**Study Group - The Democracy Crisis in Europe and the US: A Comparative Perspective**

**“Illiberal Governance” and the Attack on Civil Society**

**Hungary**

In his 2014 Baile Tusnad speech, Prime Minister Viktor Orban criticized civil society organizations (CSOs) receiving funding from abroad, calling them “political activists attempting to promote foreign interests” and stating, it is therefore “apt that a committee was being formed in the Hungarian parliament that deals with constant monitoring, recording and publishing foreign attempts to gain influence”.[[1]](#footnote-1)

In July 2015, the Open Government Partnership--an international coalition of governments and NGOs committed to promoting transparent and accountable governance--began a review of the Hungarian government’s commitment to the values and principles of the Open Government Declaration, in response to a letter of concern by a group of Hungarian civil society organizations.[[2]](#footnote-2) In December 2016, the Hungarian government officially withdrew from the OGP after the review team’s final report confirmed the CSOs’ concerns and found “a long-term pattern and larger trend of reduced transparency, diminished media freedom, and constrained civic space”.[[3]](#footnote-3) Specific instances of actions taken by the Hungarian government against CSOs cited in the report include:

* A smear campaign by government officials against human rights and accountability CSOs, including publishing a list of 13 CSOs labeled as “left-leaning” and “problematic”
* “Burdensome” financial audits and legal investigations into CSOs funded by an EEA-Norway Grants program and suspension of their tax identification numbers (which confer legal status on CSOs)
* Police raids of the headquarters of two CSOs and the private residences of two of those CSOs’ employees, in which armed police confiscated laptops, equipment, and documents

In January 2017, Orban declared a “spring offensive” cracking down on CSOs funded by George Soros’ Open Society Foundations, specifically the Hungarian Civil Liberties Union, Transparency International and the Hungarian Helsinki Committee.[[4]](#footnote-4) In March, Fidesz introduced a draft bill in parliament that would require all civil society organizations receiving over 24,000 EUR in foreign funding to report each receipt of funds from abroad to the courts, the details of which would be listed on a public website, and describe itself as an “organization supported from abroad”.[[5]](#footnote-5) Organizations failing to report within 15 days of each transaction could be fined or shut down for a minimum of 5 years. This draft bill is similar to Russia’s “Foreign Agents Law” which introduced legal restrictions on foreign-funded CSOs in 2012. The Hungarian government defended the need for the legislation to ensure that CSOs had “democratic legitimacy” and financial transparency.[[6]](#footnote-6) The proposed law also cites the need to counter money laundering and international terrorism, and argues that foreign funding may cause CSOs to serve foreign interests, “endangering the sovereignty and national security of Hungary”.[[7]](#footnote-7)

The latest development in Hungary’s attack on civil society independence has targeted a private highly ranked international university, Central European University (CEU), that was founded with a grant by George Soros in 1991. In early April, the government introduced amendments to the country’s higher education law which would require a foreign-accredited university to have a base in its home country, and an international agreement providing for its operation between the governments of the university’s home country and Hungary.[[8]](#footnote-8) CEU is accredited in both the United States and Hungary but does not have a physical campus in the US, nor an international agreement between the US and Hungary. It is operating in full compliance with existing Hungarian and US law under a 2004 agreement between Hungary and New York State, where CEU is chartered and accredited, and which under the US federal system has plenary authority over higher education. The new law is a direct attack on CEU and could force the university to close. Orban has defended the legislation by accusing CEU of operating with an unfair advantage over Hungarian universities because it can issue American degrees.[[9]](#footnote-9)

Academics have noted that restrictions against civil society in Hungary and other Central and Eastern European countries have become more formal or explicit within the last year, as the EU has been preoccupied by the refugee crisis and centrifugal forces such as Brexit. Central and Eastern European leaders may believe they can expect less U.S. attention on issues of democracy and human rights under the Trump administration.[[10]](#footnote-10) Szilard Nemeth, a vice president of Orban’s Fidesz party, explained that the election of Donald Trump provided an opportunity for the Hungarian government to “sweep out” the CSOs. During his election campaign Trump ran ads attacking George Soros as part of a “global power structure that is responsible for the economic decisions that have robbed our working class, stripped our country of its wealth and put that money into the pockets of a handful of large corporations and political entities”.[[11]](#footnote-11) Contrary to the Hungarian government’s expectations, however, the US State Department has expressed strong concern about the government’s legislative attack on CEU and academic freedom. The EU, as well as the governments of France and Germany, have condemned the anti-CEU legislation, and leading universities throughout the US and Europe have issued statements in support of CEU and against the legislation.

