalap.hu/en/node/8239>

⁷ <https://norvegivilalap.hu/en/node/11452> The overall objective of this fund is “strengthened civil society development and enhanced contribution to social justice, democracy and sustainable development” (in Hungary). A group of Hungarian CSOs has produced a detailed timeline of events surrounding the campaign of harrasment against civil society in Hungary. A detailed version in English is available here, courtesy of the Hungarian Helsinki Committee. http://helsinki.hu/wp-content/uploads/Timeline_of_gov_attacks_against_HU_NGOs_12082015.pdf.

⁸ <http://budapestbeacon.com/featured-articles/norway-funded-ngos-reflect-aftermath-okotars-raid-part-ii/12752>

⁹ The tax suspension was later suspended by the court and the case is yet to be finalised.

- 2.5 These actions have attracted condemnation,¹⁰ including from the Council of Europe’s Human Rights Commissioner,¹¹ the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association,¹² the UN Office of the High Commissioner on Human Rights and domestic and international CSOs.¹³ Nevertheless, the government continues to pursue investigations into the fund’s consortium partners. Targetted CSOs have consistently denied all allegations.
- 2.6 CIVICUS strongly condemns the government’s campaign to vilify Hungarian human rights and pro-democracy CSOs in the eyes of the public. The series of politically motivated statements made by senior government officials and Fidesz party members, coupled with raids and investigations on targeted CSOs, are clearly aimed at silencing criticism, stifling independent thought and hampering civil society’s legitimate attempts to reduce corruption and improve transparency in public life. This campaign amounts to a dereliction of Hungary’s responsibilities under the Fundamental Law and international human rights law and must be halted without delay.

¹⁰ International rights groups including Human Rights Watch, Amnesty International, FIDH – Movement Mondiale des Droits Humains and Freedom House all highlighted the worrying trend in special statements or annual reports. The government’s campaign against CSOs has also resulted in the continued decline in scores received by Hungary on a number of international democracy indexes.

¹¹ The Human Rights Commissioner wrote a strongly-worded letter to the Hungarian Government expressing his concern about the ‘stigmatizing rhetoric used in Hungary against non-governmental organisations (NGOs) active in the field of promoting human rights and democratic values’. His letter is available here (accessed on 15th September, 2015) http://www.coe.int/en/web/commissioner/country-report/hungary/-/asset_publisher/hKTqZqCwoY6P/content/commissioner-expresses-concern-over-ngos-in-hungary?inheritRedirect=false&redirect=http%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Fcommissioner%2Fcountry-report%2Fhungary%3Fp_p_id%3D101_INSTANCE_hKTqZqCwoY6P%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-1%26p_p_col_count%3D1 The Hungarian government’s response (Accessed here on 15th September 2015: <https://wcd.coe.int/com.intranet.InstraServlet?command=com.intranet.CmdBlobGet&IntranetImage=2653033&SecMode=1&DocId=2191354&Usage=2>) stated that their actions were motivated by a report written on one of the fund’s consortium partners by an ‘internationally acknowledged audit firm’.

¹² Maina Kiai’s statement posted here, accessed on 15th September, 2015: <http://freeassembly.net/rapporteurreports/hungary-communications/>

¹³ ‘Disrespect for European Values in Hungary 2010-2014’, a paper endorsed by a large group of CSOs, including the Hungarian Helsinki Committee, outlines how ‘between Summer 2013 and Spring 2014, government officials only publicly stated that NGO’s are “political activists paid by foreign interest groups”, who, being on “foreign payrolls”, “wish to influence the Hungarian state life in certain moments and with regard to certain issues.”’ Accessed on September 15th, 2015: http://helsinki.hu/wp-content/uploads/Disrespect_for_values-Nov2014.pdf

3. (C) Concerns regarding freedom of expression, independence of the media, and restrictions on access to information

