



**Submission by:** Front Line Defenders – The International Foundation for the Protection of Human Rights Defenders

**Related to:** Hungary

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Front Line Defenders ([www.frontlinedefenders.org](http://www.frontlinedefenders.org)) is an international NGO based in Ireland with special consultative status with the Economic and Social Council of the United Nations (ECOSOC). Founded in 2001, Front Line Defenders has particular expertise on the issue of security and protection of human rights defenders and works to promote the implementation of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (UN Declaration on Human Rights Defenders) adopted by General Assembly resolution 53/144 of 9 December 1998

The following submission has been prepared by Front Line Defenders based on research carried out by this organisation and information received from independent human rights defenders and NGOs in Hungary during a visit in April 2015. Front Line Defenders wishes to thank all those who contributed their knowledge and expertise.

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## Introduction and key concerns

1. This submission focuses on the situation for human rights defenders (HRDs) in Hungary since the previous UPR cycle and thus covers developments in the years 2011-2015.

2. Since 2010, when the ruling Fidesz party came to power, the authorities have taken progressive steps to limit the space for civil society and independent media, and to alter the constitutional system of checks and balances in favour of the executive. In March 2013, Constitutional amendments were passed that limited the authority of the Constitutional Court. This came in response to Constitutional Court's rulings against a number of government-backed laws criminalising homelessness, making voters' registration mandatory, and limiting religious freedom. Shortly thereafter, the laws found by the Court to be unconstitutional were re-introduced. These events were followed by the forced early retirement of approximately 300 judges.

3. While non-governmental organisations (NGOs) have generally been able to operate, recent developments have been a cause for concern. Since 2013, NGOs have repeatedly been labelled as agents of "foreign influence", accused at the highest levels of government of being politically motivated, have seen their offices raided by police and have had administrative, tax and criminal proceedings brought against them. Alongside these developments, extreme right-wing groups continued to threaten and at times physically attack HRDs, and media have been used to smear their reputation and credibility.

### The Norway Fund dispute: administrative, tax and criminal proceedings targeting NGOs

4. An offensive against independent NGOs started in August 2013, when Fidesz's spokesperson Péter Hoppál declared during a press conference that "pseudo NGOs" receive foreign funding to undermine the country's government. In October 2013, a member of parliament belonging to the far-right party Jobbik, Márton Gyöngyösi, announced a proposal for a new law to record and publish foreign funding received by NGOs in excess of €3300, in a move echoing Russia's legislation on 'foreign agents'. In April 2014, Prime Minister Viktor Orbán attacked Norway's development cooperation programme and claimed that it funded NGOs closely connected to the Green centrist opposition party. The Prime Minister reportedly wrote a letter to the Norwegian government protesting against "foreign influence".

5. In May 2014, the Government Control Office (KEHI), a body within the Prime Minister's Office responsible for auditing the use of government funds, was requested by the government to undertake an '**independent audit**' of Hungarian organisations involved in the EEA/Norway NGO Fund. The competence of KEHI was questioned by NGOs and Norway, on the basis that the funds were not channelled through the state and that a separate independent accountability and audit mechanism was in place. KEHI carried out on site visits at the offices of the NGOs administering the Fund, namely Ökotárs Foundation, Demnet and Autonómia Foundation. The audit was then extended to approximately 60 organisations in receipt of grants from the Fund. Among the groups targeted are those defending civil rights, women rights and fighting against corruption. NGOs reported that KEHI requested extensive documentations, often with tight deadlines, including documents unrelated to funding, such as names and contracts of volunteers, and information protected by attorney-client privilege.

6. In August 2014, the authorities opened a **criminal investigation**, officially against unknown individuals, on grounds of embezzlement of funds and fraud. In September 2014, police raided the offices of the Ökotárs Foundation and Demnet. The investigation was eventually transferred to the criminal division of the tax authority (NAV). As the investigation was opened against unknown, the NGOs concerned received no information on its progress.

