**Summary of Review Team Findings**

On July 8, 2015, the Hungarian Civil Liberties Union, K-Monitor Watchdog for Public Funds, Transparency International-Hungary, and the Sunlight Foundation sent a letter of concern to the OGP Steering Committee regarding the deterioration of the space for civil society in Hungary and its impact on the ability of the country to engage in a meaningful way in the OGP process (see Annex 4). The letter claims that the government of Hungary is putting pressure on democracy and transparency NGOs and their leaders through different means, and that the government’s actions undermine the values and principles expressed in the Open Government Declaration and in the Articles of Governance of the Open Government Partnership. The letter raises concerns about several issues: a smear campaign against human rights and transparency NGOs; accusations against the funding states of an EU grant program; unwarranted audits and criminal investigations of the NGOs, including suspension of tax identification numbers NGOs need to legally operate; a police raid of NGO and activist accommodations; consultation failures; and administrative burdens claimed to hinder freedom of information requests.

The letter asks OGP to “take action in relation to Hungary under the Policy on Upholding the Values and Principles of OGP, as articulated in the Open Government Declaration (OGP response policy)”. It refers in particular to two aims included in the OGP response policy: “to help re-establish an environment for government and civil society collaboration” and to “safeguard the Open Government Declaration and mitigate reputational risks to OGP.” In particular, the writers “call on the OGP Steering Committee to launch a thorough investigation into the situation in Hungary, with a view to helping to reestablish a positive environment for government and civil society collaboration.”

As noted in the 2015 IRM Progress Report for Hungary, “When viewed from an international perspective, Hungary’s performance in terms of government efficiency, freedom of information, freedom of association, transparency and corruption shows a deteriorating trend in the last decade.”[[1]](#endnote-1) The IRM report describes concerns with corruption and an effort by the government to “minimize the influence of constitutional and civil checks and balances,” including weakening the Constitutional Court. It also notes both national and international nongovernmental organizations expressed concerns about civic space and freedom of the press. The IRM report also observes that “[a]ccess to public sector information is generally perceived as very challenging” with NGOs perceiving a lack of trust on the part of the government that hinders collaboration and results in high administrative costs in response to public data requests.

The incidents raised in the letter of concern thus occur as part of a long-term pattern and larger trend of reduced transparency, diminished media freedom, and constrained civic space.

According to the OGP Response Policy, the criteria to establish the relevance of the concern are as follows:

1. Establish the relevance of the concern to the Open Government Declaration and OGP’s Articles of Governance – i.e., is the matter being reported directly undermines fulfillment of the nation’s commitment to OGP principles, thereby calling into question the process of its OGP participation. (Annex 1)

2. Check with previous OGP data points, such as cross-referencing with the findings of the most recent IRM report on the country, including the national context section. (Annex 2)

3. Establish the veracity of the information by cross-referencing concerns with government, civil society, IRM researchers and third parties, including UN bodies, according to the nature of the issue. (Annex 2)

4. Assess whether an OGP intervention could have the desired impact in a country or is necessary to protect the credibility of OGP.

The review team’s process involved reviewing OGP’s Article of Governance and the Open Government Declaration, cross-referencing the concern with the most recent IRM report for Hungary, and establishing the veracity of the information by reviewing civil society, government, media, and United Nations sources, as well as the response letter submitted by the Government of Hungary to the Support Unit on August 31, 2015. Having followed this process, the review team’s findings are as follows.

**Establishing the concern’s relevance**

A review of OGP’s Articles of Governance and the Open Government Declaration, endorsed by the Government of Hungary, confirms the relevance of the concerns raised by the letter submitted to the OGP Steering Committee. The Declaration, for example, includes a commitment to “protecting the ability of not-for-profit and civil society organizations to operate in ways consistent with our commitment to freedom of expression, association, and opinion.” [[2]](#endnote-2) Similarly, the types of issues that the OGP Response Policy defines as forming “a relevant concern” include the following:

* Introduction of new/revised policies or actions that significantly reduce the space for non-governmental organizations to work independently, voice critiques, and/or receive funding from domestic or international sources (e.g. new NGO laws)[…]
* Introduction of new/revised policies, laws, or practices, or actions that significantly reduce enjoyment of fundamental freedoms, notably freedoms of expression and peaceful assembly, and freedom to associate.
* Manipulation of the OGP process by governments in terms of civil society participation (e.g. only inviting GONGOs to participate in consultations).[[3]](#endnote-3)

**Establishing the complaint letter’s veracity**

The issues raised in the Letter of Concern center on a group of Hungarian NGOs that distribute or receive funds through EEA-Norway Grants, an EU program by which the government of Norway, along with Iceland and Lichtenstein, make development contributions to Central and Eastern European countries as part of its association agreement with the EU. The fund has 32 program areas in different sectors ranging from environmental protection and climate change to civil society and research.

A Norway Grants fund of 153.3 million euro ($192 million US) was established for Hungary in 2013, and operates under a memorandum of understanding between the donor and recipient government, which includes provisions for independent auditing. According to the agreement most of the funding was administered by the Hungarian government directly, but 13.5 million euro ($16.9 million US) for the climate change and NGO programs were administered by the EEA-Norway Grants Financial Mechanism Office in Brussels. The NGO funds were disbursed by a four-member consortium of NGOs (the Okotars Foundation, DemNet, the Carpathian Foundation, and the Autonomia Foundation) who evaluated program proposals and made sub-grants to other NGOs; at least 54 of these also came under examination during the government’s investigations.

The claims in the Letter of Concern are supported by a number of independent sources that establish an escalating pattern of harassment, beginning in April 2014, against NGOs disbursing or receiving EEA-Norway Grants funds that led to a government audit and criminal investigation and culminated in September 2014 with a coercive police inspection of two NGOs and two NGO employee residences. The situation has calmed somewhat since, moving to a legal/investigative phase.

The sources cited by the review team include the European Parliament’s Committee on Civil Liberties, Justice and Home Affairs, the European Commission for Democracy through Law (the Venice Commission), the United Nations Special Rapporteur on Freedom of Expression, the United Nations Special Rapporteur on Freedom of Association and Assembly, Amnesty International, Freedom House, the Open Society Foundation, Human Rights Watch, Human Rights First, the Royal Norwegian Ministry of Foreign Affairs, and the United States Department of State (See Annex 3 for a full list of sources, and Annex 2 for relevant citations).

In addition, the NGOs submitted with their Letter of Concern support for their claims, arranged in chronological order, that cited evidence a variety of independent sources, including Hungarian news sources that are not normally cited by parties outside the country due to language barriers (“Actions that Undermine the Values and Principles of OGP in Hungary: A Chronology of Attacks on Civil Society,” hereafter the “Chronology.”)

The 2013-14 IRM Progress Report also speaks to some of these concerns, noting long-term deterioration in several democracy and governance trends, including freedom of association, freedom of information, transparency, and corruption, and a political situation that included a “weakening of the power of the Constitutional Court” and “concerns with civic space and freedom of press in Hungary.”[[4]](#endnote-4)

The Hungarian government generally does not disagree with the factual claims in the Letter of Concern but disputes how the situation has been characterized. It claims that the NGOs are politically biased and agents of foreign powers, and that investigations are focused only on a small group of NGOs suspected of mismanagement and favoritism, who were later uncooperative with investigators. It furthermore maintains that its actions do not constitute “harassment,” nor that the police search was intimidating, threatening, or conducted as a “raid.”

Since the submission of their response, there has been some direct engagement between the Norway Grants Fund and the Hungarian government, which in December 2015 resulted in the agreement that payments by the Norway Fund to Hungarian NGOs will resume[[5]](#endnote-5). However, the Hungarian government has also publicly stated that it will veto participation of the Ökotárs Foundation in future distribution of funds following concerns expressed by the Hungarian government regarding Ökotárs that it (the government) believes remain valid[[6]](#endnote-6).

Despite the resolution of the Norway Funds case in December, long-term trends regarding constraints on civic space persist, at least to some degree, and the environment for civil society actors remains precarious, conditions which are especially worrisome in the context of eroded checks and balances, lessened transparency, and pressures against journalistic independence. According to media reports, the government has also in January 2016 launched a campaign to discredit an NGO that was formed by citizens to offer aid to migrants during the recent refugee crisis.[[7]](#endnote-7)

**Smear campaign against human rights and transparency NGOs**

While the Hungarian government asserts that the NGOs in question are guilty of budgetary mismanagement, favoring a small clique of sub-grantee groups, and political bias, and furthermore avers that they are conduits of foreign influence, a number of independent sources support the Letter of Concern’s claim that the government conducted a negative public communications campaign against transparency and democracy watchdog groups. According to the sources, the government published a list of 13 NGOs that it labeled as “left-leaning” and “problematic,” and high-level government officials made derogatory statements. In July 2014, the Council of Europe’s commissioner for human rights, Nils Muiznieks, sent a letter to the head of the Prime Minister’s Office, Minister Janos Lazar, expressing concern regarding ‘the stigmatizing rhetoric used in Hungary against NGOs active in the field of promoting human rights and democratic values, with politicians questioning the legitimacy of their work,’ and called for a suspension of audits. In December 2014 the prime minister called for groups funded from abroad to be specially registered.

**Accusations against foreign funders of an EU grant program**

The Letter of Concern’s claim that the Hungarian government’s accusations reached other governments, particularly that of Norway, are similarly supported by a variety of independent sources and reports, as well as letters exchanged between those two governments, and their press statements. The governing party’s spokesperson criticized “a circle of American speculators” as early as 2013, saying “all they have to do in exchange of the American money, is to attack the Hungarian government, attack Fidesz, and attack the Prime Minister of Hungary in all possible forums.” In April 2014, Minister Lazar sent a letter to the Norwegian foreign ministry alleging that one of the NGOs responsible for disbursing EEA-Norway Grants funds, the Okotars foundation, had links to an opposition political party, and stated that this called into question the trust and values at the core of their cooperation. The government of Norway denied the accusations and maintained the independence of the NGO. On May 9, 2014, the Norwegian Ministry of Foreign Affairs suspended disbursement of the EEA-Norway Grants program funds that went directly to the government on the grounds that it was in breach of the MOU, but maintained payments to the NGOs through the Financial Management Office in Brussels. When Hungarian authorities initiated audits and investigations (see below) the Norwegian government noted that these were outside of the scope of the MOU and did not involve any Hungarian public funds or public institutions, so would therefore be ignored, and that a regularly scheduled audit by an outside, independent firm would be conducted. This audit occurred during fall of 2014, and the results were released on May 28, 2015, concluding that the handling of the NGO fund and the evaluation mechanisms in place complied with the respective regulations. In spite of apparent settlement being reached on several of the complaints in December 2015 between the Norwegian and Hungarian government, the Okotars foundation has nevertheless been publicly ruled out from receiving future funds for distribution from the Hungarian government[[8]](#endnote-8).

**Audits and criminal investigations, including tax number suspension**

The letter of concern’s claim that the Government Control Office (GCO, sometimes referred to by its acronym in Hungarian, KEHI) initiated an audit in May 2014 is not disputed by the Hungarian government, nor is the fact that the audit led to a criminal investigation beginning in August 2014. Various independent sources describe Hungarian government investigative bodies demanding access to financial and other documents and threatening sanctions for failure to cooperate. The NGOs either cooperated and turned in the documents while disputing the legal basis for the inquiries, or made the documents publicly available on their websites to all, including government authorities. As the investigations proceeded, further demands for documents and paperwork were made, and several NGOs reported that the requirements were so burdensome and ate up so much staff time that the NGOs’ work was severely restricted. The GCO, however, claiming that the NGOs were non-compliant in turning over required documents, in September 2014 initiated the suspension of the NGOs’ tax identification numbers, which are required to legally operate and exist. The NGOs appealed, however, and on February 23, 2015, a Budapest court suspended the tax authority’s suspension, allowing the NGOs to remain in operation until the court had completed reviewing the case. In January 2015 the Prosecutor’s Office and the National Tax Authority (NAV) initiated investigations; the former was completed on June 30 and found administrative irregularities, and the later was terminated on October 30 and found no evidence of wrongdoing. As of November 6, the court case concerning the suspended tax numbers was still pending. Thus for over a year, the NGOs in question have operated in a precarious position under extra administrative burdens, carrying out legal defenses, and with their legal existence in the balance.

The Hungarian government maintains that the audit was a legitimate inquiry that affected only a small group of less than 60 NGOs, protests characterizations of it as harassment, and claims that the NGOs subject to investigation were uncooperative, in particular refusing to turn over required documents, for which reason the government suspended the tax numbers of several of the NGOs.

It has been reported that the agreement was reached between the Norwegian and Hungarian government in December 2015 will see all suspended tax numbers reinstated and all criminal proceedings ceased[[9]](#endnote-9).

**Police raid**

The claim in the Letter of Concern that a police search carried out on September 8, 2014, was “threatening” is similarly borne out by a variety of independent sources. According to the sources, armed police in official attire appeared at the Headquarters of two of the NGOs (Okotars and Demnet), entered the premises, prevented employees from using their phones, and confiscated laptops and servers; they then escorted two employees, including the head of the Okotars foundation, to their private residences and confiscated additional equipment and documents. Independent sources universally called the police action a “raid,” and described it variously as “harassment,” “intimidation,” “a crackdown,” an attempt to silence watchdog and rights organizations, and an attempt to cause their financial resources to dry up.

The Hungarian government, in their response letter, denies these characterizations of the police search of the NGOs’ and activist’s dwellings. The letter disagrees that the police action was frightening, and indeed denies that it was a raid, saying, “the search was not carried out by riot police officials and it was not carried out as a ‘raid’ nor was it threating or intimidating.” The letter states, “The house search was carried out by plainclothes officials of the Corruption and Economic Crime Department of the National Bureau of Investigation.” However, news photographs from the scene show armed police officers were wearing polo-style shirts labeled “Police” in English and adorned with the insignia of "Készenléti Rendőrség" (Operational Police), the country’s gendarme-like riot police. The Hungarian government’s letter states, “Officials from the Riot Police were there as well, but only to protect the scene and hold off the press and bystanders,” which, the review team notes, would not be apparent to the NGO activists and employees subjected to the search. The Hungarian government also maintains that the compulsory search and confiscation was necessary because, it claims, the NGOs were withholding documents that had been demanded by the Government Control Office; even though the government states that “Section 8 of the Criminal Procedure Act (CPA) providing that ‘no one may be compelled to make a self-incriminating testimony *or to produce self-incriminating evidence*’ also supports the ordering of the house search” (emphasis added). A Budapest court on January 23, 2015 ruled that the ordering of the search and seizures during the police raid at both the NGO offices and home of the activist was unlawful.

**Consultation failures**

The Letter of Concern’s claim that no real or meaningful consultation occurred between the government and civil society regarding Hungary’s 2015-2017 OGP Action plan is supported by the direct communication of NGO leaders themselves to the OGP Support Unit (via e-mail, see Annex 3), and also has support from the IRM Progress Report. The Letter also claims that, rather than constructively and transparently engaging with civil society, the government in its anticorruption action plan instead proposed to compel NGO leaders to not only make public NGO finances, but to declare their personal financial assets. This is supported by Human Rights First testimony, as well as the sources in the Chronology submitted with the Letter of Concern. The Hungarian government, in its response letter, holds that “civil society is getting increasingly involved in the decision-making in line with the principle of multilevel governance. Therefore, the transparent operation and the accountability of the utilization of state subsidies have to be ensured in the case of civil society organizations as well.” It also cited the possibility of mismanagement or unlawful use of NGO budgets as justifications for compelling NGO leaders to publicly disclose their private assets.

**Payment of costs for freedom of information requests**

The Letter of Concern’s claim that the 2015 law concerning freedom of information established new barriers to accessing official information, including fees to cover not only the costs of copies but labor costs of providing documents, is likewise supported by independent sources, which specifically noted that the costs would not be made known to requesting parties in advance, and thus would be arbitrary and likely excessive. The OSCE Representative for Freedom in the Media, Dunja Miatovic, spoke out against the legislation before its adoption and urged the Hungarian parliament not to pass it, saying “I call on the Parliament not to adopt the proposed amendments and to launch a public discussion with all stakeholders to ensure that the changes will support, and not limit, access to public information.” Both the Index on Censorship and the Committee to Protect Journalists objected to the law.

The Hungarian government felt that the legislation was in line with Article 7 of the Council of Europe Convention on Access to Official Documents, but acknowledged that Article had not yet been ratified and was not in force. It cited the relevant language of both the unratified Article and the existing Hungarian regulation in force, Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information, or the “Privacy Act.”[[10]](#endnote-10) The existing regulation provides for reimbursement to the government of the costs incurred for making copies, and states that the government “shall communicate this amount to the requesting party prior to the disclosure of the requested information.” The government also cited several other European countries that allow charging for access to costs related to copying and providing data to requesting parties.

**Applicability of the Response Policy to the Case**

The Hungarian government in its letter of August 31, 2015 calls upon the Criteria and Standards Subcommittee and the Steering Committee of OGP to carefully deliberate to “establish whether to OGP response policy can be applied if the concerns raised in the fact arose before the response policy was adopted. In the present case, almost all of the concerns stated in the Annex of the letter of concern date back before the OGP response policy was adopted”.

As mentioned by the government, not all of the facts raised in the letter of concern took place after the Response Policy was adopted by the OGP Steering Committee in September 2014. Moreover, as also established under the “**Establishing the complaint letter’s veracity”** session above, information collected in the Criteria and Standards process to evaluate the complaint letter show that some worrisome trends regarding constraints on civic space persist and are yet to be addressed and the general environment for civil society to operate remains less than optimal.

These circumstances, in line with all the other evidence gathered for this report in the process of analyzing the facts presented in the complaint letter, are considered by the Criteria and Standards Subcommittee sufficient to establish the applicability of the OGP Response Policy.

