

THE SITUATION OF HUMAN RIGHTS DEFENDERS

HUNGARY

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In its last Universal Periodic Review (UPR) in May 2011, Hungary accepted 122 of 149 recommendations. While no recommendations specific to human rights defenders (HRDs) were made, Hungary accepted 12 recommendations on creating and strengthening an independent national human rights institution (NHRI), two on engaging civil society in the implementation of UPR recommendations, and two on maintaining freedom of expression. However, the reality for HRDs on the ground has, if anything, worsened since the last review. The government elected in 2010 adopted a new constitution in 2012, and has since passed increasingly restrictive legislation regarding freedom of the press, accreditation and funding of non-governmental organisations (NGOs), and independence of the judiciary.

1. Risks and obstacles facing human rights defenders

- In September 2014, four leading Hungarian NGOs documented a series of obstacles to human rights defense in the country, demonstrating that the UN Declaration on HRDs is not being adequately implemented.¹ Obstacles included official restrictions on freedom of expression, excessive limitations on access to information, limits on the plurality of the press and threats to the independence of the judiciary, as well as a systematic attack on NGOs and their funders.²
- A persistent campaign to limit the activities of human rights NGOs critical of the government has been sustained since 2013. Elements of the campaign include stigmatisation of HRDs by both media and governmental sources, official restrictions on NGO operations, unreasonable governmental financial oversight and auditing, criminal proceedings, and the official blacklisting of ‘potentially problematic NGOs’.³
- In a case emblematic of the climate for NGOs in Hungary in 2014, the governing party launched an attack against NGOs receiving EEA/Norway Grants NGO Funding and which had been critical of Hungary’s Media Law. These NGOs were accused of ‘unlicensed financial activities’ and ties with Hungarian left-wing parties despite previous audits and funding documents proving otherwise.⁴
- Attacks on NGOs have worsened and manifested in accusations of embezzlement, police raids on NGO offices, and a public smear campaign in Hungarian state media, finally culminating in the suspension of the tax identification of four NGOs administering the Norwegian NGO fund, severely limiting their budgetary support.⁵
- Independent media is also subject to restrictions and interference in Hungary. For example, in June 2014, independent news outlet Origo.hu’s editor-in-chief Gergő Sáling was fired after publishing several articles critical of the government. Although the firing was deemed an ‘internal decision’, the government’s strong ties with Origo.hu’s parent company Deutsche Telekom has led many to believe it was political censorship.⁶
- Local HRDs have also complained that, since 2010, the law making process has increasingly excluded civil society consultation. Even in cases when public discussion is prescribed by law, bills are often only open for civil society comment for a couple of days, limiting the effectiveness of civil society participation.⁷

2. Official restrictions on the space for human rights defenders

- Several laws restricting freedom of the media have been passed since early 2012. The Media Council was created to ‘oversee and guarantee freedom of the press’ but instead has faced accusations of having become a ‘politically homogenous’ government mechanism with the power to levy extortionate fines against journalists and news organisations, resulting in self-censorship.⁸
- This is coupled with new tax legislation which causes financial strain for specific news organisations such as independent television channel RTL Klub.⁹ These policies have resulted in a strong government hold on public media, leading to incidents such as false reports being published in newspapers accusing NGOs of fraud.¹⁰
- A paragraph of Article IX of the Constitution concerning freedom of speech has been criticised for being too vague and open to interpretation, particularly with regard to ‘violating the dignity of the Hungarian nation’.¹¹ The Venice Commission has warned that this may be used to ‘curtail criticism of Hungarian institutions and office holders’.¹²

3. Intimidation and reprisals against defenders accessing international human rights mechanisms

- There were no reported cases of intimidation or reprisals against human rights defenders or other civil society actors in terms of their engagement or cooperation with international human rights mechanisms.
- In 2013, Hungary led the drafting and negotiation of a landmark Human Rights Council resolution on preventing and ensuring accountability for reprisals, HRC Res 24/24, while at the 30th session of the Human Rights Council in September 2015 Hungary worked with a cross-regional group of States to present an important joint statement on the right to communicate with international human rights mechanisms and the responsibility of States and other actors to prevent, investigate and promote accountability for cases of intimidation and reprisals.

4. Human rights defenders facing particular risks

- The new Constitution as well as the Family Protection Act contain language that either explicitly excludes LGBTI people¹³ or neglects to mention them,¹⁴ hindering the work of HRDs focused on LGBTI issues.
- Andrea Giuliano, an LGBTI activist has faced continuous harassment by far-right groups since the 2014 Budapest Pride event. The police failed to investigate the online death threats he has received.¹⁵ Police also failed to properly investigate a homophobic and racist attack on three men following the 2013 Budapest Pride March.¹⁶

5. The response of the State regarding the protection of human rights defenders

- In response to UPR recommendations, Hungary's Commissioner for Fundamental Rights (Ombudsman) was accredited as a NHRI by the International Coordination Committee of NHRIs in 2011 and granted 'A' status by the Session of the Sub-Committee on Accreditation in 2014. However, the Ombudsman has not yet demonstrated a true capability to criticise harmful government policy and legislation.¹⁷
- The UN Special Rapporteur on Freedom of Peaceful Assembly and Association has recently expressed his concern at the 'seemingly discretionary attributions given to the Government Audit Office, which through its actions may obstruct and stigmatise the work of associations operating in the country'.¹⁸
- Hungary has accepted a country visit by the Special Rapporteur on the situation HRDs for the end of 2015 or beginning of 2016.¹⁹
- Hungary accepted 11 recommendations concerning LGBTI and women's rights at its last UPR. Nonetheless, the new Constitution and the Family Protection Act both contain discriminatory language against these groups.
- High-level authorities have made public statements delegitimising the work of HRDs. For example, the Prime Minister has questioned the motives and legitimacy of human rights NGOs in both July and September of 2014.²⁰