7. In parallel to these proceedings, the tax authority also commenced **tax audits** against a number of organisations in receipt of grants from the Norway Fund. Following the KEHI report, in September 2014, NAV suspended the tax number of the four groups managing the Fund.

8. In parallel to the proceedings brought by the state, NGOs also initiated a number of proceedings raising issues in relation to police actions and the legality of the KEHI inspection, including:

- that raids by police were unlawful;
- in relation to the alleged leaking of confidential information (see paragraph 11 below);
- that KEHI lacked legal authority to carry out such an investigation in relation to the Norway Fund;
- that the final draft report was not shared with the organisations inspected, as provided for by law, and that they had not been informed of its publication;
- in relation to the lack of remedy or of an appeal system against KEHI's decisions.

9. In particular, some of the NGOs whose tax number was suspended requested that the case is referred to the Constitutional Court on the basis that there is no legal remedy against KEHI decisions. Pending proceedings, the court have temporarily suspended the tax authority's decision to suspend their tax number.

10. In January 2015, courts ruled that the September raid by police were unlawful.

11. Proceedings for the alleged leaking of confidential information were initiated by Ökotárs following the publication in media outlets of private emails exchanged among human rights groups involved in the Norway Fund. The publication occurred after police confiscated the computers of individuals involved in the email exchange. While the source of the information remains unclear, the timing has aroused suspicion that the information may have been provided to media by police officers or others with their knowledge. The police investigation ended in August 2015 and found that no criminal activity had taken place. Ökotárs appealed the decision and proceedings remain pending.

12. The tactics used in the Norway Fund dispute are not new. Tax audits were used on previous occasions to target critical groups. A tax audit was opened in 2011 against one of the organisers of the 'One Million for the Freedom of the Press' campaign, a spontaneous initiative by citizens concerned by media freedom, who carried out public fundraising through social networking sites. The audit terminated in 2012 and no wrongdoing was found.

### **Media freedom and smear against civil society**

13. The media laws adopted in 2010 generated concerns that they may severely impact on independent media.<sup>1</sup> While the harsh penalties provided for in the law have not been used, serious concerns about media freedom remains. The number of **independent media** is **declining**; new tax regulations on advertising appear to have been drafted to target one of the few remaining independent TV channel; journalists have been dismissed for reporting critically about the government, which has further encouraged **self-censorship**. Furthermore, government exercise control over the supposedly independent media council.

14. In June 2014, the editor of independent online media Origo, **Gergő Sáling**, was **dismissed** after airing allegations of misuse of public funds within the Office of the Prime Minister. Hundreds of journalists participated to protests and several journalists in Origo resigned in solidarity with Sáling.

15. Furthermore, journalists have been prosecuted for **criminal defamation**, although until now prison sentences have not been handed down. The OSCE Representative on Freedom of the Media, Dunja Mijatović, commenting on changes to the Penal Code introduced in 2013, increasing penalties for criminal defamation, stated that "These amendments to the penal code can further restrict media freedom. The penalties for publishing defamatory recordings are disproportionate and may lead to the silencing of critical or differing views in society. [...] Several elements of the changes are vaguely worded and could be politically misused to penalize those with opinions that

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1 See <http://www.osce.org/fom/74687> and <http://www.osce.org/fom/75999>.

run against the views of the authorities".<sup>2</sup>

16. **Smear campaigns** in pro-government media occurred frequently. The August 2013 declaration by Fidesz's spokesperson referred to in paragraph 4, above, was preceded by articles in pro-government media outlet *Heti Válasz*, which made similar accusations against independent human rights groups. The same outlets also amplified hostile statements made by senior government figures and other politicians, and made false allegations that an audit carried out by Ernst & Young supported government's claims of fraud and financial irregularities.