**Russia**

Over the past four years, the Russian government has undertaken a widespread crackdown on independent civil society. The Kremlin has introduced numerous laws regulating civil society organizations and restricting freedom of association, and has also used both legal and extra-judicial means to target individual activists and dissidents. The central legislation in this crackdown was the “Foreign Agents Law” (N121-FZ), adopted in July 2012 following Putin’s re-election in May of that year that prompted large anti-government protests over allegations the election had been rigged. N121-FZ requires non-governmental organizations engaging in vaguely-defined “political activity” and receiving foreign funding to register as “foreign agents”. NGOs designated as foreign agents must:

* + undergo an annual state audit, regularly submit financial reports and reports on their activities and composition to the government
  + receive permission from authorities to carry out political activities, and
  + label all print and online materials they circulate as products of foreign agents.

According to Human Rights Watch, 158 organizations to date have been designated as foreign agents, 30 groups have shut down as a result of the designation, and Russian courts have imposed “staggering fines” on other groups who have refused to comply with the law.[[12]](#footnote-12) NGOs designated as foreign agents include groups working on all aspects of human rights and advocacy work on issues as diverse as the environment, health issues, LGBT rights. In 2016 the Russian parliament amended the law to include in the definition of “political activity” any attempt by an independent group to influence public policy.[[13]](#footnote-13) Human rights groups have protested the law as designed to target independent civil society and repress criticism of the government. In 2013, Russia’s ombudsman challenged the Foreign Agents Law in the Constitutional Court, which upheld the law as constitutional, finding it was “not intended to persecute or discredit” organizations and was “in line with the public interest and the interest of state sovereignty”.[[14]](#footnote-14)

In addition to the Foreign Agents Law, another law introduced in May 2015 (N129-FZ) enabled the government to declare foreign and international organizations deemed a threat to national security as “undesirable” and force them to close their operations in Russia. As of January 2017, the Prosecutor General has declared seven organizations undesirable, including the National Endowment for Democracy and the Open Society Foundation.[[15]](#footnote-15)

**Turkey**

As with the other illiberal measures the Turkish government has invoked under the state of emergency, the attack on civil society has been swift and without a court ruling. Turkey has not passed new legislation regulating civil society operations, but rather used the wide purview of state of emergency powers to unilaterally order closures. Following the coup attempt, Turkey halted the activities of 370 NGOs, including human rights groups, in order to investigate their alleged terror connections. According to the interior ministry, of the associations affected by ban, 153 were allegedly linked to the Gulen movement, 190 to the Kurdish militant group PKK, 19 to the far-leftist militant group DHKP-C, and eight to Islamic State.[[16]](#footnote-16) Executive decree No. 677. Article 3 stated that: ‘Associations listed linked to terrorist organizations or that the National Security Council has established they belong to, cohere with or are linked to structures, formations or groups that are acting against national security, are closed. All assets of the associations are considered to have been transferred to the Treasury free of charge, including the deeds for any premises, without any restrictions.’[[17]](#footnote-17) The dissolution of civil society organizations has been the Turkish government’s primary tactic in Turkey in this regard.

**Poland**

Comparatively few formal efforts have emerged in Poland to restrict the operations of civil society groups. NGOs nevertheless report concerns over increasingly negative press and public statements that government officials have made about legislating their activities. For example, in December 2016, Polish Prime Minister Beata Szydło announced plans for the creation of a new department of civil society in order to centralize state funding and “bring order to the whole sphere of NGOs.” Critics charge that this could allow the Polish government to put pressure on NGOs who criticize ministers over human rights issues.[[18]](#footnote-18) It is not yet clear how these plans will function in practice. Poland’s interior ministry has also merged its human rights protection team, which worked with NGOs on hate crime and human rights issues, into a larger department dealing with migration and anti-trafficking. Finally, NGOs report an ongoing smear campaign in Polish media against several human rights defenders and nongovernmental groups, as well as against the Office of the Commissioner for Human Rights.[[19]](#footnote-19)

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8. John Shattuck, “Hungary’s attack on academic freedom,” *The Boston Globe*, April 3, 2017 <http://www.bostonglobe.com/opinion/2017/04/03/hungary-attack-academic-freedom/sSYNAizjeoevcfqxZV176K/story.html>. [↑](#footnote-ref-8)
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10. Tamkin, Emily, “With EU and U.S. Distracted, Central and Eastern European Countries Crack Down on Civil Society,” *Foreign Policy*, 9 March 2017,<http://foreignpolicy.com/2017/03/09/with-eu-and-us-distracted-central-and-eastern-european-countries-crack-down-on-civil-society/>. [↑](#footnote-ref-10)
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