Nonetheless, it is very important to establish that the Criteria and Standards Subcommittee is not a legal or judicial body and the Response Policy is not a legal or judicial instrument. While the Policy was formally adopted by the OGP Steering Committee in September 2014, its objective was to lay out the procedures to implement rules which were established in the Articles of Governance of OGP since the launch of the initiative: “OGP stakeholders are expected to uphold the values and principles articulates in the OGP Declaration, and to consistently advance open governance for the well-being of its citizens”.

**Assessing the impact of an OGP intervention**

The Criteria and Standards Subcommittee considers that the facts presented in the complaint letter, corroborated through various sources, as well as the additional areas of concern that were raised during the initial analysis of the complaint letter and highlighted in this report, constitute a real threat to OGP’s credibility should OGP not take any action.

While it may be that specific organisations, such as those who laid the complaint, are targeted, it was clear in some interviews conducted that local-based organisations not signatories to the letter and not directly engaged in the OGP are nevertheless also experiencing different types of adverse action from local authorities.

Within Civicus’ 2015 annual report on the state of civil society, they note:

*“The situation in Hungary is worth noting as well. It has no formal restrictions against CSOs receiving foreign funding, but the government launched last year what some described as an all out attack on a group of CSOs that were receiving funding from the government of Norway. The police clampdown was subsequently judged illegal by the court, but some problems remain. Businesses receiving investment from abroad do not seem to have been singled out for such treatment. On the contrary, the Hungarian government has heavily promoted itself as a leading destination for foreign direct investment, with PR videos and the creation of a favourable legal environment”. [[11]](#endnote-11)*

Furthermore, given the OGP Declaration, the actions taken to backtrack on the Freedom of Information law, which according to the research conducted seem to be more significant than reported on in the original complaint letter, may also be of significant reputational concern for OGP.

There are significant issues in relation to how consultation on any law is pursued in Hungary, given the apparent lack of concerted consultation with civil society. However, we recall that the OGP process can help establish a positive environment for government and civil society collaboration. In this regard, the Hungarian commitment to facilitate legislative engagement (Commitment 6 in its Second National Action Plan) should additionally be an area of priority.

It is worth noting the strong predominance of open data “push” type commitments from the government in the second action plan. As noted by Yu & Robinson[[12]](#endnote-12) open data commitments only become “open government commitments” if they can create accountability. This requires a strong civil society, which is consulted and free to speak. If the concerns about civil society ability to operate freely in Hungary are not addressed, the Second Action Plan will likely seem incapable of equating to open government practice.

Annex 1: Establishing the Relevance of the Concern to the Open Government Declaration and OGP’s Articles of Governance

A) The concern is relevant to OGP’s Articles of Governance, in particular:

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| Concern in Letter | OGP’s Article of Governance |
| OGP Response Policy  p. 1-2  “We are writing to you as individuals who represent civil society organisations that have serious concerns about the deterioration of the space for civil society in Hungary over the last few years and to draw your attention to these worrisome developments. We believe the actions of the Hungarian government undermine the values and principles expressed in the Open  Government Declaration and in the Articles of Governance of the Open Government  Partnership, which the Hungarian government endorsed when it joined the OGP in 2012.  “We are asking you to take action in relation to Hungary under the Policy on Upholding the  Values and Principles of OGP, as articulated in the Open Government Declaration (OGP response policy), which you adopted on 25 September 2014. The aims of the OGP response policy are “to help reestablish an environment for government and civil society collaboration” and to “[s]afeguard the Open Government Declaration and mitigate reputational risks to OGP”. We believe that the situation in Hungary warrants OGP attention based on both of these aims.”  […]  “The rule of law, democracy, pluralism, human rights and the role of independent institutions as  checks and balances on political power have been systematically undermined in Hungary since  the current government came to power in 2010 with the backing of a two-thirds supermajority in  Parliament. Particularly troublesome from the perspective of the OGP are the government’s actions to reduce the space for nongovernmental  organisations to work independently, voice critiques and receive funding from international sources.  “The trend on the part of the Hungarian government to increasingly view members of civil society which are critical of it as its enemies has been documented in both the IRM report on Hungary and assessments conducted by independent domestic watchdog organisations. Severe concerns about civic space and media freedom in Hungary have been voiced by national and international watchdog organisations. The Hungarian government’s systematic attempts to  attack some nongovernmental organisations which are critical of it – through smear campaigns, police raids, criminal investigations and charges, and even suspension of the all-important tax  identification of NGOs – represent a clear breach both of the administration’s commitment to the  core principles and values of the OGP and of international human rights standards.” | p. 28  Addendum F: OGP Response Policy  p. 29  “There are three main ways in which an inquiry can be triggered in the Criteria and Standards subcommittee under this response policy:  […]  “3. The OGP Steering Committee or Support Unit receives a letter of concern from a civil society, not-for-profit organization, or media organization involved in OGP at the national or international level, including details on which country and why.”  p. 28  “The OGP Articles of Governance ask the Criteria and Standards subcommittee to make a recommendation to the Steering Committee when a review of a country’s participation in OGP is necessary. This includes when countries are ‘taking actions that undermine the values and principles of OGP’…  “All participating governments are to endorse the Open Government Declaration to become full participants in OGP… the Declaration includes a commitment *to ‘protecting the ability of not-for-profit and civil society organizations to operate in ways consistent with our commitment to freedom of expression, association, and opinion’*. In addition, OGP’s theory of change in the 2015-18 strategy document highlights the importance of having an engaged civil society with the space to participate and influence National Action Plans.” |
| Civil Society Harassment  p. 2-3  “Since the summer of 2013, Hungarian government officials have been engaging in a smear campaign against many of the country’s independent NGOs. This has involved different officials making public comments about how these groups have `leftist political ties` and are fronts for  political activists who are paid by foreign interest groups which wish to exert influence over  political life in Hungary. These accusations have even been levelled at foreign governments,  most notably that of Norway, which has been accused of interfering in the internal politics of the  country by giving grants to NGOs which counter or are critical of certain moves and decisions of  the government. Many of these allegations have been directed at the very transparency and human rights groups which have been most actively engaged in the OGP process in the country.  “Over time, the allegations have been followed by more direct action on the part of the government. In May 2014, the Government Control Office (GCO) began an audit of the four organisations which participate in the consortium which runs the EEA/Norway Grants NGO Fund (NGO Fund), as well as a number of organisations which have received support from this Fund. It remains unclear who actually initiated the GCO investigations.”  […]  “A criminal investigation has been initiated based on the findings of GCO’s audit into EEA/Norway Grants recipient NGOs. A spectacular police raid in September 2014 against two of the NGOs running the NGO Fund, involving dozens of riot police, was particularly threatening. The offices of Ökotárs and DemNet were raided, with the police allegedly looking for evidence of embezzlement and the unauthorised granting of loans to NGOs. The police  seized laptops and documents, and prevented staff from making phone calls. In a recent ruling, a court held that the police raid was unlawful as charges of embezzlement or unauthorised banking activities had not been established at the time. Although the police investigations are ongoing, no concrete evidence of criminal behaviour has so far been revealed.  “In a move that puts their very existence at risk, the tax identifications of the four organisations  which run the NGO Fund were suspended in September 2014. This deprives the organisations  of their eligibility to handle foreign grants and is a clear sign that the government is ready to  administratively hinder the operation of civil society groups with a critical approach to its  performance.”  […]  “Moreover, the government, in its latest attempt to restrict freedom of information,  adopted a bill that obliges the refund of costs triggered by the servicing of public interest  information requests. Setting new barriers to accessing public data restricts the degree to which  this fundamental right can be enjoyed and further hinders civil society in fulfilling its watchdog  role.” | p. 30  “Some of the types of issues that have been previously raised in concerns to the Steering Committee as damaging to the OGP process in a country may include (but are not limited to):   * “Introduction of new/revised policies or actions that significantly reduce access to information for citizens and civil society. * “Introduction of new/revised policies or actions that significantly reduce the space for non-governmental organizations to work independently, voice critiques, and/or receive funding from domestic or international sources (e.g. new NGO laws). |
| OGP Process/Consultation  p. 3  “Hungarian NGOs which participated in the development of the country’s OGP Action Plan were very critical of the process, claiming that no real consultation or meaningful discussion took  place between the government and civil society. From the very beginning of the process of  drafting the second OGP Action Plan, participating NGOs have repeatedly asked the government to take the necessary measures to restore trust and collaboration with civil society. Among other things, a coalition of participating NGOs has called on the government to review the laws which restrict access to information and transparency. The Hungarian government has so far never responded to these requests. Instead, the government’s newly adopted anticorruption  action plan envisions the obligation of NGO leaders to declare their private assets.” | p. 30  “Some of the types of issues that have been previously raised in concerns to the Steering Committee as damaging to the OGP process in a country may include (but are not limited to):  […]   * “Manipulation of the OGP process by governments in terms of civil society participation (e.g. only inviting GONGOs to participate in consultations). |
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B) The concern is relevant to the Open Government Declaration’s commitments to “Increase the availability of information about governmental activities” and “Support civic participation.” In particular:

“Increase the availability of information about governmental activities.

“Governments collect and hold information on behalf of people, and citizens have a right to seek information about governmental activities. We commit to promoting increased access to information and disclosure about governmental activities at every level of government. We commit to increasing our efforts to systematically collect and publish data on government spending and performance for essential public services and activities. We commit to pro-actively provide high-value information, including raw data, in a timely manner, in formats that the public can easily locate, understand and use, and in formats that facilitate reuse. We commit to providing access to effective remedies when information or the corresponding records are improperly withheld, including through effective oversight of the recourse process. We recognize the importance of open standards to promote civil society access to public data, as well as to facilitate the interoperability of government information systems. We commit to seeking feedback from the public to identify the information of greatest value to them, and pledge to take such feedback into account to the maximum extent possible.

“Support civic participation.

“We value public participation of all people, equally and without discrimination, in decision making and policy formulation. Public engagement, including the full participation of women, increases the effectiveness of governments, which benefit from people’s knowledge, ideas and ability to provide oversight. We commit to making policy formulation and decision making more transparent, creating and using channels to solicit public feedback, and deepening public participation in developing, monitoring and evaluating government activities. We commit to protecting the ability of not-for-profit and civil society organizations to operate in ways consistent with our commitment to freedom of expression, association, and opinion. We commit to creating mechanisms to enable greater collaboration between governments and civil society organizations and businesses.”