- 3.1** Article IX of the Fundamental Law of Hungary guarantees freedom of expression and states Hungary shall 'ensure the conditions for free dissemination of information necessary for the formation of democratic public opinion.'¹⁴
- 3.2** However, despite these protections, under sub-article IX (3) which states that 'political advertisements may only be published in media services free of charge, under conditions guaranteeing equal opportunities', unwarranted limitations can be imposed on political parties' ability to campaign equally during elections.¹⁵ The clause has the effect in practice of reducing opportunities for campaign adverts from all political parties. These provisions impede fair access to a range of views through the media during election campaigns and have been criticised by a number of organisations including the Organisation for Security and Cooperation in Europe (OSCE), following their official election observation mission in 2014.¹⁶
- 3.3** Concerns have also been expressed about a new advertising tax, introduced by the government in June 2014, which has had the effect in practice of reducing the revenues of one of Hungary's most popular television stations, RTL Klub. Despite an appeal by RTL Klub to the European Commission, the government further increased the tax to 50% in November 2014 and by the end of the year it had been reported that RTL Klub alone had contributed 90% of the revenue collected under the new tax.¹⁷
- 3.4** As part of efforts to control freedom of expression, since assuming power in 2010 the Fidesz government has amended the Fundamental Law and introduced three new laws related to the media.¹⁸ These changes have been criticised for allowing regulatory bodies too much power, for establishing a media council with insufficient

¹⁴ English translation of the Fundamental Law of Hungary, as reproduced on the Ministry of Foreign Affairs Website, contains amendments up to 1st October, 2013. Accessed 16th September, 2015.

<http://www.mfa.gov.hu/NR/rdonlyres/8204FB28-BF22-481A-9426-D2761D10EC7C/0/FUNDAMENTALLAWOFHUNGARYmostrecentversion01102013.pdf>

¹⁵ Ibid.

¹⁶ The report of the observation mission can be read in full here: <http://www.osce.org/odihr/elections/hungary/121098?download=true>. The comment cited above on unfair campaign regulations is taken from the Executive Summary on page 1. Section XI of the report (pp. 15-18). Accessed on 16th September, 2015.

¹⁷ News reports in Hungarian on these developments can be found here: <http://nol.hu/belfold/otvenet-vernek-az-rtl-re-1498163> and here: http://media.mandiner.hu/cikk/20140828_majdnem_a_teljes_reklamado_bevetelt_az_rtl_tol_szedtek_be. Both accessed on 16th September, 2015.

¹⁸ These laws are: Act on the Modification of Certain Acts Regulating the Media and Communications (<http://www.kozlonyok.hu/nkonline/MKPDF/hiteles/mk10129.pdf>), Act on the Freedom of the Press and Fundamental Rules on Media Content (<http://www.kozlonyok.hu/nkonline/MKPDF/hiteles/mk10170.pdf>), Act on Media Services and Mass Media, <http://www.kozlonyok.hu/nkonline/MKPDF/hiteles/mk10170.pdf>.

political independence and for imposing overly punitive fines for breach of the rules.¹⁹ The government's latest attempts to control the media through law reform include an amendment to the Civil Code, which aimed to restrict criticism of public figures. A welcome Constitutional Court ruling on 4 March 2014 however declared that provision to be unconstitutional.²⁰

- 3.5** While Hungarian citizens can freely access the Internet and express themselves online, CIVICUS is concerned about the interference with the editorial independence of certain online news portals and investigative journalism websites. For example, *Atlatszo.hu*, an independent investigative news website, has been targeted through the courts and remains embroiled in lengthy and costly court battles to clear its name.²¹ The effects of political interference by some of the ruling Fidesz party's most high-ranking members have also been felt by independent news websites, perhaps most notably, *Origo.hu*, whose editor and staff left controversially in 2014 following the website's reporting on lavish expenditure by János Lázár, Minister in the Prime Minister's Office.²² Many of those who left *Origo.hu* formed a new website that continues to expose corruption and wrongdoing by public figures in Hungary.²³
- 3.6** The effects of the 2010 Media Law, which created a problematic government-leaning oversight body,²⁴ as well as increased political pressure on journalists was reflected in a 2013 survey by a media think tank. The study confirmed that self-censorship in the media is widespread and that most journalists think that political and economic pressure on the sector is increasing.²⁵
- 3.7** Citizens' right to access government information has also been undermined in Hungary following the 2013 amendment of the Law on Freedom of Information. The amended law now gives government officials the discretion to reject valid