17. In 2014, pro-government media HirTV published private information concerning the organisers of mass protests against a government-proposed Internet tax. In particular, it disclosed that one of the protest organisers, social media entrepreneur **Zsolt Varady**, allegedly had criminal records dating from several years before for possession of cannabis. Criminal records in Hungary are not publicly accessible. This has aroused suspicion that individuals with access to the criminal database, which is managed by the Ministry of the Interior, may have leaked the information to media in an attempt to smear Varady's reputation.

### **Threats and attacks by far right groups**

18. Extreme right wing groups have been responsible for intimidating and threatening HRDs. Numerous groups exist in the country and several of them, including militia group the Hungarian Guards, are believed to be linked to political parties or individual politicians. The Hungarian Guard was banned by the courts in 2008 but immediately reappeared under a new name, the New Hungarian Guard. Many HRDs, especially those working on Roma and LGBTI issues, have been threatened by such groups. Many have seen their **names, photos, phone numbers and other personal information published on extreme right wing websites**, such as *Kuruc.info* or *Deres.tv*. This occurred, at times, alongside calls to target them. Instances of physical attacks against HRDs have occurred, including in connection to human rights events or protests held in the capital's city centre.

19. A case in point is that of **Andrea Giuliano**, an activist involved in grassroots social movements, in particular on issues of migration, homelessness and discrimination against lesbian, gay, bisexual and transgender (LGBT) people. Giuliano has been the subject of serious threats since July 2014, when he staged a protest against the Church and a well-known far-right motorcycling group during the Gay Pride, to draw attention to their role in encouraging homophobia. He received serious threats, members of far-right groups looked for him at his home and a mob surrounded his place of work, to the point that he had to be escorted out by police. An article appeared on the far-right website *Deres.tv*, publishing his name, address and picture, and a post appeared on a facebook page announcing a 10.000 USD bounty on his head, post which was later removed. Giuliano compiled over 200 threats made against him, with names and photos of their authors, and handed them over to police for investigation. In spite of this, police reportedly failed to identify those responsible for the threats, which has resulted in Giuliano being forced to change address five times. This case illustrates what appears to be a **pattern of police failing to investigate threats made by far-right groups**, even in circumstances where the identification of the authors is possible.

20. HRDs working in rural areas, especially if members of, or supporting the Roma community, are also particularly exposed to extreme right wing groups. Such groups have organised marches through Roma neighbourhoods and towns and have at times carried out violent attacks.

21. **Gabor Szollosi** is a human rights defender based in Erpatak, in eastern Hungary. He has reported regular threats and intimidation both by far-right groups and by the local mayor, who has been defined as being more extreme than the far-right party Jobbik. In March 2014, he appeared on a programme on social issues on TV channel RTL and, shortly thereafter, started receiving threatening phone calls. On 14 March 2014, he received a call by an individual posing as a

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2 <http://www.osce.org/fom/107908>

journalist, who lured him to a meeting for an interview. Once arrived to the agreed place he was assaulted and beaten. His jaw was injured, he lost several teeth, and had to be hospitalised. An investigation was opened by police but perpetrators were not identified. An investigation was also opened on the publication of his personal details on right-wing website *Kuruc.info* but no progress was reported, despite the fact that those making threats in the comments section were identifiable.

### **Criminal proceedings and police inquiries**

22. There have been cases of criminal proceedings brought against HRDs. Housing rights defender Balint Misetics is a member of **The City is for All**, a grassroots organisation working on homelessness. On 27 March 2012, a company contracted by the local authority for park cleaning and maintenance destroyed the huts of four homeless people in a forest area of Budapest, without respecting any of official procedures required. Misetics, together with another member of The City is for All, protested the illegal eviction and demolition. They were fined by police for disobeying a lawful order. The Office of the Hungarian Commissioner for Fundamental Rights concluded that the destruction of the shelter was illegal as local authority should follow the procedures provided for in cases of eviction and provide alternative accommodation.