6. Recommendations to the Government of Hungary

- Respect and protect the right of NGOs to access and utilise resources, including funding from foreign sources, and ensure that foreign-funded civil society organisations can operate freely and without discrimination or undue restriction.
- Continue to demonstrate international leadership at the UN Human Rights Council in Geneva and the UN General Assembly in New York to promote and protect the right of all persons to safe and unhindered communication with international organisations and to prevent and promote accountability for acts of intimidation or reprisal in connection with the exercise or proposed or attempted exercise of this right.
- Implement recommendations made by UN Special Rapporteur on Freedom of Peaceful Assembly and Association regarding governmental oversight and regulation of NGOs.
- Demonstrate strong, high-level political support for HRDs through public statements by State officials which recognise their important and legitimate work.
- Take specific steps to recognise and protect HRDs working on the rights of the LGBTI population, including through a review of the Constitution and the Family Protection Act.
- Ensure the independence of the Parliamentary Commissioner for Fundamental Rights, that it adheres to the Paris Principles and establishes a focal point for the protection of HRDs.
- Guarantee adequate processes and timeframes for meaningful civil society participation in the development and implementation of public policies.
- Reform Article IX of the Constitution on freedom of speech, in consultation with local civil society and international experts.
- Refrain from criminalising the legitimate activities of HRDs and repeal all laws and policies which restrict their activities and rights, including vague language in the Constitution that is open to arbitrary interpretation.

- Combat impunity by ensuring the prompt, thorough and impartial investigation of all violations against HRDs.

Over the last five years, the new government of Hungary has backtracked on much of the progress it had made in protecting and promoting human rights. By adopting restrictive legislation and hindering freedom of expression, the government of Hungary has severely limited civil society space and fundamental freedoms.

About this briefing paper

ISHR encourages States to consult UPR submissions by local activists as well as to make a recommendation to Hungary regarding the protection of HRDs. An excellent source of information on the situation facing HRDs is the Hungarian Civil Liberties Union (www.tasz.hu/en). For further information on this briefing paper, contact Ben Leather (b.leather@ishr.ch).

¹ <http://www.osce.org/odihr/124145?download=true>

² *Ibid.*

³ *Ibid.*

⁴ <https://norwayportal.mfa.no/Norvegia---hivatalos-honlapja-Magyarorszagon/Norsk/EEA-and-Norway-Grants1/EEA-and-Norway-Grants/Frequently-Asked-Question-about-the-EEA-and-Norway-Grants-/#.VfEM6fmqqkq>

⁵ http://tasz.hu/files/tasz/imce/2015/ogp_hungary_response_policy_background_document.pdf and

<http://www.osce.org/odihr/124145?download=true>

⁶ <http://444.hu/2014/06/05/deutsche-telekom-hungarian-government-collude-to-silence-independent-media/> and

<http://en.ejo.ch/media-politics/hungary-investigative-journalism-startup>

⁷ ISHR consultation of local human rights defenders, September 2015.

⁸ <https://www.hrw.org/news/2012/02/16/memorandum-european-union-media-freedom-hungary> and

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

⁹ http://helsinki.hu/wp-content/uploads/Disrespect_for_values-Nov2014.pdf

¹⁰ http://tasz.hu/files/tasz/imce/2015/ogp_hungary_response_policy_background_document.pdf

¹¹ <http://www.kormany.hu/download/e/02/00000/The%20New%20Fundamental%20Law%20of%20Hungary.pdf>

¹² <http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD%282013%29012-e>

¹³ The definition of marriage as strictly being between a man and a woman:

<https://www.hrw.org/report/2013/05/16/wrong-direction-rights/assessing-impact-hungarys-new-constitution-and-laws>

¹⁴ Article XV of the Constitution does not include sexual orientation as grounds for discrimination:

<http://www.kormany.hu/download/e/02/00000/The%20New%20Fundamental%20Law%20of%20Hungary.pdf>

¹⁵ See letter from HCLU and Frontline Defenders to the UN SR on the situation of human rights defenders:

http://tasz.hu/files/tasz/imce/flid_tasz_letter_to_unsrhrd_andrea_giuliano_27.05.15.pdf

¹⁶ [http://www.politics.hu/20130708/attack-by-alleged-neo-nazis-follows-pride-march/;](http://www.politics.hu/20130708/attack-by-alleged-neo-nazis-follows-pride-march/)

<http://www.fightdiscrimination.eu/discrimination-in-europe/publications/peaceful-budapest-pride-march-worrying-hate-attack-following-m>

¹⁷ <http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Documents/SCA%20OCTOBER%202014%20FINAL%20REPORT%20-%20ENGLISH.pdf>

¹⁸ <http://freeassembly.net/rapporteurreports/hungary-communications/>

¹⁹ <http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryvisitsF-M.aspx>

²⁰ <http://www.osce.org/odihr/124145?download=true>