¹⁹ The problems inherent in the new laws regulating the media are analysed in detail in this 2013 report from Human Rights Watch: https://www.hrw.org/sites/default/files/reports/hungary0513_ForUpload.pdf

²⁰ The OSCE Office of Democratic Institutions and Human Rights (ODIHR)'s Representative on the Freedom of the Media, Dunja Mijatović has closely followed this situation, documenting developments in the official 2014 yearbook, available here: <http://www.osce.org/fom/176801?download=true>. Accessed on 16th September, 2015.

²¹ <http://english.atlatszo.hu/2015/07/21/atlatszo-hus-tax-authority-battle-continues-in-the-courtroom/>

²² <http://english.atlatszo.hu/2015/03/24/the-fall-of-popular-independent-online-news-portal-origo-hu/>

²³ <http://www.direkt36.hu/en/>

²⁴ Freedom House's 2015 Nations in Transit report provides the following useful summary of the regulatory architecture set up by the Media Law: 'Under the 2010 Media Law, the National Media and Electronic Communications Authority (NMHH) oversees all media, public and private, including broadcast, print, and online outlets. It grants licenses and frequencies, monitors content, and investigates and adjudicates public complaints. Its main regulatory body is the Media Council, which consists of five people nominated by a two-thirds parliamentary majority for nine-year terms. The Media Council is headed by Monika Karas, a lawyer who formerly represented the right-leaning *HirTV* and *Magyar Nemzet*. Accessed here on 16th September, 2015: <https://freedomhouse.org/report/nations-transit/2015/hungary>

²⁵ The report by Mérték Media Monitor: Press Freedom Index 2013 can be found here (accessed 16th September, 2015): http://mertek.eu/sites/default/files/reports/a_sajozabadsag_helyzete_2013.pdf

applications for information if they think they amount to ‘overarching, invoice-based’ or ‘itemized’ audits of how public authorities are managed.²⁶

3.8 These efforts by the Hungarian government, in tandem with an entrenched pro-government bias in the state-owned media and increased media ownership by companies aligned to the ruling party, has resulted in serious damage to the plurality of views accessible through the Hungarian media.²⁷ CIVICUS is dismayed that, as a direct result, Hungarian citizens are now much less able to access the information they need to hold their leaders accountable.

4. (D) Concerns regarding freedom of peaceful assembly

4.1 Article VIII of Hungary’s Fundamental Law guarantees that everyone ‘shall have the right to freedom of peaceful assembly.’²⁸ While the Fundamental Law does not elaborate on how this right is to be protected, its wording does indicate that it applies equally to citizens and non-citizens of Hungary. Section 6 of the 1989 Law on Assembly requires assembly organisers to notify the police at least three days in advance of the event.²⁹ Although the law has been amended in ways that make it easier for spontaneous assemblies to proceed without interference and for ongoing assemblies to be protected, the three-day notification requirement remains the main rule applicable to organisers of formal, large-scale gatherings. As such, the law is at odds with the maximum of 48 hours notice suggested by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association.³⁰

4.2 In contradiction with the domestic law, authorities sometimes prohibit demonstrations on the assumption that criminal offences may be committed by participants. Vague regulations also cause inconsistent decisions by police and the courts when taking note of authorising protests and demonstrations.³¹

²⁶ Disrespect for European Values in Hungary 2010-2014’, Accessed on September 15th, 2015: http://helsinki.hu/wp-content/uploads/Disrespect_for_values-Nov2014.pdf

²⁷ This article summarises the extent of censorship and manipulation within the Hungarian media (Accessed on September 15th, 2015: <http://www.cij.hu/en/censorship-and-manipulation-within-hungarian-public-service-broadcasters%E2%80%99-news-bulletins/>