Annex 2: Establishing the Veracity of the Claims

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| **Claim in letter** | **Sources** | **Counter-arguments or mixed record** |
| General Argument: “The rule of law, democracy, pluralism, human rights and the role of independent institutions as  checks and balances on political power have been systematically undermined in Hungary since the current government came to power in 2010 with the backing of a two-thirds supermajority in  Parliament. Particularly troublesome from the perspective of the OGP are the government’s actions to reduce the space for nongovernmental  organisations to work independently, voice  critiques and receive funding from international sources.”  **Timeline Of Governmental Attacks Against Hungarian NGO Sphere, 12 August 2015 (Eötvös Károly Policy Institute, Transparency International –Hungary, Hungarian Civil Liberties Union, Hungarian Helsinki Committee)**  “Since the elections in 2010, the current governing party has systematically undermined the rule of law in Hungary, seriously disrupting the system of checks and balances. The adoption of the new constitution without the consent of the opposition and the widely criticized media regulation were followed by legislative steps weakening independent institutions (e.g. the Constitutional Court, the judiciary and the Ombudsman system) and violating human rights (e.g. the right to fair trial) in mass numbers. These legislative steps were accompanied by the early removal of leaders of independent institutions and the “court-packing” of the Constitutional Court. As shown by the international criticism e.g. on behalf of the European Union and the Council of Europe, several rules adopted by the governing majority are not in compliance with democratic values and international standards. The series of governmental attacks against Hungarian NGOs, which organizations operate by their nature as checks and critics of the state power and fight for reinforcing the rule of law and ensuring the protection of human rights, is another step in the process aimed at establishing an ‘illiberal state’.”[[13]](#endnote-13) | **“On the Fourth Amendment to the Hungarian Constitution” (June 2013),** critiqued a rushed, insular lawmaking process, which installed measures normally covered under statutory law into the constitution through the use of so-called cardinal laws, as both jeopardizing democracy and excluding civil society:  **Council of Europe Venice Commission’s Opinion on the Fourth Amendment (June 2013):**  “VI. Constitutionalism  “A. Use of cardinal laws  “129. In addition to amending the constitution(s), the Parliament adopted numerous cardinal laws with the present two-thirds majority, which may be difficult to amend by subsequent – less broad - majorities. This wide use of cardinal laws to cement the economic, social, fiscal, family, educational etc. policies of the current two-thirds majority, is a serious threat to democracy.  “130. In its opinion on the new Constitution of Hungary the Venice Commission stated: ‘The more policy issues are transferred beyond the powers of simple majority, the less significance will future elections have and the more possibilities does a two-thirds majority have of cementing its political preferences and the country’s legal order.’  “131. In its opinion on the New Constitution, the Venice Commission expressed its hope that there would be “co-operation between the majority coalition and the opposition in the preparation of the implementing legislation”. In its reply to the Opinion, the Government fully subscribed to this idea.98 However, the visit of the delegation of the Commission showed that the cardinal laws were adopted or amended in a rushed way, often introduced by individual members of Parliament, thus avoiding the scrutiny foreseen for governmental proposals. This hasty adoption often did not even allow for adequate consultation of the opposition and civil society.”[[14]](#endnote-14)  **Testimony**  **U.S. Commission on Security and Cooperation in Europe Hearing on “The Trajectory of Democracy – Why Hungary Matters”**  **March 19, 2013**  **Kim Lane Scheppele**  […]  “László Sólyom, the conservative former president of both the Constitutional Court and the Republic of Hungary, said in a public statement last week that the “Fourth Amendment” removes the last traces of separation of powers from the Hungarian constitutional system. Under the constitution as amended, no institution has the legal right to check many of the key powers of the one-party government.  “The Fourth Amendment nullifies more than 20 years of rights-protecting case law of the Hungarian Constitutional Court that had been developed before the new constitution went into effect. This leaves a giant gap where firm legal protection of basic rights once stood. The Fourth Amendment specifically overturns nearly all of the decisions that the Constitutional Court made in the last year striking down controversial new laws the Fidesz government had passed. The Fourth Amendment removes the Court’s power to evaluate on substantive grounds any new constitutional amendments, a move which allows the government to escape review by inserting any controversial new proposal directly into the constitution. The Fourth Amendment entrenches political control of the judiciary and gives the government new tools to prevent the opposition from coming to power. The Fourth Amendment reverses many of the concessions Hungary made last year when the European Union, the Council of Europe and the US State Department criticized fundamental aspects of that constitution.  “Under cover of constitutional reform, the Fidesz government has given itself absolute power. It now has discretion to do virtually anything it wants, even if civil society, the general public, and all other political parties are opposed…  […]  “[C]hanges that were made to the constitutional system in 1989 provided more checks on Hungary’s unicameral parliamentary government. Revamped parliamentary procedure required extensive consultation with both civil society and opposition parties before government bills could be put to a vote. Important issues of constitutional concern required a two-thirds vote of the Parliament. As we have seen, however, the private member’s bill procedure allowed the consultation stage for legislation to be bypassed and the two-thirds laws could cease to be a real check on power when the government had two-thirds of the parliamentary seats, something the disproportionate election law made quite likely.”[[15]](#endnote-15)  **Committee on Civil Liberties, Justice and Home Affairs (LIBE) of the European Parliament, Report on the situation of fundamental rights: standards and practices in Hungary, (“Tavares Report”), June 24, 2013**  “…the scale of the comprehensive and systematic constitutional and institutional reforms which the new Hungarian Government and Parliament have carried out in an exceptionally short time frame is unprecedented, and explains why so many European  institutions and organisations (the European Union, the Council of Europe, the OSCE) have deemed it necessary to assess the impact of some reforms…  “…the adoption of the Fundamental Law of Hungary – which was passed on 18 April 2011, exclusively with the votes of the members of the governing coalition and on the basis of a draft text prepared by the representatives of the governing coalition – was conducted in the short time frame of 35 calendar days calculated from the presentation of proposal (T/2627) to the parliament, thus restricting the possibilities for a thorough  and substantial debate with the opposition parties and civil society on the draft text…  “…important legislation, including the Fundamental Law, the second and fourth amendments thereto, the Transitional Provisions of the Fundamental Law and a number of cardinal laws, were enacted on the basis of individual members’ bills, to which the rules set out in Act CXXXI of 2010 on the participation of civil society in the preparation of legislation and in Decree 24/2011 of the Minister of Public Administration and Justice on preliminary and ex-post impact assessment do not apply, with the consequence that legislation adopted through this streamlined procedure is subject to a restricted public debate… whereas the adoption of a large number of cardinal laws in a very short time frame, including the acts on the legal status and remuneration of judges of Hungary and on the organisation and administration of courts of Hungary, as well as the acts on the freedom of religion or belief and on the National Bank of Hungary, inevitably restricted the possibilities for an adequate consultation of the opposition parties and civil society, including, when relevant, employers' organisations, trade unions and interest groups…”[[16]](#endnote-16)  **The United Nations Special Rapporteur on Freedom of Peaceful Assembly & Association, 28 February 2015**  The UN Special Rapporteur on the rights to freedom of peaceful assembly and association has also dealt directly with a communiqué on the unlawful audits of civil society organisations[[17]](#endnote-17) (complaint at <https://spdb.ohchr.org/hrdb/28th/public_-_AL_Hungary_16.07.14_%281.2014%29.pdf>).  Though the investigations is ongoing, his noteworthy observations so far:  “While the Special Rapporteur duly notes the structural changes of development policy, including the transfer to the Prime Minister’s Office of State-owned non-profit organization Széchenyi Program Office, he remains concerned about the seemingly discretionary attributions given to the Government Audit Office, which through its actions may obstruct and stigmatize the work of associations operating in the country. In this context, he reminds the authorities of their obligations to promote and protect the rights of associations to carry out their activities free from fear of threats or acts of intimidation and harassment of any sort.  The Special Rapporteur recalls that the State committed to protect and promote rights set forth in international law and standards, and in that regard, looks forward to receiving further information on the outcome of the audits of associations benefitting from funds from the Norway Civil Grants. He stands ready to provide technical assistance to ensure that the State’s normative framework complies with international human rights norms and standards governing freedoms of association and assembly.”  **Human Rights Watch, July 29, 2014**  **Dispatches: The End of Liberal Democracy in Hungary?**  “In a speech to ethnic Hungarians in Romania at the weekend, Orban declared his intention to build ‘an illiberal new state based on national values,’ naming China, Russia, and Turkey as positive examples to follow. Orban said he thinks ‘that it’s not impossible, within the European Union, to build an illiberal state that rests upon national foundations.’ He asserted that ‘I think you can. Our European Union membership does not preclude this.’  “To Hungary watchers, Orban’s speech is shocking but unsurprising. Since its return to government in 2010, his ruling Fidesz party has used its supermajority in parliament to undermine the checks and balances necessary in a democracy, weakening media freedom, judicial independence, and the rule of law. Since then Fidesz has rammed through a new constitution and five amendments to it, as well as more than 700 laws, many of which have drawn criticism from the EU, the Council of Europe, and human rights organizations.  “Since Orban won another term in April 2014, Hungary’s media has faced renewed pressure, prompting fresh EU criticism. The government has now also turned its sights on independent civil society, with smearing and financial inspections against critical groups.  “Orban used his speech to give a boot to civil society reminiscent of the Russian government’s branding independent groups as ‘foreign agents.’ He said, ‘We are not dealing with civil society activists but with paid political activists who are trying to help foreign interests [in Hungary].’ He added that it was ‘good that a parliamentary committee has been set up to monitor foreign influence.’”[[18]](#endnote-18)  **Human Rights Watch, February 18, 2015**  **Hungary: Outstanding Human Rights Concerns**  Since the ruling party Fidesz won its first two-third majority term in April 2010 and renewed in the April 2014 election win, it has used its supermajority in the country’s unicameral parliament to adopt far reaching legal changes including a new constitution and over 1000 laws in parliament with limited or no meaningful public consultation.  Legal changes and other policies by the government since 2010 have weakened checks on the executive and had a detrimental effect on the situation of human rights and rule of law in Hungary. The government has made political appointments to key positions in public institutions such as the Media Authority, National Judicial Office, and the Constitutional Court. Media freedom has been significantly curbed. The constitution enshrines discrimination against people with disabilities, women, and LGBT people. Religious freedom has been undermined. Homelessness has been criminalized.  Since its second two-third majority win in the April 2014 election, the Fidesz government has stepped up its pressure on media and civil society.  ***Media Freedom***  After taking office in May 2010, the government pushed through a media law package in parliament consisting of three new media laws without adequate public consultation. The media laws specify new content regulations for all media platforms, outline the authorities of the new media regulatory body, and set out sanctions for breaches of the laws. Among other things, the laws contain a vague provision on balanced content requirement that may have a chilling effect on media freedom.  Despite international concerns, including by the Council of Europe’s Venice Commission, Secretary General and Commissioner for Human Rights, as well as the European Commission, the government has made only few and piecemeal amendments to the media laws.  The government has transferred the power to appoint the president of the Media Authority and Media Council (the same person) from the prime minister to the president of the republic, based on nomination by the prime minister. But this is a cosmetic change to the previous arrangement since the president of the republic is a member of the ruling party. The current structure does not remove the risk of political bias since the nominee will be appointed by the president of the republic save in cases where the person does not meet the formal criteria for the post (relevant education, work experience).  The members of Media Council are nominated by a parliamentary committee composed of delegates of each parliamentary faction, where votes are weighted according to the proportion of each faction’s representation in parliament. Candidates selected by the nominating committee are elected by a two-thirds parliamentary majority where the ruling party Fidesz has a supermajority. Effectively, this means that the ruling party is solely responsible for appointing the president of the Media Authority as well as the members of the Media Council.  Since the government’s re-election, there has been renewed pressure against media in general and certain media outlets in particular.  In May 2014, the Constitutional Court, in which the majority of judges were appointed by a Fidesz controlled parliament, ruled that website operators are responsible for any comments to blog posts or news commentary that may violate the media law, which may hamper free speech, public debate, and internet freedom. Violations can result in disproportionally high fines.  In June 2014, the Supreme Court ruled that ATV, a TV station critical of the government, had violated the media law’s restrictions on commentary by describing the far-right Jobbik party as “far-right” in a news cast. The court’s rationale was that since Jobbik does not refer to itself as a “far-right party,” describing it as such expresses an opinion and may leave viewers with a negative impression.  Also in June 2014, the editor-in-chief of Origo, an independent news website, was fired after publishing a story on alleged misuse of public funds by the state secretary at the Prime Minister’s Office. In response to his dismissal, hundreds of media workers demonstrated in Budapest and 30 journalists resigned from Origo in protest.  The same month, parliament passed a law imposing taxes on advertising in the media which primarily affects commercial broadcaster RTL Klub, one of the few remaining independent TV channels in Hungary.  In October, the parliament announced a new internet tax which triggered large scale demonstrations in Hungary and drew international criticism. As a result, the government withdrew its legislative proposal.  […]  ***Clampdown on Civil Society***  Since June, the Hungarian government has put pressure on nongovernmental organizations that receive foreign funding in ways that implicate freedom of association and expression.  In June, the Hungarian government conducted surprise financial inspections on three nongovernmental organizations that administer foreign donor money, and smeared 13 other fund recipient NGOs, including leading human rights organizations, as “left-leaning” and “problematic.” The raids were linked to an ongoing dispute between the Hungarian and Norwegian governments, which provides the funds in question under the Norway Grants scheme. The US government has expressed concern about pressure on independent civil society groups in Hungary.  During a July speech in which he declared the end of liberal democracy in Hungary, Prime Minister Orban also branded civil society as “foreign agents.”  In August, investigations were launched against Okotars, one of the fund administering NGOs, on suspicion of alleged mismanagement of funds and in September, police raided two fund distributing NGOs, Okotars and Autonomia, seizing laptops, documents, and servers of both NGOs.  By the end of September, all four NGOs that distribute Norway Grants in Hungary had had their tax numbers suspended by the government, rendering them unable to issue invoices or to benefit from a scheme that allows tax payers in Hungary to donate 1 percent of their income to the civil society and religious organizations of their choice.  […]  ***Independence of the Judiciary***  Since 2012, when the new constitution entered into force, a series of legal and constitutional changes have undermined the rule of law and the independence of the judiciary. Despite some positive changes to the laws regulating the administration of the courts, the president of the National Judicial Office, a post appointed by the parliament for a body responsible for the administration of the courts, retains the power to block candidates nominated by the National Judicial Council for judicial appointments by declaring the process void and restarting it.  The constitution, its March 2013 Fourth Amendment, and related laws have restricted the powers of the constitutional court undermining its ability to serve as a check on the executive authority. According to the fourth constitutional amendment, the court can no longer review laws pertaining to the central budget and taxation issues and is not able to hear actio popularis cases brought by NGOs and others to litigate issues of broader public concern. The court is also prevented from consulting its own case law prior to January 2012. The Fourth Amendment restricts the court from ruling on the substance of constitutional amendments, a measure which allowed the government to reintroduce via a constitutional amendment the power to criminalize homelessness despite a law doing so having been previously struck down by the court as unconstitutional (discussed in more detail below).  The restructuring of the constitutional court in 2011, adding four new posts to the existing 11, and subsequent new appointment of judges to the bench has resulted in a majority of judges on the bench appointed by the ruling party.  […]  **Testimony**  **Deputy Assistant Secretary Hoyt Yee, U.S. Department of State**  **U.S. House of Representatives, Committee On Foreign Affairs,**  **Subcommittee On Europe, Eurasia, And Emerging Threats**  **“The Future Of U.S. - Hungary Relations”**  **May 19, 2015**  “In September, the President cited Hungary in his remarks at a Clinton Global Initiative event on civil society, saying “From Hungary to Egypt, endless regulations and overt intimidation increasingly target civil society.” We have urged the Hungarian government to end unwarranted investigations of NGOs receiving Norway funds and allow them to operate without further harassment, interference, or intimidation. Ambassador Bell has been in place since January and has made clear that our concerns persist.”[[19]](#endnote-19)  **Testimony**  **Tad Stahnke, Vice President For Research And Analysis**  **Human Rights First**  **U.S. House of Representatives, Committee On Foreign Affairs,**  **Subcommittee On Europe, Eurasia, And Emerging Threats**  **“The Future Of U.S. - Hungary Relations”**  **May 19, 2015**  “Since 2010 the government of Viktor Orbán and his ruling Fidesz party has made sweeping changes to the Hungarian constitutional and legal systems, a number of which have eroded the rule of law, human rights protections, and checks and balances among democratic institutions. The government has taken several steps to harass nongovernmental organizations receiving foreign funding and to restrict the space for independent media to operate.  […]  “According to the 2015 Freedom in the World Report published by Freedom House, Hungary showed an overall decline in the major categories of Political Rights and Civil Liberties, as well as in the subcategories of Electoral Process, Functioning of Government, Freedom of Expression and Belief, and Associational and Organizational Rights. Additionally, according to Freedom House’s Nations in Transit report, between 2010 and 2014 Hungary worsened in the overall Democracy Score from 2.39 to 2.96 (scale of 1 to 7, with 1 being the highest level of democratic progress) and in all seven indicators of freedom and democracy: Electoral Process, Civil Society, Independent Media, National Democratic Governance, Local Democratic Governance, Judicial Framework and Independence, and Corruption.  “This assessment is also reflected in expressions of concern or censure by the European Commission, European Parliament, European Court of Justice, the Fundamental Rights Agency  of the European Union, the Human Rights Commissioner of the Council of Europe, the Council of Europe’s Venice Commission, the European Court of Human Rights and the Organization for  Security and Cooperation in Europe.” [[20]](#endnote-20)  **Interviews of Civil Society by OGP Small Review Team, November 2015**  a) In relation to the personal asset disclosures for civil society leaders, representatives of a major human rights NGO noted during an interview (November 2015) that these restrictive provisions can be criticised, because:   * Expenditure of funds is already accounted for between organisation and funder; * It creates a more significant burden on private citizens to account for non-public funds than exist on public officials – the current asset disclosures for Members of Parliament apparently yield no consequences for fraudulent disclosures.   It is worth noting that civil society organisations are generally not receiving money directly from the Hungarian government, either.  For a year, there have been amendments proposed to the laws in relation to voluntary associations, which would clearly affect civil society organisations, but there have been no consultations and currently civil society is not sure what has been proposed.  It is also worth noting the Szabo and Vissy v Hungary case that went before the European Court on Human Rights, which relates to surveillance by the Hungarian state of citizens made without judicial warrant[[21]](#endnote-21). The case is currently ongoing.  b) A pro-democracy advocate noted that – in spite of claiming consultation on the National Anti-Corruption Programme regulations relating to asset disclosure of civil society representatives – while civil society was able to consult on a version of the draft, none of these comments were recorded and a different draft was then put through.  He also noted that there is a general treatment of the government to civil society that does not view them as partners, but that the OGP process is a particular opportunity to change this.  c) A representative speaking for a major private foundation confirmed in an interview (November 2015) that prior to this regulation, it had been obligatory for public benefit organisations to declare their assets in their annual reports. He noted specifically that “civil society in general are not under pressure but specific organizations – human rights, watchdog, advocacy – those which criticize the governmental actions. In these days, migration is the main and hottest topic, those which represent other opinion than the government or protect human rights of migrants are under pressure.” |  |