23. A criminal investigation on grounds of disrupting public order was initiated in March 2013 against a number of individuals who had taken part in a sit-in organised in front of the headquarters of the Fidesz party to protest proposed amendments of the Constitution. Protesters entered the courtyard of the building but remained peaceful, and people were able to enter and exit the building freely. An inquiry was opened on grounds of 'violent collective disorderly behaviour' (section 340(3) of the Penal Code), which carries a penalty of up to three years' detention.<sup>3</sup> The office of the prosecutor eventually dropped the charges.

### **Women's rights to choose in the area of maternity services**

24. HRDs working on women's rights, in particular sexual and reproductive rights, have faced challenges and in some cases criminalisation and detention.

25. Dr. **Ágnes Geréb** is medical doctor and midwife who has assisted women in giving birth at home and has advocated in favour of women's rights to choose in the area of maternity services, in particular in relation to home birth. Ágnes Geréb faced five court proceedings, which remain all pending. In February 2012, she was sentenced in first instance to two years of imprisonment and a 10-year ban on practising the medical profession on charges of alleged malpractice. The ruling was based on an expert opinion considered by the International Coalition on Women Human Rights Defenders to be biased, as the authors were not expert on home birth and had previously expressed their opposition to it. The court ordered a re-trial following new expert opinions, trial which remain pending. Several midwifery representative bodies in other countries expressed support for Geréb and condemned the court proceedings against her. She spent over three years under house arrest before the conditions of her bail were eased in 2014.

### **LGBTI rights defenders**

26. Hungary has several groups active in the defence of the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people and fighting discrimination against them. The Gay Pride march was banned in 2011 and 2012 on the basis that it would disrupt traffic. The ban was found by the courts to be discriminatory in proceedings brought by LGBT group Háttér, and Pride marches were held in subsequent years.

27. In 2013, some Pride participants suffered physical attacks. The authorities prosecuted the authors in three cases where they were identifiable. They were charged with hate crimes, which marked a positive development from the previous use of charges of assault. One of the cases

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<sup>3</sup> Protesters did not comply with police orders to leave, which could have justified an inquiry on the misdemeanour of not obeying a lawful order, which is punishable by a fine.

ended with a conviction to three years imprisonment, which remains subject to appeal, while the other proceedings remain pending in first instance. In 2014, the number of attacks decreased. Prosecution was not possible as the authors of the attacks were not identifiable.

28. On at least two occasions, in 2012 and 2013, far-right groups drew up a list of people perceived to be LGBT, which included several LGBTI rights defenders, based on information available online and in social networks. In 2012 the list was published with calls encouraging attacks against them. Proceedings for incitement to hate crime however could not go ahead as the authors of the list were not identified.

## **Recommendations**

29. Front Line Defenders calls upon the member states of the UN Human Rights Council to urge the Hungarian authorities to prioritise the protection of human rights defenders and in doing so to:

- (a) Guarantee in all circumstances that all human rights defenders in Hungary are able to carry out their legitimate human rights activities free of all undue restrictions, and ensure full respect for the UN Declaration on Human Rights Defenders;
- (b) Promptly investigate the alleged leaks of private and confidential information and its use with the aim of stigmatising the work of human rights defenders and civil society figures;
- (c) Ensure full respect for the right to solicit, receive and utilise resources, including from abroad, in accordance with Article 13 of the UN Declaration on Human Rights Defenders;
- (d) Take measures to ensure that journalists can carry out their work freely and independently, without fear of undue pressure or retaliation, and reform the media sector to ensure that independent and pluralist media exist;
- (e) Promptly and thoroughly investigate threats made against human rights defenders by members or sympathisers of extreme right groups, including online, and provide protection to those at risk;
- (f) Take measures to ensure public recognition of the positive role that human rights defenders play in society, including in particular by government and political figures;
- (g) Request that the Office of the Commissioner for Fundamental Rights considers issuing a report on civil society space in Hungary with recommendations for the government on ensuring an enabling environment.
- (h) Fully implement the adopted UPR recommendations on human rights defenders in a transparent and participatory manner with full involvement of human rights defenders at all levels.