²⁸ English translation of the Fundamental Law of Hungary, as reproduced on the Ministry of Foreign Affairs Website, contains amendments up to 1st October, 2013. Accessed 15th September, 2015. <http://www.mfa.gov.hu/NR/rdonlyres/8204FB28-BF22-481A-9426-D2761D10EC7C/0/FUNDAMENTALLAWOFHUNGARYmostrecentversion01102013.pdf>

²⁹ In the case of Tatar and Faber v Hungary, the European Court of Human Rights provides a useful overview of applicable Hungarian laws and regulations applicable to the freedom of peaceful assembly. Accessed on 16th September, 2015: <http://www.legislationline.org/topics/country/25/topic/15>

³⁰ Best Practices In Promoting Freedoms Of Assembly And Association (A/HRC/20/27), June 2012. Accessed 15th September 2015: <http://freeassembly.net/rapporteurreports/report-best-practices-in-promoting-freedoms-of-assembly-and-association-ahrc2027/>

³¹ The situation is also well summarised by the US State Department in its 2014 Human Rights Report for Hungary: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236532#wrapper>

- 4.3** Through recent litigation in the Hungarian Courts, the HCLU has highlighted two cases in which permission to gather was denied by police because of the intended location of the gathering. For example, in October 2013 police dispersed representatives of CSOs who intended to hold a protest outside the residence of the Prime Minister, while a court blocked permission for the second attempt in December 2013.³²
- 4.4** Some minorities in Hungary - most notably the Roma community and Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) people – face additional obstacles to their enjoyment of the freedom of assembly. For example, on 4 June 2015, the Mayor of Budapest István Tarlós made a public statement in which he said that the Budapest Pride march - organised by the rainbow Mission Foundation, a CSO promoting the rights of LGBTI people – was ‘repulsive’.³³ Although progress has been made in recent years to foster a more cooperative approach with authorities to ensure effective policing of the Budapest Pride March, Mr Tarlós’ comments worryingly hark back to 2012, when the police decided to ban the march (even though the ban was finally revoked by the court).³⁴ CIVICUS condemns such comments, which are clearly inflammatory and violate the rights of a minority group to freely assemble in order to express their views in public.
- 4.5** More worryingly, recent interventions by the Hungarian police have undermined the fundamental right to peaceful assembly of refugees present in the country. While the Hungarian government undoubtedly shares the legitimate concerns of most people about the need to manage the current refugee crisis, domestic and international human rights groups have raised serious concerns about the way in which the authorities have handled the situation.
- 4.6** A report from Human Rights Watch on 11 September 2015 outlines a worrying picture of abuse of refugees’ fundamental rights in two Röszke detention centres on the border with Serbia.³⁵ Apart from appalling humanitarian conditions, the report outlines that refugees’ basic right to organise and associate freely with NGOs and others is being denied as they are immediately ‘collected’ upon arrival and transported to detention centres where they are kept fenced in open air pens.
- 4.7** CIVICUS strongly articulates the right of all people – refugees and citizens alike, regardless of where they happen to be – to be able to peacefully assemble in order to collectively express their views. In any crisis situation, that expression is often only

³² Details of this litigation can be found on the HCLU website. Accessed 16th September, 2015:

<http://tasz.hu/en/freedom-assembly/litigation-right-protest>

³³ <http://budapestpride.com/news/budapest-pride-inciting-hatred-is-repulsive>

³⁴ <http://helsinki.hu/en/police-ban-on-budapest-pride-2012-is-discriminatory-against-lgbt-community>

³⁵ ‘Hungary: Abysmal conditions in detention centre’, Human Rights Watch. Accessed 16th September, 2015: <https://www.hrw.org/news/2015/09/11/hungary-abysmal-conditions-border-detention>

possible through a physical assembly of people in a public place. As the 1951 Refugee Convention makes clear, refugees must be accorded the same set of fundamental rights as Hungarian citizens.³⁶