| **Anti-Civil Society smear campaign/harassment** | | |
| Since the summer of 2013, Hungarian government officials have been engaging in a smear campaign against many of the country’s independent NGOs. This has involved different officials  making public comments about how these groups:   1. have `leftist political ties` and; 2. are fronts for political activists who are paid by foreign interest groups which wish to exert influence over political life in Hungary.   **Timeline Of Governmental Attacks Against Hungarian NGO Sphere, 12 August 2015 (Eötvös Károly Policy Institute, Transparency International –Hungary, Hungarian Civil Liberties Union, Hungarian Helsinki Committee)**    “8 April 2014 Prime Minister’s Office claims political influence with regard to the EEA/Norway Grants NGO Fund: At a press conference on 17 August 2013 the spokesperson of the governing party Fidesz, Péter Hoppál, stated the following: “From an investigative report we learnt that a circle of American speculators paid about half a billion forints to show its gratitude to pseudo-civil organizations who were willing to regularly denounce Fidesz and the Hungarian government, particularly abroad and in front of forums abroad. (...) These organizations kept for millions of dollars, what these organizations do, all they have to do in exchange of the American money, is to attack the Hungarian government, attack Fidesz, and attack the Prime Minister of Hungary in all possible forums.” When a journalist asked the spokesperson to name the organizations he has in mind, the spokesperson named leading human rights and watchdog NGOs. 4 ◊ The Hungarian Helsinki Committee, as one of the NGOs named, asked the spokesperson for an apology, yet he did not respond. Eventually the NGO decided to go to court, and in July 2014, the first instance court found that the spokesperson and Fidesz have violated the right of the organization for good reputation, arguing that these statements – which the respondents did not even try to support with evidence in court - may cause damage to the public image of the organization. The court obliged Mr. Hoppál and the Fidesz to publish an apology in two daily newspapers and on the party’s website. 5. The respondents appealed against the decision…  “30 April 2014 Senior government official calls NGO Fund operators ‘party-dependent, cheating nobodies’: Undersecretary of State Nándor Csepreghy called the foundations acting as the operator consortium of the EEA/Norway Grants NGO Fund ‘party-dependent, cheating nobodies’, and indicated that there are plans to entrust the state with operating the NGO Fund.12 ◊ As a reaction, on 7 May 2014 the consortium led by the Ökotárs Foundation issued an open letter, addressed to János Lázár, strongly asking him to call upon his deputy to withdraw his statements that breached the reputation of the organizations. The consortium underlined that they have a number of programs beyond operating the NGO Fund, and cited concrete examples of cooperation with actors of the government.  “26 July 2014 PM refers to NGOs as ‘paid political activists’ helping foreign interests: In his speech delivered on 26 July 2014, in which he declared that he and his government builds an ‘illiberal state’, Prime Minister Viktor Orbán said that their efforts in that regard are obstructed by civil society organizations, and referred to civil society members as ‘paid political activists who are trying to help foreign interests’.  “15 September 2014 PM at Parliament’s opening session: NGOs apply double standards: In a speech delivered at the opening of the autumn session of the Parliament on 15 September 2014 Prime Minister Viktor Orbán stated the following: ‘We don’t want anything more than to see clearly, we want to have clean water in the glass, because we are bothered by insincerity and lies, and we don’t like it when someone who talks about freedom is a mercenary, or who talks about independence is a kept person. Declares himself a civilian but is in fact a paid political activist. Talks about respect for the law but when it comes to his own financial affairs, calls for exceptional procedures, saying that’s not Hungarian money. Hungarian voters don’t like this, so the government does well when it says, laws apply to everybody, to political parties, civil society organisations, and also to citizens who don’t organise themselves at all.’[[22]](#endnote-22)  “15 December 2014 PM on registering NGOs funded from abroad: The Prime Minister of Hungary stated in an interview given to Bloomberg in December 2014 that he would back legislation to force non-government organizations funded from abroad to be specially registered, because it is important to know ‘who’s in the background’ of such groups.” [[23]](#endnote-23) | **United States Mission to the OSCE, Statement on Intimidation of Civil Society and Media in Hungary, June 2014:**  “Shortly after its reelection victory in April, the Hungarian government accused “Norway Grants,” a funding mechanism that distributes money to a consortium of Hungarian NGOs, of being politically biased. The Hungarian government publicly alleged that Norway seeks to influence Hungarian politics, and on June 2 the Government Control Office (KEHI) initiated investigative audits against the offices of three NGOs that distribute funds from Norway Grants.  “Subsequently, on June 12, Transparency International, the ACLU, and other NGOs published a joint statement registering their concern that Hungarian civil society organizations have a shrinking space in which to carry out their activities.” [[24]](#endnote-24)  **Human Rights Watch, June 5, 2014**  **Dispatches: Harassing Civil Society in Hungary**  “…the government this week conducted surprise financial inspections on some nongovernmental organizations that administer foreign donor money. This happened after the prime minister’s office published a list smearing 13 other NGOs that receive some of the funds as ‘left-leaning’ and ‘problematic.’” [[25]](#endnote-25)  **Human Rights Watch, June 24, 2014**  **Dispatches: Hungary’s Contempt for Civil Society**  “The Hungarian government continues to show contempt for civil society. In the latest move, authorities have zeroed in on NGOs that receive funding from the Norwegian government.  “The demands are linked to an ongoing dispute between the two governments, with Budapest accusing Oslo of interfering in Hungarian political affairs through funding Hungarian civil society organizations.  “On June 19, the Hungarian Civil Liberties Union (HCLU), a leading human rights organization; NANE, a women’s rights organizations; and Transparency International, K-Monitor, and Atlatszo, all anti-corruption organizations, received letters from the Government Control Office, responsible for financial inspections, requesting data on their activities funded under the Norway Grants. It’s unclear how many other groups have received letters.  “The demands follow the June 2 government financial inspections of three Hungarian NGOs that distribute funds from the Norway Grants. Prior to the arbitrary inspections, the Hungarian Prime Minister’s Office published a list of 13 NGOs that receive funding from the Grants, smearing them as “left-leaning” and ‘problematic.’”[[26]](#endnote-26)  **Human Rights First, “We Are Not Nazis, But…”, August 2014**  “Equally problematic was the revelation that the government was keeping a list of 13 NGOs it deemed to be ‘left leaning’ and ‘problematic.’… According to Reuters, the government said it had no intention of fighting individual NGOs, but charged that the grants sought to exert political influence, an allegation Norway strongly denied. The groups listed included, among others, Transparency International, the Hungarian Helsinki Commission and other organizations that have criticized the government for undermining democratic principles and the rule of law. In late June, KEHI also announced that it would investigate, among others, Transparency International, the K-Monitor, a financial watchdog group, and the Hungarian Civil Liberties Union to learn how they had spent the funds. The groups were required to turn over their financial records or face fines…  […]  “Orban defended the government’s actions toward NGOs: ‘We are not opposing non-governmental organisations here and it is not nongovernmental organisations who are moving against us, but paid political activists who are attempting to enforce foreign interests here in Hungary. This is why it is extremely justified that the Hungarian Parliament has formed a Committee to regularly monitor, record and make public foreign influence so that all of us, including you, can know precisely who the real characters are behind these masks.’” [[27]](#endnote-27)  **Human Rights First, September 18, 2014**  **Silencing Dissent: Hungary’s Crackdown on NGOs**  **Guest Blog By Péter Krekó and Attila Juhász, Political Capital Institute**    “Hungary is in the middle of a crackdown against NGOs and civil society leaders. On September 8th, Hungarian police raided the offices of two nonprofits, Ökotárs Foundation andDemNet Hungary, as well as the homes of their leaders, seizing documents and data. While no charges have been filed, they are accused of distributing foreign grant money to leftist political parties, which is against Hungarian law. In reality, Ökotárs Foundation and DemNet Hungary allocate funding to other NGOs that promote democracy, civil society, environmental awareness, and independent media.  “The Hungarian government is trying to silence civil rights groups, think-tanks, and organizations that demand transparency in government decisions and lead the fight against corruption. The government strategy: dry up their financial resources and run a smear campaign to discredit them in the public eye. The recent police raids achieve both objectives. Potential charges are unlikely to hold up in court, but no matter – protracted legal wrangling will still go a long way towards dismantling and discrediting these organizations and blocking their financial resources. Fidesz, the ruling party, has already successfully used the prosecutors office and the police force to accomplish similar goals against opposition parties and politicians.  […]    “The groups targeted by the Hungarian government all have one thing in common: they are criticizing the Hungarian administration in one way or another – whether on their track record in human rights, women’s rights, LGBT rights, or transparency and anti-corruption measures. The government feels threatened by these organizations because they have the potential to damage Hungary’s reputation abroad – and rightly so, as the regime has failed to promote democratic values, makle [sic] a more transparent system, and protect minority citizens.  “The regime’s targeting of NGOs follows clear political lines. (…)The police searched for and seized documents specifically related to 13 other NGOs that receive foreign funding on a ‘hit-list’ issued by an official in the Prime Minister’s office, even though their activity and funding is perfectly legal. It appears that the police were executing a political order. A politician from the Prime Minister’s office issued a statement that the police’s actions were excessive—a not-so-credible effort by the government to distance itself from the event, especially as Orbán himself did not condemned the police action, but welcomed it.  “Meanwhile, the same office that is pursuing these ‘investigations’ into NGOs has not touched a stack of numerous government corruption cases that have piled up in the last four years.”[[28]](#endnote-28)  **The White House**  **Office of the Press Secretary**  **September 23, 2014.**  **Remarks by the President at Clinton Global Initiative**  **New York, New York**  “The point is this started in civil society. That's what prompted action by President Clinton and by myself. And promoting civil society that can surface issues and push leadership is not just in keeping with our values, it’s not charity. It’s in our national interests. Countries that respect human rights -— including freedom of association -- happen to be our closest partners. That is not an accident. Conversely, when these rights are suppressed, it fuels grievances and a sense of injustice that over time can fuel instability or extremism. So I believe America’s support for civil society is a matter of national security.  “It is precisely because citizens and civil society can be so powerful -— their ability to harness technology and connect and mobilize at this moment so unprecedented -— that more and more governments are doing everything in their power to silence them.  “From Russia to China to Venezuela, you are seeing relentless crackdowns, vilifying legitimate dissent as subversive. In places like Azerbaijan, laws make it incredibly difficult for NGOs even to operate. From Hungary to Egypt, endless regulations and overt intimidation increasingly target civil society. And around the world, brave men and women who dare raise their voices are harassed and attacked and even killed.”[[29]](#endnote-29)  **Testimony**  **Tad Stahnke, Vice President For Research And Analysis**  **Human Rights First**  **U.S. House of Representatives, Committee On Foreign Affairs,**  **Subcommittee On Europe, Eurasia, And Emerging Threats**  **“The Future Of U.S. - Hungary Relations”**  **May 19, 2015**    “Harassment of non-governmental organizations – human rights and anticorruption groups, independent media – receiving foreign funding  “In May 2014, the Orbán government requested the Government Control Office (known by its Hungarian acronym KEHI) audit how a fund established by Norway and other non-EU countries called “Norway Grants” was being administered. Norway Grants provides funding for several Hungarian NGOs, including organizations concerned with human rights, corruption, and  government transparency and objective news information. This action followed a smear campaign by state officials against the Hungarian operators of the Norway Grants program. It was also  discovered that the government of Hungary had a list of 13 NGOs it deemed to be ‘left leaning’ and ‘problematic.’  “Following an intrusive ‘on-site’ KEHI audit and further demands for documents, two of the fund operators’ offices were raided by the police where, among other things, documents concerning the 13 “blacklisted” NGOs were seized. A criminal procedure was also launched against one of the fund operators for potentially ‘unauthorized financial activities.’ Norway condemned and rejected each one of these steps. In October 2014, KEHI released an audit containing generalized concerns about the operation of the program; this ‘audit’ was rejected by Norway, which announced it would conduct its own internal review. In the meantime, the tax numbers of the fund operators were suspended, threatening to shut down the organizations. (…)  In January 2015, a court concluded that the government raids and seizures of the fund operators were unlawful. In February, an independent evaluation of the administration of the Norway  Grants program validated the selection of the fund operators and stressed the importance of maintaining the operators’ independence from the government. Nevertheless, the government continues its public targeting of NGOs. In February 2015, the head of the Prime Minister’s office stated that NGOs should not only publicly account for where their money comes from, but also for their leaders’ personal assets.”[[30]](#endnote-30)  **Freedom House, Nations In Transit 2015, Hungary, June 6, 2015:**  “Civil society in Hungary still largely depends on government funds, which are often handed out in a partisan manner. During 2014, government rhetoric became more hostile toward nongovernmental organizations (NGOs), and the prime minister and government officials accused civil society figures of being ‘paid political activists.’ In June and September, the Government Control Office (KEHI) searched the offices of NGOs that help disburse funds from EEA-Norway Grants, an international donor, and accused them of mismanagement, illegal financial activity, and political bias in their selection procedures… Due to the deteriorating environment for NGOs, *Hungary’s civil society rating declines from 2.25 to 2.50.*”[[31]](#endnote-31)  **United States Department of State, Country Reports on Human Rights Practices 2014, Hungary, (released June 25, 2015)**  “Since 2013 a European Economic Area (EEA)-Norway NGO fund has provided grants to NGOs to strengthen civil society, focusing on issues of democratic values, the rule of law, transparency, gender equality, and assisting vulnerable groups. The fund operates under a memorandum of understanding between the donor and recipient government. The 153.3 million euro ($192 million) EEA-Norway Grants program for the country was administered by the government, except for its climate change and NGO funds, which were administered by the EEA-Norway Grants Financial Mechanism Office in Brussels. The climate change and NGO funds totaled 13.5 million euro ($16.9 million). On April 4, the head of the Prime Minister’s Office, Minister Janos Lazar, sent a letter to the Norwegian minister of EU and EEA affairs claiming that the consortium of four domestic foundations (Okotars Foundation, DemNet, the Carpathian Foundation, and the Autonomia Foundation) responsible for distributing the NGO fund was a satellite of the opposition green party Politics Can be Different. The letter implied that the Norwegian government was supporting Hungarian opposition parties through the NGO fund. The Norwegian government and the NGOs rejected the implied allegations.  […]  “On May 30, the Prime Minister’s Office released to a media outlet a list of 13 so-called “left leaning” NGOs that received grants from the fund; these groups became the subsequent focus of KEHI’s investigative audits. The list included TI-H, the HCLU, K-Monitor, NANE Women’s Rights Association, and other NGOs promoting LGBT rights, women’s rights, Romani empowerment, active citizenship, and good governance.  “On June 2, KEHI officials appeared unannounced at the offices of the Autonomia and DemNet foundations, and at Okotars. KEHI officials ordered the NGOs to turn over certain records and documents. The NGOs handed over some documents but refused access to sensitive information. On June 17, the Norwegian EU affairs minister, Vidar Helgesen, declared Hungarian authorities unilaterally broke their agreement on handling of the EEA-Norway Grants by opening an audit of the NGO fund. KEHI subsequently expanded the reach of its investigative audits to a group of 58 NGOs, including the 13 groups considered “left leaning” by the government, requesting all information and documents that pertained to their projects that were supported by the NGO Fund… On June 21, Lazar declared NGOs must hand over documents requested by KEHI, as ‘the law applies to all Hungarian citizens.’ The NGOs affected by the investigation questioned the legal mandate for the audits, complained of a lack of legal remedies, and called the investigation politically motivated.  “On July 9, the Council of Europe’s commissioner for human rights, Nils Muiznieks, sent a letter to Lazar stating ‘the stigmatizing rhetoric used in Hungary against NGOs active in the field of promoting human rights and democratic values, with politicians questioning the legitimacy of their work, is of great concern.’ The commissioner also called upon authorities to suspend audits until their legal basis was clarified. On July 26, Prime Minister Orban gave a speech in which he referred to some NGOs in the country as ‘paid political activists…attempting to promote foreign interests.’  “On August 6, the National Investigative Office (NNI) opened an investigation against ‘unknown perpetrators’ on allegations of misappropriation of NGO funds and ‘unlicensed financial activity.’ On September 8, NNI agents raided the offices of Okotars and DemNet, conducting searches of their accounting and information technology companies and the private residences of two employees.”[[32]](#endnote-32)  **Interviews of Civil Society by OGP Small Review Team, November 2015**  a) Interview with representatives of a major human rights NGO in Hungary (November 2015) confirmed that there has been consistent messaging from different state actors that negatively portrays civil society as an enemy of State. So pervasive are these forms of actions, that on the day of the interview (6 November 2015) one of the respondents (name withheld) received a personal note from a member of Parliament accusing her of being anti-state for receiving money from the Soros Foundation. This is an important point to note – as it means attacks, though verbal, extend to personal communications and not just through organisational references.  b) The human rights activists also noted that negative comments are targeted largely at non-governmental organisations that have strong advocacy units (such as transparency groups, environmental groups, gay rights groups, etc.), as these are seen as being anti-government.  A representative from an NGO working at local government level and not party to the letter of concern also noted during an interview (November 2015) as a particular concern a strong discourse – from National Government through to local government – that portrays civil society organisations as being anti-state. There is an exploitation of public sentiment that may fear certain controversial topics dealt with by civil society organisations (such as gay rights, or drug rehabilitation) by the state to demonise such organisations. This means that, while civil society organisations not only have to contend with funding concerns raised by restrictive state intervention, they also increasingly lack support from the public.  Related to the active smear campaigns has been an increased intervention into media control. While state broadcasters are already used as platforms for anti-civil society messaging, TV2 – a seemingly independent station – has been bought by investors with strong government connections.    