

Ref: CommHR/MOF/sf 089-2025

**Mr László KÖVÉR**

Speaker of the National Assembly of Hungary

Strasbourg, 27 May 2025

Dear Speaker,

I thank you for your reply to my letter of 24 March, related to two draft amendments that were then under discussion in the National Assembly of Hungary. Further to my mandate to assist member states in the implementation of Council of Europe standards, I am writing to you now in relation to the draft Law on the Transparency of Public Life, (T/11923), which was submitted to Parliament on 13 May 2025.

Transparency in public life is important to ensure accountability and integrity of public institutions and promote trust of the public in democratic processes. Within this general aim, increasing transparency in interest-representation activities, including those receiving foreign support, can help to ensure fair and equal opportunities for all individuals concerned to participate in the representation of interests.

That said, I am concerned about the impact that the draft law would have on the exercise of human rights, including the rights to freedom of expression and freedom of association. Further to Articles 10 and 11 of the European Convention on Human Rights (the Convention), any restriction on these key rights must be prescribed by law (principle of legality), necessary in a democratic society, proportionate, non-discriminatory and subject to independent judicial review.

The draft law establishes a separate legal regime for civil society organisations, or any other entities, that “threaten the sovereignty of Hungary by carrying out activities aimed at influencing public life with foreign support”. According to the draft law, the government shall create a register of organisations deemed a threat to Hungarian sovereignty, based on the proposal of the Sovereignty Protection Office. Once in the register, organisations must obtain prior permission from the anti-money laundering body responsible for enforcing the law, which is the National Tax and Customs Administration, before receiving any foreign support, and must obtain legal declarations from every donor that funds are not of foreign origin. In addition, the financial activity of registered organisations is subject to close scrutiny, and hefty fines and administrative sanctions, including dissolution, can be imposed in case of non-compliance. According to Section 9.2 of the draft law, no immediate legal protection is available against decisions taken by the National Tax and Customs Administration.

I wish to raise three points of particular concern regarding the draft law.

First, I note that the draft law does not define in any detail what type of activities of organisations should be considered a threat and for what reason. It states only that any “foreign-funded activity or endeavour to influence public life that violates, portrays in a negative manner, or supports action against” a selection of constitutional values is considered a threat to the sovereignty of Hungary. The draft law raises issues of compatibility with the principle of legality, which includes the principle of foreseeability, because it is so vaguely phrased that it could encompass a wide range of legitimate activities of civil society organisations, media organisations or companies. A law that fails to set out clear criteria regarding the constituent elements of the wrongdoing it addresses falls short of the foreseeability requirement. In this case, it is left to the Sovereignty Protection Office, a government-appointed entity, to interpret what type of activity may fall under the remit of the draft law, and whether and to what extent it may negatively portray one of the selected constitutional values. Such discretion allows for the discriminatory selection of organisations who are perceived to be critical of the government. Moreover, the draft law applies to grants which have already been received, and which may need to be returned.

Second, I am concerned about the human rights compatibility of using the national anti-money laundering framework, which is designed to combat financial crimes and financing of terrorism, as a model for sanctioning foreign-funded activities that aim to contribute to democratic debate.

According to the draft law, organisations included in the registry are exposed to extensive powers of inspection by the National Tax and Customs Administration. They also lose their right to receive 1% of personal income tax donations. In addition, their senior officers will be required to make regular public declarations of assets, which will be published on the website of the Ministry of Justice, and they will be classified as high-risk public figures in terms of anti-money laundering and counter-terrorism financing obligations, exposing them to heightened scrutiny and due diligence requirements. These consequences, which apply even when the funding comes from intergovernmental bodies to which Hungary belongs and of which it is, itself, a recipient of funding, raise doubts as to their necessity and proportionality. I am concerned that the draft law may preclude organisations from accessing any form of funding, and even from accessing their bank accounts, possibly forcing them into bankruptcy. The draft law thus allows for severe interferences in the functioning of civil society organisations, to the point that the continuation of their activities may become impossible. It also does so without providing any procedural safeguards, or a clear, evidence-based risk analysis to demonstrate that such interferences meet a pressing social need.

Third, I note that an equivalent but less severe approach was already adopted in Hungary in 2017. The Law on the Transparency of Organisations Receiving Report from Abroad, which was repealed in 2020, imposed obligations of registration, declaration and publication of certain financial documents on civil society organisations receiving direct or indirect support from abroad. With respect to that law, the Court of Justice of the European Union found in 2020 that Hungary had introduced discriminatory and unjustified restrictions on foreign donations to civil society organisations, in breach of its obligations under the EU Treaty and Articles 7, 8 and 12 of the EU Charter of Fundamental Rights (provisions on the rights to privacy, protection of personal data and freedom of association).

In the judgment of *Ecodefence and Others v. Russia* of 14 June 2022, the European Court of Human Rights (the Court) reiterated that the imposition of new requirements on previously-existing organisations must be justified as being, in particular, “necessary in a democratic society”. In the circumstances of the case, the Court observed that, “to ensure that NGOs are able to perform their role as the ‘watchdogs of society’, they should be free to solicit and receive funding from a variety of sources. The diversity of these sources may enhance the independence of the recipients of such funding in a democratic society”. It further found that the cumulative effect of the special measures taken by Russia had entailed a significant, chilling effect on the choice to seek or accept any foreign funding, in a context where opportunities for domestic funding were somewhat limited, especially in respect of politically or socially sensitive topics or domestically unpopular causes. Accordingly, the Court considered the measures had not been necessary in a democratic society and had violated Articles 10 and 11 of the Convention.

In a subsequent judgment of 22 October 2024, *Kobaliya and Others v. Russia*, the Court further found that an obligation on the leaders and members of organisations to disclose detailed financial information on the website of the Ministry of Justice, in combination with the consequences for their social and professional lives and reputations, constituted a violation of the right to respect for private life protected by Article 8 of the Convention.

In light of the above, I respectfully ask members of the National Assembly to refrain from adopting the draft law unless it is amended to comply with international human rights law, notably pertaining to the rights to freedom of expression and association, the right to respect for private life, the right to a fair trial and the prohibition of discrimination. I further recommend that they engage with national and international partners, including the Council of Europe, on how best to promote transparency in democratic processes while creating an enabling environment for civil society organisations and other entities who contribute to democratic debate by engaging on issues of public interest.

I would be grateful if you could ensure that all members of the National Assembly receive a copy of this letter. I stand ready to continue our dialogue on this and other human rights issues in Hungary.

Yours sincerely,



Michael O'Flaherty