5. (F) Recommendations to the Government of Hungary

CIVICUS calls on the Government of the Hungary to create an enabling environment for civil society to operate, in accordance with the rights ensured by the ICCPR and the UN Declaration on Human Rights Defenders. At a minimum, the following conditions should be guaranteed: freedom of association, freedom of expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made:

- The Hungarian government should create a conducive and non-threatening environment for peaceful citizen activism in Hungary. It should take seriously the country's continuing decline on international democracy and press freedom indices and begin to adopt a more conciliatory approach to civil society, which forms the bedrock of any open, tolerant and pluralistic democracy.
- The refugee crisis has presented significant challenges for the Hungarian government and has placed increased demands on its social, economic and physical infrastructure. The Hungarian government should not, however, use the crisis as an excuse to forego its obligations under the 1951 Refugee Convention and the other international human rights treaties to which it is a party. The authorities must do everything in their power to ensure that the system implemented to handle the influx of refugees upholds the dignity and fundamental freedoms of all people in Hungary – citizens and refugees alike.

5.1 Regarding restrictions on the freedom of association

- The Hungarian government should give full effect to Article 15 of the 1951 refugee convention, which states: 'As regards non-political and non-profit-making associations and trade unions the Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.'
- The Hungarian government – and particularly its most senior and influential leaders – should refrain from making statements portraying CSOs funded from international sources as 'meddlers' in the internal affairs

³⁶ <http://www.unhcr.org/3b66c2aa10.html>

of Hungary, or otherwise motivated by political aims to destabilise the state. Such rhetoric is clearly targeted at weakening legitimate and independent civil society oversight and has no place in a democratic society.

- The illegitimate targetting of CSOs funded by and distributing the EEA/Norwegian Grants Fund through investigations, audits and physical raids should be halted immediately. The Norwegian government's offer of dialogue should be accepted and a more open stance should be adopted to funds and NGOs that aim to create a more equal, open and transparent society in Hungary.

5.2 Regarding freedom of expression, independence of the media, and restrictions on access to information

- The Hungarian government should revisit the advertising tax imposed in June 2014, that has unfairly targeted a prominent private television station and important source of news for many Hungarians. Accordingly, the government is reminded of its obligations under the Fundamental Law, EU Law and international human rights law to safeguard the freedom of speech and the independence of the media. The government should make every effort to curb political interference in the editorial independence of state and private media.
- The government is called upon to address the unfair campaign regulations governing the payment for advertisements in the private media during election campaigns. In doing so, the government should take cognisance of the findings and recommendations made by the OSCE following its observation of the 2014 elections. In order to level the playing field, Article IX (3) of the Fundamental Law, as well as relevant subsidiary regulations, should be amended.
- The government should recognise the place of independent investigative journalism as part of the development of a democratic society in Hungary. It should therefore cease from its practice of making inflammatory statements and taking costly legal action against investigative journalists seeking to expose wasteful expenditure, nepotism and corruption.
- The government should, in close consultation with a wide range of media practitioners and civil society, conduct a thorough review of all laws regulating free expression in Hungary – including the 2010 Media Law and the Freedom of Information Act, as amended in 2013. The aim of this

review should be to establish a legal framework that provides adequate regulatory safeguards, impartial oversight bodies, reasonable penalties for infractions and open access to government information.

5.3 Regarding restrictions on freedom of peaceful assembly

- Security forces and police in Hungary should exercise restraint in dealing with demonstrators. The government should provide clear guidance for security personnel. This guidance should be aimed at ensuring the practice of public order policing is brought into line with Hungary's international human rights obligations.
- Police in Hungary should adopt a more pragmatic approach to time and place restrictions currently in place. Organisers of peaceful assemblies should not be restricted from demonstrating close to important public sites because of a vaguely defined potential threat to public order or security of high-ranking government officials.
- The government should consider revising the Law on Assemblies to provide for a shorter notice duration, ideally within the maximum 48 hours recommended by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association.
- CIVICUS welcomes the improved conditions for policing of the Budapest Pride parade, however it calls upon the government to ensure that its leaders do not undermine this progress by irresponsible statements damaging the rights of assembly of LGBTI people in Hungary.