c) A representative of a major private foundation supporting a number of NGOs in Hungary confirmed that organisations involved in migration, and others, are subject to government comments focused on civil society “serving foreign interests”. As an organization, this foundation has been particularly – and frequently – the subject of negative smear campaign from state and government actors. | **Response letter from the government of Hungary (July 8, 2015), p. 3:**  “The joint letter of Transparency International Hungary, TASZ, K-Monitor and Sunlight Foundation (hereinafter referred to as: letter of concern) seems to suggest that there is a general attack against civil society organizations, while in reality, the Government and the relevant public authorities only wished to examine the operation of a small group of civil society organizations against which a suspicion of mismanagement has risen… we would find it unfortunate if the operation of and the cooperation with the civil society organizations would be judged based on measures concerning a specific group of NGOs.”  **Idem, p. 3:** “The annex of the letter of concern equates and mixes the procedural steps taken by the relevant authorities with statements made by politicians, and listing these in chronological order gives the undue impression there is a casual link between the remarks made by politicians and the administrative actions ordered based on the law by authorities. Moreover, the annex suggests that the quoted statements and administrative procedures concern civil society organizations in general, while they were made in relation to the organizations managing the Norway Funds, against whom well-founded suspicion emerged. This might question whether an audit launched regarding a specific and small number of civil society organizations – which considerably narrows down the affected NGOs - qualifies as measures “restricting the enabling environment for civil society”, as stipulated in the response policy.”  **Idem, p. 3:** “Transparency International Hungary, TASZ and K-Monitor have all been receiving funds from the Norway Fund managed by the four organizations to whom the letter of concern and its annex often refer. Such connections have the potential to influence impartiality and are certainly an obstacle to present concerns in a factual manner.”  **Idem, p. 5:** “The audit carried out by the Government Control Office (GCO) has affected less than 60 of the 60 000 NGOs operating in Hungary and most of these organizations were cooperative during the audit. The tax identification number has been suspended in case of four organizations on the ground of not complying with the obligation to cooperate with the GCO as prescribed by the law…”  **Idem, p. 5:**  “The reasons for ordering the audit were mainly the many notifications and warnings the Government received from non-governmental organizations in connection with how the consortium, headed by Ökotárs Foundation, is managing the Norway Fund and distributes grants. According to these notifications, public funds, to which each Hungarian NGOs should be entitled, are distributed amongst a specific group of NGOs who have close ties and connections with the management consortium, while most NGOs simply do not even get the chance to become beneficiaries. In addition to this, the suspicion also presented itself that Ökotárs, infringing the Memorandum of Understanding between Norway and Hungary, supports organisations with ties to political parties or involved in political activities. One of the beneficiaries admitted more than once in public that it financed anti-government demonstrations from the Norwegian Funds. The Government of Hungary has notified the Government of Norway of these problems several times and made attempts to find a solution through negotiation and carry out a joint investigation in a cooperative manner, but the Norway refused the Hungarian proposal.”  **Idem, p. 6:** “Despite the above and the GCO’s repeated requests, the members of the consortium refused to provide documents relating to the conduct of tendering, the assessment and evaluation of the submitted project proposals, the decisions on the projects to be implemented, and the monitoring of the implemented projects. These documents have been of particular importance for the purposes of the audit, but unfortunately, these documents still haven’t been made available for the GCO. Moreover, some of the documents the GCO received were “produced” after the beginning of the audit and were falsely given an earlier date. Based on the documents the GCO managed to procure, it appears that the members of the consortium – in order to set back the criminal procedure - have deleted some of the data stored on their servers along with part of their e-mail correspondence relating to the management of the Norwegian Fund.”  **Idem, p. 7:** ” The GCO has requested the National Tax and Customs Authority (NTCA) to suspend the tax identification number of the four organizations managing the Norway Fund, because these organizations, violating the law applicable to all organizations operating in Hungary, did not comply with the obligation to provide information and to cooperate with the authorities.”  **Idem, p. 8:** “The NGOs managing the Norway Fund petitioned for judicial review, and the court proceeding is still on-going. Thus a final decision regarding the suspension of the tax numbers will be made by the independent court. It is also important to note that proceeding court has suspended the implementation of the NTCA’s resolution ordering the suspension of the tax numbers until the legally binding completion of the court case. This means that – contrary the letter of concern – the tax numbers of the NGOs are valid and therefore they can continue their operations without any disadvantage or obstacle.” |
| These accusations have even been levelled at foreign governments, most notably that of Norway, which has been accused of interfering in the internal politics of the  country by giving grants to NGOs which counter or are critical of certain moves and decisions of the government.  **Timeline Of Governmental Attacks Against Hungarian NGO Sphere, 12 August 2015 (Eötvös Károly Policy Institute, Transparency International –Hungary, Hungarian Civil Liberties Union, Hungarian Helsinki Committee)**    “On 8 April 2014 it was reported by the media that János Lázár, head of the Prime Minister’s Office wrote a letter to the Norwegian government, claiming that the money from the EEA/Norway Grants NGO Fund is distributed by an organisation closely linked to the opposition party Politics Can Be Different. Furthermore, an Undersecretary of State from the Prime Minister’s Office, Nándor Csepreghy, stated that if Norway will not be a partner in solving the issue that may be interpreted in a way that Norway interferes with the internal affairs of Hungary.  “In its response dated 24 April 2014, the Norwegian Minister of EEA and EU Affairs Vidar Helgesen reminded that the ‘process of selecting the fund operator for the NGO programme in Hungary has followed the regulation and procedures outlined in the agreement of the grants. The selection was done through an open tendering process where the selection criteria were publicly available and transparent. The current operator met all the specified criteria (...).’ The Minister also stated the following: ‘I wish to underline that the Government of Norway has not been engaged in supporting, financially or otherwise, any party political activities in Hungary. These are rather surprising accusations, and I cannot see that they are valid.’  “The Ökotárs Foundation also issued a statement, underlining that it had never supported the Politics Can Be Different, any other political parties or any organizations closely linked to political parties in any form; and that the list of their grants is public.  “23-24 September 2014 U.S. President’s statement on Hungary intimidating NGOs is labelled as being without any factual basis by ministry: In his remarks delivered at the Clinton Global Initiative on 23 September 2014, U.S. President Barack Obama referred to Hungary as one of the countries where NGOs are attacked, saying the following: ‘From Hungary to Egypt, endless regulations and overt intimidation increasingly target civil society.’  “On the next day, the Hungarian Ministry of Foreign Affairs and Trade issued a short statement, saying that the above remarks of the U.S. President had ‘no factual basis’.  “On 1 October 2014, a Secretary of State of the Prime Minister’s Office, László L. Simon, stated to the press that the critics of Hungary from the U.S. and Western Europe ‘fear for a quite well-operating network’ when they accuse the Hungarian government with targeting civil society, ‘a network the financing of which is thought out very well, and there are political-ideological considerations behind it’. He also stated that the reason behind the U.S. President’s words was that ‘the influential political circles behind the President now sense that the organisations [in Hungary] which they support and which are able to carry out powerful political activity suffer harm because of the investigations launched against them’. The Secretary of State strived to support this statement with the fact that the NGOs supported from the EEA/Norway Grants NGO Fund and those supported by donors from the U.S. (such as the former CEE Trust) overlap.” [[33]](#endnote-33) | **Human Rights Watch, Dispatches: Harassing Civil Society in Hungary, June 5, 2014**  “…the government this week conducted surprise financial inspections on some nongovernmental organizations that administer foreign donor money. This happened after the prime minister’s office published a list smearing 13 other NGOs that receive some of the funds as ‘left-leaning’ and ‘problematic.’    “The inspections are linked to an ongoing dispute between the Hungarian and the Norwegian governments, with Budapest accusing Oslo of interfering in Hungarian political affairs through NGO funding to Hungarian civil society.  “In late May, the state secretary at the prime minister’s office published a list, which included 13 of the 128 NGOs that receive funds from Norway. The 13 include the Hungarian Civil Liberties Union (HCLU), one of the country’s leading human rights NGOs and a frequent critic of the government. Those listed were criticized as ‘left-leaning’ and ‘problematic.’ The prime minister’s office subsequently ordered a full-scale investigation of Norwegian NGO funding. On June 2, officials from the Government Control Office, which conducts financial inspections, paid a visit to three members of the four-member NGO consortium that distributes Norway’s grants to civil society. One had received a week of advance notice. In the case of the two others, government officials appeared unannounced requesting various documents.  “While Norway can presumably withstand pressure from the Hungarian government, Hungarian NGOs are far more vulnerable. The organizations targeted are well-known and respected human rights, democracy, and anti-corruption organizations. In addition to HCLU, they include Transparency International and NANE, a women’s rights organization.”[[34]](#endnote-34)  **Human Rights First, “We Are Not Nazis, But…”, August 2014**  “On June, 2014, the Government Control Office (KEHI) raided three NGOS that are responsible for distributing funding to Hungarian civil society groups under a program called the Norway Grants. These grants are made as part of an agreement between the E.U. and Norway, Iceland, and Lichtenstein to fund projects in less-developed European countries. According to Reuters, the Norway Grants have financed organizations that have criticized Hungary’s government heavily in recent years.’ [sic] Specifically, the government claimed that the Norway Grants had been doled out to favored individuals and had directly funded a small new left-wing political party ‘Politics Can Be Different’ (LMP), violating Hungary’s ban on foreign financing of election campaigns.  “Norway protested, expressing deep concerns about Hungarian government’s attempts to limit freedom of expression. Equally problematic was the revelation that the government was keeping a list of 13 NGOs it deemed to be ‘left leaning’ and ‘problematic.’ According to Reuters, the government said it had no intention of fighting individual NGOs, but charged that the grants sought to exert political influence, an allegation Norway strongly denied.” [[35]](#endnote-35)  **Testimony**  **Deputy Assistant Secretary Hoyt Yee, U.S. Department of State**  **U.S. House of Representatives, Committee On Foreign Affairs,**  **Subcommittee On Europe, Eurasia, And Emerging Threats**  **“The Future Of U.S. - Hungary Relations”**  **May 19, 2015**    “Following the 2014 election, the government undertook a campaign against non-governmental organizations (NGOs) managing funds donated by Norway, including police raids. The United States raised this issue at the OSCE, pointing out that the campaign appeared to be aimed at suppressing critical voices and restricting the space for civil society to operate freely. The groups targeted were notable for their stance of questioning government practices and policies. The situation is at a standstill, with proceedings pending and the NGOs waiting for their names to be cleared, their confiscated equipment returned, and their tax numbers reinstituted.  […]  “In September, the President cited Hungary in his remarks at a Clinton Global Initiative event on civil society, saying ‘From Hungary to Egypt, endless regulations and overt intimidation increasingly target civil society.’ We have urged the Hungarian government to end unwarranted investigations of NGOs receiving Norway funds and allow them to operate without further harassment, interference, or intimidation. Ambassador Bell has been in place since January and has made clear that our concerns persist.”[[36]](#endnote-36)  **Freedom House, Nations In Transit 2015, Hungary, June 6, 2015:**  “The verbal attacks culminated in official investigations into the funding decisions and finances of NGOs that help distribute Norway grants. On 2 June, the Government Control Office (KEHI) searched the offices of the Autonomia Foundation, the Foundation for the Development of Democratic Rights (DemNet), and the Ökotárs Foundation, leading partners of the Norwegian NGO Fund. Government representatives argued that the organizations favored NGOs with “leftist political ties” in distributing the grants and labeled the process “meddling” in Hungary’s domestic affairs… During the summer, KEHI sent several requests to the Ökotárs Foundation, threatening to impose sanctions if it failed to cooperate. The matter negatively influenced diplomatic relations between Norway and Hungary, and the Norwegian authorities questioned KEHI’s right to investigate grants that are not financed from the Hungarian budget. [[37]](#endnote-37)  **United States Department of State, Country Reports on Human Rights Practices 2014, Hungary, (released June 25, 2015)**  “Since 2013 a European Economic Area (EEA)-Norway NGO fund has provided grants to NGOs to strengthen civil society, focusing on issues of democratic values, the rule of law, transparency, gender equality, and assisting vulnerable groups. The fund operates under a memorandum of understanding between the donor and recipient government. The 153.3 million euro ($192 million) EEA-Norway Grants program for the country was administered by the government, except for its climate change and NGO funds, which were administered by the EEA-Norway Grants Financial Mechanism Office in Brussels. The climate change and NGO funds totaled 13.5 million euro ($16.9 million). On April 4, the head of the Prime Minister’s Office, Minister Janos Lazar, sent a letter to the Norwegian minister of EU and EEA affairs claiming that the consortium of four domestic foundations (Okotars Foundation, DemNet, the Carpathian Foundation, and the Autonomia Foundation) responsible for distributing the NGO fund was a satellite of the opposition green party Politics Can be Different. The letter implied that the Norwegian government was supporting Hungarian opposition parties through the NGO fund. The Norwegian government and the NGOs rejected the implied allegations. On May 9, the Norwegian Ministry of Foreign Affairs announced on behalf of EEA donor countries it was suspending further disbursement of program funds to the government. The reason the Norwegian foreign ministry gave for the suspension was that the Hungarian government was in breach of written agreements when it unilaterally changed the institutional structure of the grants. EEA-Norway Grants continued to disburse funds to NGOs.  “On May 21, the Prime Minister’s Office announced it would ask KEHI to open an investigation into the use of the EEA-Norway NGO fund. KEHI subsequently initiated investigative audits of the four-member consortium. On May 28, the EEA-Norway Grants Financial Mechanism Office sent a letter to Lazar urging him to halt the audits, stating no Hungarian public funds, nor any public institutions, were involved in the NGO fund and therefore the Financial Mechanism Office retained sole responsibility for the implementation of the program, including monitoring and auditing. It also instructed Okotars to refuse access to sensitive information requested by KEHI. On May 30, the Prime Minister’s Office released to a media outlet a list of 13 so-called “left leaning” NGOs that received grants from the fund; these groups became the subsequent focus of KEHI’s investigative audits. The list included TI-H, the HCLU, K-Monitor, NANE Women’s Rights Association, and other NGOs promoting LGBT rights, women’s rights, Romani empowerment, active citizenship, and good governance.  “On June 2, KEHI officials appeared unannounced at the offices of the Autonomia and DemNet foundations, and at Okotars. KEHI officials ordered the NGOs to turn over certain records and documents. The NGOs handed over some documents but refused access to sensitive information. On June 17, the Norwegian EU affairs minister, Vidar Helgesen, declared Hungarian authorities unilaterally broke their agreement on handling of the EEA-Norway Grants by opening an audit of the NGO fund. KEHI subsequently expanded the reach of its investigative audits to a group of 58 NGOs, including the 13 groups considered “left leaning” by the government, requesting all information and documents that pertained to their projects that were supported by the NGO Fund. On June 12, a meeting between donor country officials and the Office of the Prime Minister failed to resolve problems related to the NGO Fund. Donor countries stated at the meeting that renewed disbursement of the EEA-Norway grants to the government would be tied to the cancellation of KEHI audits (among other conditions). On June 21, Lazar declared NGOs must hand over documents requested by KEHI, as ‘the law applies to all Hungarian citizens.’ The NGOs affected by the investigation questioned the legal mandate for the audits, complained of a lack of legal remedies, and called the investigation politically motivated.  “On July 9, the Council of Europe’s commissioner for human rights, Nils Muiznieks, sent a letter to Lazar stating ‘the stigmatizing rhetoric used in Hungary against NGOs active in the field of promoting human rights and democratic values, with politicians questioning the legitimacy of their work, is of great concern.’ The commissioner also called upon authorities to suspend audits until their legal basis was clarified. On July 26, Prime Minister Orban gave a speech in which he referred to some NGOs in the country as ‘paid political activists…attempting to promote foreign interests.’  “On August 6, the National Investigative Office (NNI) opened an investigation against ‘unknown perpetrators’ on allegations of misappropriation of NGO funds and ‘unlicensed financial activity.’ On September 8, NNI agents raided the offices of Okotars and DemNet, conducting searches of their accounting and information technology companies and the private residences of two employees. The NNI confiscated documents and computer equipment. Immediately following the raids, KEHI announced it had broadened the investigation to cover activity related to a Swiss NGO block grant as well….  Between September 18 and 22, the tax authority suspended the four consortium members’ tax numbers due to noncompliance with KEHI audits. The NGOs appealed the tax authority’s decision. When the deadline for processing the appeal passed at the beginning of November, the tax authority extended the deadline by another 30 days. The case remained pending at the end of November. On October 22, without required consultation with audited organizations, KEHI submitted its report to the cabinet alleging numerous irregularities, such as retroactive changing of dates and manipulation of project evaluation scoring systems. The Government of Norway did not acknowledge the legitimacy of KEHI’s audit report and stated the donor countries would base their evaluation of the NGO fund on an independent audit.”[[38]](#endnote-38)  **Interviews of Civil Society by OGP Small Review Team, November 2015**  a) In an interview (November 2015) with representatives of a major human rights NGO active in Hungary, they noted that the Hungarian Helsinki Commission, for instance, has also been targeted through a smear campaign by the state and the Norwegians do not fund them. This does negate against the impression given in the government response that negative actions taken against civil society have been limited.  b) A pro-democracy advocate noted in an interview (November 2015 the predominant negative action taken by the state has been directed at Norwegian funders, he also noted very clearly how significant a portion of civil society funding is solely provided from this as a source. In other words, suggesting that actions are ‘targeted’ ignores the substantial influence as a funding source the Norwegian funders supply.  c) A representative of a major private foundation stated in an interview (November 2015) while punitive treatment by the state is largely directed at Norwegian funded institutions, other non-governmental organisations (particularly those involved in migration) are experiencing smear campaign through state funded media. | **Response letter from the government of Hungary (July 8, 2015), p. 4:**  “Norway - without a transparent procedure - chose a consulting company, called CREDA, to prepare a report on the management of the Norway Fund instead of examining and auditing it in cooperation with Hungary within the framework of an impartial procedure . Later it was found out that several employees of the CREDA have ties with the NGOs managing the Norway Fund, which questions the impartiality and independence of the CREDA and its examination . The report prepared by CREDA found no problems with the management of the Norway Fund but also offered no objective methodological foundation for its findings.”  **Idem, p. 7:** ” The GCO has requested the National Tax and Customs Authority (NTCA) to suspend the tax identification number of the four organizations managing the Norway Fund, because these organizations, violating the law applicable to all organizations operating in Hungary, did not comply with the obligation to provide information and to cooperate with the authorities.”  **Idem, p. 8:** “The NGOs managing the Norway Fund petitioned for judicial review, and the court proceeding is still on-going. Thus a final decision regarding the suspension of the tax numbers will be made by the independent court. It is also important to note that proceeding court has suspended the implementation of the NTCA’s resolution ordering the suspension of the tax numbers until the legally binding completion of the court case. This means that – contrary the letter of concern – the tax numbers of the NGOs are valid and therefore they can continue their operations without any disadvantage or obstacle.” |
| Many of these allegations have been directed at the very transparency and human rights groups which have been most actively engaged in the OGP process in the  country. | **Human Rights Watch, Dispatches: Harassing Civil Society in Hungary, June 5, 2014**  “…the government this week conducted surprise financial inspections on some nongovernmental organizations that administer foreign donor money. This happened after the prime minister’s office published a list smearing 13 other NGOs that receive some of the funds as ‘left-leaning’ and ‘problematic.’  […]    “In late May, the state secretary at the prime minister’s office published a list, which included 13 of the 128 NGOs that receive funds from Norway. The 13 include the Hungarian Civil Liberties Union (HCLU), one of the country’s leading human rights NGOs and a frequent critic of the government.  […]  “The organizations targeted are well-known and respected human rights, democracy, and anti-corruption organizations. In addition to HCLU, they include Transparency International and NANE, a women’s rights organization.”[[39]](#endnote-39)  **Human Rights Watch, June 24, 2014**  **Dispatches: Hungary’s Contempt for Civil Society**  “The Hungarian government continues to show contempt for civil society. In the latest move, authorities have zeroed in on NGOs that receive funding from the Norwegian government.  “The demands are linked to an ongoing dispute between the two governments, with Budapest accusing Oslo of interfering in Hungarian political affairs through funding Hungarian civil society organizations.  “On June 19, the Hungarian Civil Liberties Union (HCLU), a leading human rights organization; NANE, a women’s rights organizations; and Transparency International, K-Monitor, and Atlatszo, all anti-corruption organizations, received letters from the Government Control Office, responsible for financial inspections, requesting data on their activities funded under the Norway Grants. It’s unclear how many other groups have received letters.  “The demands follow the June 2 government financial inspections of three Hungarian NGOs that distribute funds from the Norway Grants. Prior to the arbitrary inspections, the Hungarian Prime Minister’s Office published a list of 13 NGOs that receive funding from the Grants, smearing them as ‘left-leaning’ and ‘problematic.’”[[40]](#endnote-40)  **Human Rights First, “We Are Not Nazis, But…”, August 2014**  “Equally problematic was the revelation that the government was keeping a list of 13 NGOs it deemed to be ‘left leaning’ and ‘problematic.’… According to Reuters, the government said it had no intention of fighting individual NGOs, but charged that the grants sought to exert political influence, an allegation Norway strongly denied. The groups listed included, among others, Transparency International, the Hungarian Helsinki Commission and other organizations that have criticized the government for undermining democratic principles and the rule of law. In late June, KEHI also announced that it would investigate, among others, Transparency International, the K-Monitor, a financial watchdog group, and the Hungarian Civil Liberties Union to learn how they had spent the funds.”[[41]](#endnote-41)  **Human Rights First, September 18, 2014**  **Silencing Dissent: Hungary’s Crackdown on NGOs**  **Guest Blog By Péter Krekó and Attila Juhász, Political Capital Institute**    “Hungary is in the middle of a crackdown against NGOs and civil society leaders. On September 8th, Hungarian police raided the offices of two nonprofits, Ökotárs Foundation andDemNet Hungary, as well as the homes of their leaders, seizing documents and data. While no charges have been filed, they are accused of distributing foreign grant money to leftist political parties, which is against Hungarian law. In reality, Ökotárs Foundation and DemNet Hungary allocate funding to other NGOs that promote democracy, civil society, environmental awareness, and independent media.  “The Hungarian government is trying to silence civil rights groups, think-tanks, and organizations that demand transparency in government decisions and lead the fight against corruption. The government strategy: dry up their financial resources and run a smear campaign to discredit them in the public eye. The recent police raids achieve both objectives. Potential charges are unlikely to hold up in court, but no matter – protracted legal wrangling will still go a long way towards dismantling and discrediting these organizations and blocking their financial resources. Fidesz, the ruling party, has already successfully used the prosecutors office and the police force to accomplish similar goals against opposition parties and politicians.  “The Hungarian government would like you to think that these nonprofits are partisan groups trying to influence elections with foreign money. Prime Minister Viktor Orban called them ‘activists financed from abroad’ and a threat to the sovereignty of the Hungarian state in a speech this summer. This sounds eerily similar to Russia’s law that classifies all NGOs that receive international funding as ‘foreign agents,’ which is clearly intended to discredit them. According to the Hungarian government and the state-controlled media, these NGOs are mouthpieces for a ‘liberal’ agenda.  “So who are these allegedly menacing foreign groups funneling money into Hungary? Once such group is the Norway Fund, which supported Ökotárs Foundation and DemNet Hungary. But the regime’s logic breaks down when you see that Norway Fund also gives ten times that amount to development programs for the Hungarian government. By this reasoning, the Hungarian government is also a ‘foreign agent.’    “The groups targeted by the Hungarian government all have one thing in common: they are criticizing the Hungarian administration in one way or another – whether on their track record in human rights, women’s rights, LGBT rights, or transparency and anti-corruption measures. The government feels threatened by these organizations because they have the potential to damage Hungary’s reputation abroad – and rightly so, as the regime has failed to promote democratic values, makle [sic] a more transparent system, and protect minority citizens.  “The regime’s targeting of NGOs follows clear political lines. Gábor Mabda, the principal investigator of the case at Government Control Office (the body that started the investigation that led to the police raid on September 8th),was a parliamentary candidatefor MIÉP—an anti-Semitic ultranationalist party and a former ally of Jobbik in 1998 and 2002. The police searched for and seized documents specifically related to 13 other NGOs that receive foreign funding on a ‘hit-list’ issued by an official in the Prime Minister’s office, even though their activity and funding is perfectly legal. It appears that the police were executing a political order. A politician from the Prime Minister’s office issued a statement that the police’s actions were excessive—a not-so-credible effort by the government to distance itself from the event, especially as Orbán himself did not condemned the police action, but welcomed it.  “Meanwhile, the same office that is pursuing these ‘investigations’ into NGOs has not touched a stack of numerous government corruption cases that have piled up in the last four years.”[[42]](#endnote-42)  **Testimony**  **Deputy Assistant Secretary Hoyt Yee, U.S. Department of State**  **U.S. House of Representatives, Committee On Foreign Affairs,**  **Subcommittee On Europe, Eurasia, And Emerging Threats**  **“The Future Of U.S. - Hungary Relations”**  **May 19, 2015**  “Following the 2014 election, the government undertook a campaign against non-governmental organizations (NGOs) managing funds donated by Norway, including police raids. The United States raised this issue at the OSCE, pointing out that the campaign appeared to be aimed at suppressing critical voices and restricting the space for civil society to operate freely. The groups targeted were notable for their stance of questioning government practices and policies. The situation is at a standstill, with proceedings pending and the NGOs waiting for their names to be cleared, their confiscated equipment returned, and their tax numbers reinstituted. We have urged Hungary to demonstrate its respect for civil society and free speech in this and other cases, not just with words but actions.”[[43]](#endnote-43)  **Freedom House, Nations In Transit 2015, Hungary, June 6, 2015:**  “The verbal attacks culminated in official investigations into the funding decisions and finances of NGOs that help distribute Norway grants. On 2 June, the Government Control Office (KEHI) searched the offices of the Autonomia Foundation, the Foundation for the Development of Democratic Rights (DemNet), and the Ökotárs Foundation, leading partners of the Norwegian NGO Fund.” [[44]](#endnote-44)  **United States Department of State, Country Reports on Human Rights Practices 2014, Hungary, (released June 25, 2015)**  “Since 2013 a European Economic Area (EEA)-Norway NGO fund has provided grants to NGOs to strengthen civil society, focusing on issues of democratic values, the rule of law, transparency, gender equality, and assisting vulnerable groups. The fund operates under a memorandum of understanding between the donor and recipient government. The 153.3 million euro ($192 million) EEA-Norway Grants program for the country was administered by the government, except for its climate change and NGO funds, which were administered by the EEA-Norway Grants Financial Mechanism Office in Brussels…  […]  “…On May 30, the Prime Minister’s Office released to a media outlet a list of 13 so-called “left leaning” NGOs that received grants from the fund; these groups became the subsequent focus of KEHI’s investigative audits. The list included TI-H, the HCLU, K-Monitor, NANE Women’s Rights Association, and other NGOs promoting LGBT rights, women’s rights, Romani empowerment, active citizenship, and good governance.  […]  “On July 9, the Council of Europe’s commissioner for human rights, Nils Muiznieks, sent a letter to Lazar stating ‘the stigmatizing rhetoric used in Hungary against NGOs active in the field of promoting human rights and democratic values, with politicians questioning the legitimacy of their work, is of great concern.’ The commissioner also called upon authorities to suspend audits until their legal basis was clarified. On July 26, Prime Minister Orban gave a speech in which he referred to some NGOs in the country as ‘paid political activists…attempting to promote foreign interests.’”[[45]](#endnote-45) | **Response letter from the government of Hungary (July 8, 2015), p. 3**  “The joint letter of Transparency International Hungary, TASZ, K-Monitor and Sunlight Foundation (hereinafter referred to as: letter of concern) seems to suggest that there is a general attack against civil society organizations, while in reality, the Government and the relevant public authorities only wished to examine the operation of a small group of civil society organizations against which a suspicion of mismanagement has risen… we would find it unfortunate if the operation of and the cooperation with the civil society organizations would be judged based on measures concerning a specific group of NGOs.” |
| **Direct Actions** | | |
| Over time, the allegations have been followed by more direct action on the part of the government. In May 2014, the Government Control Office (GCO) began an audit of the four organisations which participate in the consortium which runs the EEA/Norway Grants NGO Fund (NGO Fund), as well as a number of organisations which have received support from this  Fund. It remains unclear who actually initiated the GCO investigations.  **Timeline Of Governmental Attacks Against Hungarian NGO Sphere, 12 August 2015 (Eötvös Károly Policy Institute, Transparency International –Hungary, Hungarian Civil Liberties Union, Hungarian Helsinki Committee)**    “21 May 2014 State audit is launched against NGOs receiving support from the NGO Fund: On 21 May 2014 it was announced by the Prime Minister’s Office that the government requests the Government Control Office (GCO) – a state agency vested with the task of auditing state money – to launch a unilateral audit into how the EEA/Norway Grants NGO Fund is managed, in order to see whether the government’s suspicion that the fund’s money is used to support political organisations indirectly, or NGOs closely linked to them, may be substantiated.  “On 28 May 2014 the secretariat of the EEA/Norway Grants donor states, the Financial Mechanism Office (FMO), has made clear its position in an official letter addressed to János Lázár that the conduct of the proposed audit “cannot be accepted”, since according to the respective agreements the implementation of the NGO Fund, including its regular audit, is the responsibility of the donor states. It was underlined that since the NGO Fund does not receive any funding from Hungarian state budget, no funds from Hungarian state budget are managed by the Ökotárs Foundation in this context. It was also submitted that an audit by the donors has already been planned and will be carried out during the autumn, and the results of this audit will certainly be made available to the Hungarian authorities.  “2 June 2014 State auditors request documents from NGO Fund operators: On 2 June 2014, the GCO made an on-site audit at three members of the consortium responsible for the operation of the EEA/Norwegian NGO Fund (Autonómia Foundation, Foundation for the Development of Democratic Rights – DemNet, and Ökotárs Foundation), and demanded that certain documents be handed over. Even though the foundations maintained the view that the GCO had no right to investigate, they decided to turn over some of the documents. However, the head of the Ökotárs stated that they would not like to turn over documents which contain sensitive personal data (such as the names of clients of human rights NGOs), and they had asked that their standpoint as to the illegitimate nature of the audit is recorded. 20 Furthermore, the Ökotárs submitted a formal letter to the GCO, inquiring about the legal basis of the audit.  “In order to express the Norwegian authorities’ concern about Hungary’s actions, the Hungarian Ambassador to Norway was summoned to the Ministry of Foreign Affairs on 4 June 2014, and representatives from the Norwegian Embassy in Budapest paid a visit to the Hungarian authorities on 5 June 2014. The Norwegian Minister of EEA and EU Affairs stated that he is “deeply concerned about the actions of the Hungarian authorities in relation to civil society and their attempts to limit freedom of expression” and that the Hungarian authorities’ audit does not comply with the agreements that have been entered into. It was emphasized again that a number of NGO funds were scheduled to be audited in the autumn of 2014 by the donor countries, including the fund in Hungary, and the results of these audits will be made available to the public. The Minister stated that if the Hungarian authorities would like to request access to documents related to the administration of the NGO Fund, they are to contact the FMO in Brussels.  “On 3 June 2014, the Director of the FMO sent a letter to János Lázár, expressing her strong objection once again with regard to the GCO’s intervention. The director also stated that Ökotárs shall maintain professional secrecy during the implementation of the programme according to its agreement with the FMO, and, therefore, the GCO shall address any further request, question or inquiry directly to the FMO.  “After a high-level meeting on 12 June 2014 between the states involved, it was stated again by Norway that responsibility for the NGO programme and any potential audits lies with the donor states, and that the Hungarian government’s actions “undermine the independence of civil society from the authorities”. It was expressed that halting the audit is one of the preconditions for lifting the earlier suspension of the EEA and Norway Grants. (Payments to Hungary under the EEA and Norway Grants scheme were suspended as of 9 May 2014, because the Hungarian Government has moved the implementation and monitoring of the Grants scheme out of the central government administration, which was seen by the donor states as a breach of the agreements that have been entered into.)  “Since the Hungarian government failed to address the issue of the state audit of NGOs in its follow-up letter dated 17 June 2014, the FMO emphasized once again in a response dated 25 June 2014 that the cancellation of the audit against the NGO Fund operator is also a precondition of further dialogue on lifting the suspension.  “June 2014 State auditors request documents from NGOs supported by the NGO Fund: In the course of June 2014, altogether 58 NGOs supported by the EEA/Norway Grants NGO Fund received a letter of query from the GCO to submit documents related to their projects financed by NGO Fund. The request covered practically entire project documentations in addition to organizational documents, and the deadline provided was very tight: they had to comply with the request approximately within a week. 33 Some of the NGOs submitted an inquiry to the GCO as to the legal basis for the investigation, but received a sample letter which in their view did not succeed in substantiating the GCO’s right to investigate them.  “Four of the NGOs concerned – the Asimov Foundation (operating the investigative news portal atlatszo.hu, the Hungarian Civil Liberties Union, the Szivárvány Misszó Foundation (organizer of the Budapest Pride), and the Krétakör Foundation – decided to make the project documentation available on their websites instead of submitting it to the GCO, expressing their standpoint that the audit had no legal basis. 35 At the same time, e.g. Transparency International Hungary decided to comply with the GCO’s request, but upheld the view as to the questionable legal basis of the audit. (It has to be added that not complying was not without risk, since the GCO can initiate the suspension of the tax number of any entities refusing to cooperate with it, which practically renders NGOs’ life impossible.)  “Upon the complaints of NGOs (including the Transparency International Hungary) the Ombudsperson of Hungary concluded in a letter sent to János Lázár on 23 July 2014 that the interpretation of Norway shall be also taken into account with regard to the audit of the funds. However, the Ombudsperson did not take any further action.  “11 September 2014 The scope of the state audit is extended: On 11 September 2014 it was announced that the scope of the GCO’s audit had been extended to funds received by the Ökotárs in the framework of the Swiss-Hungarian Cooperation Programme, and also to funds received from other state budget sources.  “18-24 September 2014 The tax number of fund operators is suspended: On 18 September 2014, the tax number of the consortium’s fourth member, the Kárpátok Foundation was suspended, and the GCO stated that the tax number of the remaining three consortium members will also be suspended, on the basis that the foundations are responsible for distributing public money but they are “secretive” and they do not want to disclose certain documents. On 22-24 September 2014 the remaining three consortium members (Ökotárs, DemNet and Autonómia Foundation) were also notified that their tax numbers had been suspended.  “22 October 2014 GCO publishes its audit report, rejected by Norway: On 22 October 2014 the GCO published its audit report,57 containing generalized and highly questionable critical conclusions. The GCO claimed irregularities with regard to the implementation of the EEA/Norway Grants NGO Fund without identifying the rules breached, and that criminal offences had been committed, but provided no explanation in that regard either. It was also announced that the GCO will launch a criminal procedure based on the report.  “On 28 October 2014, Norway issued a statement regarding the matter, containing the following: “The KEHI-audit [i.e. the GCO-audit] of the NGO-fund is in breach with the agreements governing the EEA-grants. No funds from the Hungarian state budget are at stake and the donors will not accept discussions based on this report. The donors will base their evaluation of the NGO-fund on an independent audit. We find the actions taken by the Hungarian government against the fund operator of the NGO-fund, Ökotars to show a troubling lack of respect for the independence of civil society. As such, we believe the Hungarian government is challenging basic democratic values underpinning European cooperation.”  “16 December 2014 Audit by the Prime Minister’s Office in relation to the Swiss NGO Fund: After the GCO’s audit started, payments were suspended by Switzerland under the SwissHungarian Cooperation Programme. In November 2014 Switzerland decided to proceed with the payments, since they were of the view that it was proven that the Ökotárs was trustworthy. However, the Prime Minister’s Office decided that it would carry out an investigation/audit regarding the use of the Swiss NGO Fund itself, and it was reported on 16 December 2014 that until the 45-day governmental investigation procedure is over, no payments can be realized from the Swiss NGO Fund. 67  “At the end of 2014 a tripartite agreement was concluded between Switzerland, the Hungarian government and the Ökotárs in order to ensure that the NGOs supported receive their grant moneys. (Payments had not been realized from the Swiss NGO Fund since August 2014, affecting almost 30 projects, several of which had to be suspended.) The agreement was a provisional one (applying only to the period of the investigation), and set out that payments shall be made through the governmental Széchenyi Program Office. However, in-merit coordination of the Swiss NGO Fund is still carried out by the consortium.  “19 January 2015 Prosecutorial and tax authority investigation of supported NGOs: On 19 January 2015 the Ökotárs informed the press that the National Tax and Customs Administration investigates two NGOs which received support from the EEA/Norway Grants NGO Fund, while the prosecutor’s office investigates the lawfulness of the operations of another two such NGOs (these are not criminal investigations). Thus, state investigations not only focus on consortium members any more, but also the NGOs supported by the NGO Fund. [[46]](#endnote-46)  **Reviewers’ Note**:  The agreement reached by the Hungarian and Norwegian governments provides that no criminal proceedings will go ahead and all tax numbers will be reinstated. Nevertheless, through public statements, the Okotars Foundation has been expressly vetoed from receiving any funds for distribution by the Hungarian government[[47]](#endnote-47). | **Human Rights First, “We Are Not Nazis, But…”, August 2014**  Equally problematic was the revelation that the government was keeping a list of 13 NGOs it deemed to be “left leaning” and “problematic.”… According to Reuters, the government said it had no intention of fighting individual NGOs, but charged that the grants sought to exert political influence, an allegation Norway strongly denied. The groups listed included, among others, Transparency International, the Hungarian Helsinki Commission and other organizations that have criticized the government for undermining democratic principles and the rule of law. In late June, KEHI also announced that it would investigate, among others, Transparency International, the K-Monitor, a financial watchdog group, and the Hungarian Civil Liberties Union to learn how they had spent the funds. The groups were required to turn over their financial records or face fines.[[48]](#endnote-48)  **Human Rights Watch, Dispatches: Harassing Civil Society in Hungary, June 5, 2014**  “…the government this week conducted surprise financial inspections on some nongovernmental organizations that administer foreign donor money. This happened after the prime minister’s office published a list smearing 13 other NGOs that receive some of the funds as “left-leaning” and “problematic.”…    “In late May, the state secretary at the prime minister’s office published a list, which included 13 of the 128 NGOs that receive funds from Norway. The 13 include the Hungarian Civil Liberties Union (HCLU), one of the country’s leading human rights NGOs and a frequent critic of the government…  “The organizations targeted are well-known and respected human rights, democracy, and anti-corruption organizations. In addition to HCLU, they include Transparency International and NANE, a women’s rights organization.[[49]](#endnote-49)  **United States Mission to the OSCE, Statement on Intimidation of Civil Society and Media in Hungary, June 2014:**  “Shortly after its reelection victory in April, the Hungarian government accused “Norway Grants,” a funding mechanism that distributes money to a consortium of Hungarian NGOs, of being politically biased. The Hungarian government publicly alleged that Norway seeks to influence Hungarian politics, and on June 2 the Government Control Office (KEHI) initiated investigative audits against the offices of three NGOs that distribute funds from Norway Grants.  “Subsequently, on June 12, Transparency International, the ACLU, and other NGOs published a joint statement registering their concern that Hungarian civil society organizations have a shrinking space in which to carry out their activities.” [[50]](#endnote-50)  **Human Rights Watch, June 24, 2014**  **Dispatches: Hungary’s Contempt for Civil Society**    “The Hungarian government continues to show contempt for civil society. In the latest move, authorities have zeroed in on NGOs that receive funding from the Norwegian government.  “The demands are linked to an ongoing dispute between the two governments, with Budapest accusing Oslo of interfering in Hungarian political affairs through funding Hungarian civil society organizations.  “On June 19, the Hungarian Civil Liberties Union (HCLU), a leading human rights organization; NANE, a women’s rights organizations; and Transparency International, K-Monitor, and Atlatszo, all anti-corruption organizations, received letters from the Government Control Office, responsible for financial inspections, requesting data on their activities funded under the Norway Grants. It’s unclear how many other groups have received letters.    “The demands follow the June 2 government financial inspections of three Hungarian NGOs that distribute funds from the Norway Grants. Prior to the arbitrary inspections, the Hungarian Prime Minister’s Office published a list of 13 NGOs that receive funding from the Grants, smearing them as ‘left-leaning’ and ‘problematic.’”[[51]](#endnote-51)  **Unacceptable police raid on EEA and Norway Grants fund operator in Hungary**  **Press release | Published: 2014-09-09 | Ministry of Foreign Affairs, Government of Norway**  “‘By ordering the police raid on 8 September, it is clear that the Hungarian authorities are continuing their harassment of civil society organisations, and that they have no intention of fulfilling their obligations under the agreements Hungary has entered into on the management of the EEA and Norway Grants,’ said Minister of EEA and EU Affairs Vidar Helgesen.  “It was on 8 September that Hungarian police carried out a raid on the offices of the organisation Ökotárs in Budapest. The organisation is tasked with managing the funds allocated to NGOs in Hungary through the EEA and Norway Grants, on behalf of Iceland, Liechtenstein and Norway. The Hungarian police also raided the homes of some of the organisation’s staff.  “The police confiscated documents and IT equipment. The Hungarian authorities do not respect the independence of civil society, and have therefore launched an audit of the funds provided by Norway to Hungarian NGOs. This is the reason for the raid. This audit is in breach of the agreements Hungary has entered into on the management of the EEA and Norway Grants. The fund operator has also been accused of engaging in criminal activities.  “‘The police raid on 8 September is completely unacceptable. It shows that the Hungarian Government intends to stop the activities of NGOs that are critical to the authorities. It also shows that the Hungarian Government is failing to respect common European values relating to democracy and good governance,’ said Mr Helgesen.  “The audit that the Hungarian authorities have launched is in violation of the agreements Hungary has signed on the management of the Grants. It is clearly set out that the donor countries are responsible for the programme area on NGOs, and for any audits of this funding.  “Iceland, Liechtenstein and Norway already have plans to audit 13 NGO funds this autumn, including the one in Hungary. The Hungarian authorities have been invited to cooperate in this audit.  “However, the pressure on the fund operator in Hungary has increased since this spring. There have been demands for the fund operator to hand over sensitive information, because the Hungarian authorities disapprove of the projects that have been allocated funding.  “The programme area on NGOs supports measures to strengthen democratic values and minority rights and improve the situation for vulnerable groups. The Hungarian authorities have criticised the fact that organisations such as Transparency International, the Civil Liberties Union, and a network for investigative journalists have received funding under the EEA and Norway Grants scheme.  “As of 9 May, Norway has suspended payments to Hungary under the Grants scheme. However, the programme areas on NGOs and on climate adaptation have been exempt from the suspension, because the Hungarian authorities are not responsible for their implementation.  “‘The Hungarian authorities are well aware of the requirements we have set for lifting the suspension. The audit of the NGO fund and the harassment of our partners must be stopped. The police raid on 8 September shows that the Hungarian authorities are seeking to undermine the independence of civil society,’ Mr Helgesen said.  “For the current period, the funding under the EEA and Norway Grants to Hungary totals EUR 153.3 million (of which EUR 13.5 million has been allocated to the programme area on NGOs). As a result of the suspension, EUR 129.8 of this amount has been frozen.”[[52]](#endnote-52)  **Testimony**  **Tad Stahnke, Vice President For Research And Analysis**  **Human Rights First**  **U.S. House of Representatives, Committee On Foreign Affairs,**  **Subcommittee On Europe, Eurasia, And Emerging Threats**  **“The Future Of U.S. - Hungary Relations”**  **May 19, 2015**    “Following an intrusive ‘on-site’ KEHI audit and further demands for documents, two of the fund operators’ offices were raided by the police where, among other things, documents concerning the 13 “blacklisted” NGOs were seized. A criminal procedure was also launched against one of the fund operators for potentially ‘unauthorized financial activities.’ Norway condemned and rejected each one of these steps. In October 2014, KEHI released an audit containing generalized concerns about the operation of the program; this ‘audit’ was rejected by Norway, which announced it would conduct its own internal review. In the meantime, the tax numbers of the fund operators were suspended, threatening to shut down the organizations…  “In January 2015, a court concluded that the government raids and seizures of the fund operators were unlawful. In February, an independent evaluation of the administration of the Norway  Grants program validated the selection of the fund operators and stressed the importance of maintaining the operators’ independence from the government. Nevertheless, the government continues its public targeting of NGOs. In February 2015, the head of the Prime Minister’s office stated that NGOs should not only publicly account for where their money comes from, but also for their leaders’ personal assets.”[[53]](#endnote-53)  **Freedom House, Nations In Transit 2015, Hungary, June 6, 2015:**  “The verbal attacks culminated in official investigations into the funding decisions and finances of NGOs that help distribute Norway grants. On 2 June, the Government Control Office (KEHI) searched the offices of the Autonomia Foundation, the Foundation for the Development of Democratic Rights (DemNet), and the Ökotárs Foundation, leading partners of the Norwegian NGO Fund…  “During the summer, KEHI sent several requests to the Ökotárs Foundation, threatening to impose sanctions if it failed to cooperate… On 8 September, the police raided the offices of Ökotárs and DemNet, confiscating computers and documents, and accusing the organizations of mismanagement of funds and illegal financial activities. The confiscated materials included the files of 13 NGOs that the government had earlier labeled ‘left-leaning.’ The control office asked for the suspension of the organizations’ tax numbers and submitted a criminal report in October.” [[54]](#endnote-54)  **United States Department of State, Country Reports on Human Rights Practices 2014, Hungary, (released June 25, 2015)**  “On May 21, the Prime Minister’s Office announced it would ask KEHI to open an investigation into the use of the EEA-Norway NGO fund. KEHI subsequently initiated investigative audits of the four-member consortium. On May 28, the EEA-Norway Grants Financial Mechanism Office sent a letter to Lazar urging him to halt the audits, stating no Hungarian public funds, nor any public institutions, were involved in the NGO fund and therefore the Financial Mechanism Office retained sole responsibility for the implementation of the program, including monitoring and auditing. It also instructed Okotars to refuse access to sensitive information requested by KEHI. On May 30, the Prime Minister’s Office released to a media outlet a list of 13 so-called “left leaning” NGOs that received grants from the fund; these groups became the subsequent focus of KEHI’s investigative audits. The list included TI-H, the HCLU, K-Monitor, NANE Women’s Rights Association, and other NGOs promoting LGBT rights, women’s rights, Romani empowerment, active citizenship, and good governance.  “On June 2, KEHI officials appeared unannounced at the offices of the Autonomia and DemNet foundations, and at Okotars. KEHI officials ordered the NGOs to turn over certain records and documents. The NGOs handed over some documents but refused access to sensitive information. On June 17, the Norwegian EU affairs minister, Vidar Helgesen, declared Hungarian authorities unilaterally broke their agreement on handling of the EEA-Norway Grants by opening an audit of the NGO fund. KEHI subsequently expanded the reach of its investigative audits to a group of 58 NGOs, including the 13 groups considered “left leaning” by the government, requesting all information and documents that pertained to their projects that were supported by the NGO Fund. On June 12, a meeting between donor country officials and the Office of the Prime Minister failed to resolve problems related to the NGO Fund. Donor countries stated at the meeting that renewed disbursement of the EEA-Norway grants to the government would be tied to the cancellation of KEHI audits (among other conditions). On June 21, Lazar declared NGOs must hand over documents requested by KEHI, as ‘the law applies to all Hungarian citizens.’ The NGOs affected by the investigation questioned the legal mandate for the audits, complained of a lack of legal remedies, and called the investigation politically motivated.  “On July 9, the Council of Europe’s commissioner for human rights, Nils Muiznieks, sent a letter to Lazar stating ‘the stigmatizing rhetoric used in Hungary against NGOs active in the field of promoting human rights and democratic values, with politicians questioning the legitimacy of their work, is of great concern.’ The commissioner also called upon authorities to suspend audits until their legal basis was clarified. On July 26, Prime Minister Orban gave a speech in which he referred to some NGOs in the country as ‘paid political activists…attempting to promote foreign interests.’  […]  “Between September 18 and 22, the tax authority suspended the four consortium members’ tax numbers due to noncompliance with KEHI audits. The NGOs appealed the tax authority’s decision. When the deadline for processing the appeal passed at the beginning of November, the tax authority extended the deadline by another 30 days. The case remained pending at the end of November. On October 22, without required consultation with audited organizations, KEHI submitted its report to the cabinet alleging numerous irregularities, such as retroactive changing of dates and manipulation of project evaluation scoring systems. The Government of Norway did not acknowledge the legitimacy of KEHI’s audit report and stated the donor countries would base their evaluation of the NGO fund on an independent audit.”[[55]](#endnote-55)  **Interviews of Civil Society by OGP Small Review Team, November 2015**  a) Representatives of a major human rights organization confirmed in an interview (November 2015) that the audits were far broader than four Norwegian funds, and note that justifications for audits were very vague.  They noted that several audits of civil society are still ongoing, and that only criminal charges have since been dropped against certain civil society groups.  In fact there is a pending FOI request in relation to the audits to try and determine who authorized/instigated the audit proceedings i.e. whether it was the Prime Minister, or a Minister, but have so far been refused access to this information.  b) In an interview (November) a pro-democracy advocate confirmed that there have been some negative sentiments expressed by certain civil society organisations against Ökotárs Foundation in passing, but notes significantly that the form of these complaints have never been of a nature which relates to expenditure and would thus warrant audit (as was suggested in the government response to the complaint).  c) A representative of an NGO working at local government level and not party to the letter of concern was able to highlight a particularly worrying regulatory interference with civil society, not raised in the main complaint. He noted that at least two organisations have been expelled and harassed – unjustly – by the local government agencies in the areas in which they work. The example of Kék Pont is instructive. This organisation, which deals with drug harm reduction, has received exorbitant rent increases and other forms of discrimination by the 8th district municipality in which it works, which has forced it to close its doors.[[56]](#endnote-56)  d) A representative of a major private foundation stated during an interview (November 2015) that several organisations are still with suspended tax numbers, though it was again confirmed that the criminal charges have since been dropped against some of the 17 organisations affected.  He also confirmed that – though there may have been criticisms leveled at Ökotárs Foundation by certain civil society organisations – these allegations did not relate to funding or tax concerns. | **Response letter from the government of Hungary (July 8, 2015), p. 4:**  “Regarding these requests [made in the letter of concern, to cease government actions against NGOs], we would like to highlight that the only on-going actions based on the GCO’s findings are the court procedures relating the suspension of the tax identification numbers… and the criminal investigations.”  **Idem, p. 7:** “The GCO has requested the National Tax and Customs Authority (NTCA) to suspend the tax identification number of the four organizations managing the Norway Fund, because these organizations, violating the law applicable to all organizations operating in Hungary, did not comply with the obligation to provide information and to cooperate with the authorities.”  **Idem, p. 4:** “The letter also calls for the “harassment of watchdog NGOs by the GCO and NTCA to stop”. The GCO did not “harass” any NGO, but it requested documents and cooperation during its audit (which is an obligation for any organization operating in Hungary as prescribed by the law), and when they weren’t’ provided, the GCO sought legal remedy regarding four of the 59 audited organizations.”  **Idem, p. 5:** “The audit carried out by the Government Control Office (GCO) has affected less than 60 of the 60 000 NGOs operating in Hungary and most of these organizations were cooperative during the audit. The tax identification number has been suspended in case of four organizations on the ground of not complying with the obligation to cooperate with the GCO as prescribed by the law…”  **Idem, p. 5:**  “The reasons for ordering the audit were mainly the many notifications and warnings the Government received from non-governmental organizations in connection with how the consortium, headed by Ökotárs Foundation, is managing the Norway Fund and distributes grants. According to these notifications, public funds, to which each Hungarian NGOs should be entitled, are distributed amongst a specific group of NGOs who have close ties and connections with the management consortium, while most NGOs simply do not even get the chance to become beneficiaries . In addition to this, the suspicion also presented itself that Ökotárs, infringing the Memorandum of Understanding between Norway and Hungary, supports organisations with ties to political parties or involved in political activities . One of the beneficiaries admitted more than once in public that it financed anti-government demonstrations from the Norwegian Funds . The Government of Hungary has notified the Government of Norway of these problems several times and made attempts to find a solution through negotiation and carry out a joint investigation in a cooperative manner, but the Norway refused the Hungarian proposal.”  **Idem, p. 6:** “Despite the above and the GCO’s repeated requests, the members of the consortium refused to provide documents relating to the conduct of tendering, the assessment and evaluation of the submitted project proposals, the decisions on the projects to be implemented, and the monitoring of the implemented projects. These documents have been of particular importance for the purposes of the audit, but unfortunately, these documents still haven’t been made available for the GCO. Moreover, some of the documents the GCO received were “produced” after the beginning of the audit and were falsely given an earlier date. Based on the documents the GCO managed to procure, it appears that the members of the consortium – in order to set back the criminal procedure - have deleted some of the data stored on their servers along with part of their e-mail correspondence relating to the management of the Norwegian Fund.”  **Idem, p. 7:** ” The GCO has requested the National Tax and Customs Authority (NTCA) to suspend the tax identification number of the four organizations managing the Norway Fund, because these organizations, violating the law applicable to all organizations operating in Hungary, did not comply with the obligation to provide information and to cooperate with the authorities.”  **Idem, p. 7:** ”The GCO terminated its audit regarding the management of the Norway Fund on 15 October 2014, and, based on the Government’s decision, subsequently published the audit report. In case of both the organizations managing the Norwegian Fund and the supported beneficiaries, the report revealed many irregularities.”  **Idem, p. 8:** “The NGOs managing the Norway Fund petitioned for judicial review, and the court proceeding is still on-going. Thus a final decision regarding the suspension of the tax numbers will be made by the independent court. It is also important to note that proceeding court has suspended the implementation of the NTCA’s resolution ordering the suspension of the tax numbers until the legally binding completion of the court case. This means that – contrary the letter of concern – the tax numbers of the NGOs are valid and therefore they can continue their operations without any disadvantage or obstacle.” |
| A criminal investigation has been initiated based on the findings of GCO’s audit into  EEA/Norway Grants recipient NGOs.  **Timeline Of Governmental Attacks Against Hungarian NGO Sphere, 12 August 2015 (Eötvös Károly Policy Institute, Transparency International –Hungary, Hungarian Civil Liberties Union, Hungarian Helsinki Committee)**  “21 July 2014 State auditors demand further documents from NGO Fund operators: On 21 July 2014, the GCO sent another request for documents to the Ökotárs Foundation, now threatening to impose sanctions (fines and/or the suspension of the organization’s tax number) in case of non-cooperation. The new documents requested not only concerned the Ökotárs, but also the NGOs supported from the EEA/Norway Grants NGO Fund.  “August 2014 First criminal procedure is launched against the operator of the NGO Fund: In the beginning of August 2014 it was reported that the police launched an investigation against the Ökotárs on the suspicion of fraud. However, this procedure was not initiated by the government, but by a member of the Fidesz, probably for personal reasons. Later on, the underlying criminal offence was altered to “fraudulent misuse of funds” or, in other words, embezzlement.  “3 September 2014 Criminal procedure is initiated against an NGO by the GCO: On 3 September it was announced that the GCO initiated a criminal procedure on the suspicion of “unlicensed financial activities” against an unidentified NGO who gave loans to other NGOs for years.44 The Ökotárs soon replied that it is not a secret that, on an ad hoc basis, upon individual requests, the Ökotárs has given loans to NGOs from its own capital, mainly to help with the financing of EU-projects, but did not derive any benefit from that. The Ökotárs emphasized that this activity was included in its public reports, and that it is not related to their activities concerning the EEA/Norway Grants NGO Fund.  “22 October 2014 GCO publishes its audit report, rejected by Norway: On 22 October 2014 the GCO published its audit report containing generalized and highly questionable critical conclusions. The GCO claimed irregularities with regard to the implementation of the EEA/Norway Grants NGO Fund without identifying the rules breached, and that criminal offences had been committed, but provided no explanation in that regard either. It was also announced that the GCO will launch a criminal procedure based on the report.  “12 November 2014 GCO launches criminal procedure and requests tax audit: It was reported on 12 November 2014 that the GCO made a formal complaint to the police to initiate a criminal procedure, claiming that the consortium led by the Ökotárs violated the rules on incompatibility, and contributed to the irregular payment of 250 million HUF (€ 813,147.55) by the illicit amendment of grant agreements and accepting non-eligible project costs. It was also reported that the GCO requested the National Tax and Customs Administration to conduct an extraordinary tax audit on the basis of the findings of the report.” [[57]](#endnote-57) | **Freedom House, Nations In Transit 2015, June 6, 2015:**  “The verbal attacks culminated in official investigations into the funding decisions and finances of NGOs that help distribute Norway grants. On 2 June, the Government Control Office (KEHI) searched the offices of the Autonomia Foundation, the Foundation for the Development of Democratic Rights (DemNet), and the Ökotárs Foundation, leading partners of the Norwegian NGO Fund…  “During the summer, KEHI sent several requests to the Ökotárs Foundation, threatening to impose sanctions if it failed to cooperate… On 8 September, the police raided the offices of Ökotárs and DemNet, confiscating computers and documents, and accusing the organizations of mismanagement of funds and illegal financial activities. The confiscated materials included the files of 13 NGOs that the government had earlier labeled ‘left-leaning.’ The control office asked for the suspension of the organizations’ tax numbers and submitted a criminal report in October.” [[58]](#endnote-58)  **United States Department of State, Country Reports on Human Rights Practices 2014, Hungary, (released June 25, 2015)**  “On May 21, the Prime Minister’s Office announced it would ask KEHI to open an investigation into the use of the EEA-Norway NGO fund. KEHI subsequently initiated investigative audits of the four-member consortium. On May 28, the EEA-Norway Grants Financial Mechanism Office sent a letter to Lazar urging him to halt the audits, stating no Hungarian public funds, nor any public institutions, were involved in the NGO fund and therefore the Financial Mechanism Office retained sole responsibility for the implementation of the program, including monitoring and auditing. It also instructed Okotars to refuse access to sensitive information requested by KEHI. On May 30, the Prime Minister’s Office released to a media outlet a list of 13 so-called “left leaning” NGOs that received grants from the fund; these groups became the subsequent focus of KEHI’s investigative audits. The list included TI-H, the HCLU, K-Monitor, NANE Women’s Rights Association, and other NGOs promoting LGBT rights, women’s rights, Romani empowerment, active citizenship, and good governance.  “On June 2, KEHI officials appeared unannounced at the offices of the Autonomia and DemNet foundations, and at Okotars. KEHI officials ordered the NGOs to turn over certain records and documents. The NGOs handed over some documents but refused access to sensitive information. On June 17, the Norwegian EU affairs minister, Vidar Helgesen, declared Hungarian authorities unilaterally broke their agreement on handling of the EEA-Norway Grants by opening an audit of the NGO fund. KEHI subsequently expanded the reach of its investigative audits to a group of 58 NGOs, including the 13 groups considered “left leaning” by the government, requesting all information and documents that pertained to their projects that were supported by the NGO Fund. On June 12, a meeting between donor country officials and the Office of the Prime Minister failed to resolve problems related to the NGO Fund. Donor countries stated at the meeting that renewed disbursement of the EEA-Norway grants to the government would be tied to the cancellation of KEHI audits (among other conditions). On June 21, Lazar declared NGOs must hand over documents requested by KEHI, as ‘the law applies to all Hungarian citizens.’ The NGOs affected by the investigation questioned the legal mandate for the audits, complained of a lack of legal remedies, and called the investigation politically motivated.  […]  “On August 6, the National Investigative Office (NNI) opened an investigation against ‘unknown perpetrators’ on allegations of misappropriation of NGO funds and ‘unlicensed financial activity.’ On September 8, NNI agents raided the offices of Okotars and DemNet, conducting searches of their accounting and information technology companies and the private residences of two employees. The NNI confiscated documents and computer equipment. Immediately following the raids, KEHI announced it had broadened the investigation to cover activity related to a Swiss NGO block grant as well. On September 13, approximately 1,000 persons demonstrated against government intimidation and police measures against NGOs.  “Between September 18 and 22, the tax authority suspended the four consortium members’ tax numbers due to noncompliance with KEHI audits. The NGOs appealed the tax authority’s decision. When the deadline for processing the appeal passed at the beginning of November, the tax authority extended the deadline by another 30 days. The case remained pending at the end of November. On October 22, without required consultation with audited organizations, KEHI submitted its report to the cabinet alleging numerous irregularities, such as retroactive changing of dates and manipulation of project evaluation scoring systems. The Government of Norway did not acknowledge the legitimacy of KEHI’s audit report and stated the donor countries would base their evaluation of the NGO fund on an independent audit.”[[59]](#endnote-59)  **Testimony**  **Tad Stahnke, Vice President For Research And Analysis**  **Human Rights First**  **U.S. House of Representatives, Committee On Foreign Affairs,**  **Subcommittee On Europe, Eurasia, And Emerging Threats**  **“The Future Of U.S. - Hungary Relations”**  **May 19, 2015**  “Following an intrusive ‘on-site’ KEHI audit and further demands for documents, two of the fund operators’ offices were raided by the police where, among other things, documents concerning the 13 “blacklisted” NGOs were seized. A criminal procedure was also launched against one of the fund operators for potentially ‘unauthorized financial activities.’ Norway condemned and rejected each one of these steps. In October 2014, KEHI released an audit containing generalized concerns about the operation of the program; this ‘audit’ was rejected by Norway, which announced it would conduct its own internal review. In the meantime, the tax numbers of the fund operators were suspended, threatening to shut down the organizations.”[[60]](#endnote-60)  **Human Rights First, September 18, 2014**  **Silencing Dissent: Hungary’s Crackdown on NGOs**  **Guest Blog By Péter Krekó and Attila Juhász, Political Capital Institute**    “Hungary is in the middle of a crackdown against NGOs and civil society leaders. On September 8th, Hungarian police raided the offices of two nonprofits, Ökotárs Foundation andDemNet Hungary, as well as the homes of their leaders, seizing documents and data. While no charges have been filed, they are accused of distributing foreign grant money to leftist political parties, which is against Hungarian law. In reality, Ökotárs Foundation and DemNet Hungary allocate funding to other NGOs that promote democracy, civil society, environmental awareness, and independent media.  […]  “The police searched for and seized documents specifically related to 13 other NGOs that receive foreign funding on a ‘hit-list’ issued by an official in the Prime Minister’s office, even though their activity and funding is perfectly legal. It appears that the police were executing a political order. A politician from the Prime Minister’s office issued a statement that the police’s actions were excessive—a not-so-credible effort by the government to distance itself from the event, especially as Orbán himself did not condemned the police action, but welcomed it.  “Meanwhile, the same office that is pursuing these ‘investigations’ into NGOs has not touched a stack of numerous government corruption cases that have piled up in the last four years.”[[61]](#endnote-61) | **Response letter from the government of Hungary (July 8, 2015), p. 4:**  “The letter also calls for the “harassment of watchdog NGOs by the GCO and NTCA to stop”. The GCO did not “harass” any NGO, but it requested documents and cooperation during its audit (which is an obligation for any organization operating in Hungary as prescribed by the law), and when they weren’t’ provided, the GCO sought legal remedy regarding four of the 59 audited organizations.”  **Idem, p. 7:** ” The GCO has requested the National Tax and Customs Authority (NTCA) to suspend the tax identification number of the four organizations managing the Norway Fund, because these organizations, violating the law applicable to all organizations operating in Hungary, did not comply with the obligation to provide information and to cooperate with the authorities.”  **Idem, p. 8:** “The NGOs managing the Norway Fund petitioned for judicial review, and the court proceeding is still on-going. Thus a final decision regarding the suspension of the tax numbers will be made by the independent court. It is also important to note that proceeding court has suspended the implementation of the NTCA’s resolution ordering the suspension of the tax numbers until the legally binding completion of the court case. This means that – contrary the letter of concern – the tax numbers of the NGOs are valid and therefore they can continue their operations without any disadvantage or obstacle.”  **Idem, p. 9:** “With the exception of the case provided in the paragraphs (1)-(2) of Section 71/B of the CPA, there is a possibility based on the paragraph (5) of Section 74/B of the CPA for the public prosecutor to authorise, before the accusation is lodged, the provision of information to a third party if it is supported by a well-substantiated legal interest. That is, providing more information on a still ongoing investigation in which the accusation has not been made is only possible under special circumstances, and it would need to be authorized by the prosecution service. Therefore, the NTCA cannot provide more information on the on-going investigation at the present.”  **Idem, p. 11:** “A complaint is made in the letter of concern that evidence on the commission of crimes relating to the operation of the consortium and the management of the Norway Fund has not been revealed.  “Regarding this complaint, we need to refer to Section 74/A (3) of the Criminal Procedure Act (CPA) once more, which provides that the disclosure of information to the press shall be refused if it would jeopardize the successful conclusion of criminal procedures in any way.” |
| A spectacular police raid in September 2014 against two  of the NGOs running the NGO Fund, involving dozens of riot police, was particularly  threatening. The offices of Ökotárs and DemNet were raided, with the police allegedly looking  for evidence of embezzlement and the unauthorised granting of loans to NGOs. The police  seized laptops and documents, and prevented staff from making phone calls. I n a recent ruling, a court held that the police raid was unlawful as charges of embezzlement or unauthorised banking activities had not been established at the time. Although the police  investigations are ongoing, no concrete evidence of criminal behaviour has so far been  revealed.  **Timeline Of Governmental Attacks Against Hungarian NGO Sphere, 12 August 2015 (Eötvös Károly Policy Institute, Transparency International –Hungary, Hungarian Civil Liberties Union, Hungarian Helsinki Committee)**  “8 September 2014 Police raid on NGO Fund operators; documents concerning “blacklisted” NGOs are seized: In the framework of the investigations above – in which defendants are not identified, thus potential defendants are not protected from self-incrimination –, on 8 September 2014 the offices of the Ökotárs and the DemNet were raided by the police, who showed up in disproportionately high numbers (reportedly, 43 police officers participated in the raid). Staff members were not allowed to use their phones, and the police also conducted searches in the homes of certain staff members and at the foundation’s accountant. The head of Ökotárs was escorted home by the police in order to fetch her laptop.47 The police seized computers, documents, etc., and both the opinion of the representatives of the Ökotárs and the DemNet and the police’s list of the seized materials show that the police were mainly interested in the 13 NGOs “blacklisted” by the Prime Minister’s Office earlier on48 – giving rise to suspicions that the criminal procedure was used to access documents the GCO could not.”[[62]](#endnote-62)  **Reviewers’ Note:**  The agreement reached in December 2015 between the Norwegian and Hungarian governments stopped criminal proceedings from resuming. | **Human Rights First, September 18, 2014**  **Silencing Dissent: Hungary’s Crackdown on NGOs**  **Guest Blog By Péter Krekó and Attila Juhász, Political Capital Institute**    “Hungary is in the middle of a crackdown against NGOs and civil society leaders. On September 8th, Hungarian police raided the offices of two nonprofits, Ökotárs Foundation andDemNet Hungary, as well as the homes of their leaders, seizing documents and data. While no charges have been filed, they are accused of distributing foreign grant money to leftist political parties, which is against Hungarian law. In reality, Ökotárs Foundation and DemNet Hungary allocate funding to other NGOs that promote democracy, civil society, environmental awareness, and independent media.  “The Hungarian government is trying to silence civil rights groups, think-tanks, and organizations that demand transparency in government decisions and lead the fight against corruption. The government strategy: dry up their financial resources and run a smear campaign to discredit them in the public eye. The recent police raids achieve both objectives. Potential charges are unlikely to hold up in court, but no matter – protracted legal wrangling will still go a long way towards dismantling and discrediting these organizations and blocking their financial resources. Fidesz, the ruling party, has already successfully used the prosecutors office and the police force to accomplish similar goals against opposition parties and politicians.  “The Hungarian government would like you to think that these nonprofits are partisan groups trying to influence elections with foreign money. Prime Minister Viktor Orban called them ‘activists financed from abroad’ and a threat to the sovereignty of the Hungarian state in a speech this summer. This sounds eerily similar to Russia’s law that classifies all NGOs that receive international funding as ‘foreign agents,’ which is clearly intended to discredit them. According to the Hungarian government and the state-controlled media, these NGOs are mouthpieces for a ‘liberal’ agenda.  “So who are these allegedly menacing foreign groups funneling money into Hungary? Once such group is the Norway Fund, which supported Ökotárs Foundation and DemNet Hungary. But the regime’s logic breaks down when you see that Norway Fund also gives ten times that amount to development programs for the Hungarian government. By this reasoning, the Hungarian government is also a ‘foreign agent.’    “The groups targeted by the Hungarian government all have one thing in common: they are criticizing the Hungarian administration in one way or another – whether on their track record in human rights, women’s rights, LGBT rights, or transparency and anti-corruption measures. The government feels threatened by these organizations because they have the potential to damage Hungary’s reputation abroad – and rightly so, as the regime has failed to promote democratic values, makle [sic] a more transparent system, and protect minority citizens.  “The regime’s targeting of NGOs follows clear political lines. Gábor Mabda, the principal investigator of the case at Government Control Office (the body that started the investigation that led to the police raid on September 8th),was a parliamentary candidatefor MIÉP—an anti-Semitic ultranationalist party and a former ally of Jobbik in 1998 and 2002. The police searched for and seized documents specifically related to 13 other NGOs that receive foreign funding on a ‘hit-list’ issued by an official in the Prime Minister’s office, even though their activity and funding is perfectly legal. It appears that the police were executing a political order. A politician from the Prime Minister’s office issued a statement that the police’s actions were excessive—a not-so-credible effort by the government to distance itself from the event, especially as Orbán himself did not condemned the police action, but welcomed it.  “Meanwhile, the same office that is pursuing these ‘investigations’ into NGOs has not touched a stack of numerous government corruption cases that have piled up in the last four years.”[[63]](#endnote-63)  **Freedom House, Nations In Transit 2015, Hungary, June 6, 2015:**  “Civil society in Hungary still largely depends on government funds, which are often handed out in a partisan manner. During 2014, government rhetoric became more hostile toward nongovernmental organizations (NGOs), and the prime minister and government officials accused civil society figures of being ‘paid political activists.’ In June and September, the Government Control Office (KEHI) searched the offices of NGOs that help disburse funds from EEA-Norway Grants, an international donor, and accused them of mismanagement, illegal financial activity, and political bias in their selection procedures… Due to the deteriorating environment for NGOs, *Hungary’s civil society rating declines from 2.25 to 2.50.*”  “During the summer, KEHI sent several requests to the Ökotárs Foundation, threatening to impose sanctions if it failed to cooperate… On 8 September, the police raided the offices of Ökotárs and DemNet, confiscating computers and documents, and accusing the organizations of mismanagement of funds and illegal financial activities. The confiscated materials included the files of 13 NGOs that the government had earlier labeled ‘left-leaning.’”[[64]](#endnote-64)  **Human Rights Watch, September 8, 2014**  **Dispatches: Hungary’s Police Raids Squeeze Civil Society**  “On Monday morning a dozen police officers raided the offices of two nongovernmental organizations in Budapest. The two groups, Ökotárs and Demnet, are part of a four NGO-consortium that administers foreign donor money for civil society organizations in Hungary.  “According to a social media post by the head of Demnet, its employees were prevented by police from using their phones while police were on the premises, and had laptops and servers confiscated by police. Police sources quoted in media said the reason for the raid was ‘misappropriation and unauthorized financial activity” committed by “an unknown perpetrator.’  “Protesters gathered later outside Ökotárs office in Budapest in response.  “This is only the latest in the Hungarian government’s assault on civil society. In May it ordered surprise financial inspections of the NGOs raided today, together with a third member of the consortium. At the time, Hungary accused Norway of interfering in its internal politics by funding Hungarian NGOs. Linked to the May raid, Ökotárs was first accused of “being strongly linked” to an opposition political party. The NGO and the grant recipient organizations, among them prominent human rights and anti-corruption organizations, were subsequently investigated by Hungary’s government for alleged ‘organized fraud.’[[65]](#endnote-65)  **Unacceptable police raid on EEA and Norway Grants fund operator in Hungary**  **Press release | Published: 2014-09-09 | Ministry of Foreign Affairs, Government of Norway**  “‘By ordering the police raid on 8 September, it is clear that the Hungarian authorities are continuing their harassment of civil society organisations, and that they have no intention of fulfilling their obligations under the agreements Hungary has entered into on the management of the EEA and Norway Grants,’ said Minister of EEA and EU Affairs Vidar Helgesen.  “It was on 8 September that Hungarian police carried out a raid on the offices of the organisation Ökotárs in Budapest. The organisation is tasked with managing the funds allocated to NGOs in Hungary through the EEA and Norway Grants, on behalf of Iceland, Liechtenstein and Norway. The Hungarian police also raided the homes of some of the organisation’s staff.  “The police confiscated documents and IT equipment. The Hungarian authorities do not respect the independence of civil society, and have therefore launched an audit of the funds provided by Norway to Hungarian NGOs. This is the reason for the raid. This audit is in breach of the agreements Hungary has entered into on the management of the EEA and Norway Grants. The fund operator has also been accused of engaging in criminal activities.  “‘The police raid on 8 September is completely unacceptable. It shows that the Hungarian Government intends to stop the activities of NGOs that are critical to the authorities. It also shows that the Hungarian Government is failing to respect common European values relating to democracy and good governance,’ said Mr Helgesen.  “The audit that the Hungarian authorities have launched is in violation of the agreements Hungary has signed on the management of the Grants. It is clearly set out that the donor countries are responsible for the programme area on NGOs, and for any audits of this funding.  “Iceland, Liechtenstein and Norway already have plans to audit 13 NGO funds this autumn, including the one in Hungary. The Hungarian authorities have been invited to cooperate in this audit.  “However, the pressure on the fund operator in Hungary has increased since this spring. There have been demands for the fund operator to hand over sensitive information, because the Hungarian authorities disapprove of the projects that have been allocated funding.  “The programme area on NGOs supports measures to strengthen democratic values and minority rights and improve the situation for vulnerable groups. The Hungarian authorities have criticised the fact that organisations such as Transparency International, the Civil Liberties Union, and a network for investigative journalists have received funding under the EEA and Norway Grants scheme.  “As of 9 May, Norway has suspended payments to Hungary under the Grants scheme. However, the programme areas on NGOs and on climate adaptation have been exempt from the suspension, because the Hungarian authorities are not responsible for their implementation.  “‘The Hungarian authorities are well aware of the requirements we have set for lifting the suspension. The audit of the NGO fund and the harassment of our partners must be stopped. The police raid on 8 September shows that the Hungarian authorities are seeking to undermine the independence of civil society,’ Mr Helgesen said.  “For the current period, the funding under the EEA and Norway Grants to Hungary totals EUR 153.3 million (of which EUR 13.5 million has been allocated to the programme area on NGOs). As a result of the suspension, EUR 129.8 of this amount has been frozen.”[[66]](#endnote-66)  **United States Mission to the OSCE, Intimidation of Civil Society Increasing in Hungary, September 2014**  **“**As we said in June, just one day after the April 6 elections, the Hungarian government accused organizations that conduct legitimate work in human rights, transparency, and gender equality of serving ‘foreign interests.’ Shortly afterwards, the Prime Minister’s Office alleged that NGOs that monitor and evaluate grant proposals for the EEA Norway NGO fund were tied to an opposition party. On September 8, Hungary’s National Bureau of Investigation initiated a series of police raids on two NGOs responsible for the EEA Norway NGO grant program in Hungary. With no prior warning, and in a show of intimidation, over 30 officers entered the NGOs’ facilities and seized the organizations’ documents and computers.  “These police raids appear to be aimed at suppressing critical voices and restricting the space for civil society to operate freely. The United States again reminds Hungary of its OSCE commitments to human rights and fundamental freedoms, democracy, and the rule of law.”[[67]](#endnote-67)  **Testimony**  **Tad Stahnke, Vice President For Research And Analysis**  **Human Rights First**  **U.S. House of Representatives, Committee On Foreign Affairs,**  **Subcommittee On Europe, Eurasia, And Emerging Threats**  **“The Future Of U.S. - Hungary Relations”**  **May 19, 2015**  “Following an intrusive ‘on-site’ KEHI audit and further demands for documents, two of the fund operators’ offices were raided by the police where, among other things, documents concerning the 13 “blacklisted” NGOs were seized. A criminal procedure was also launched against one of the fund operators for potentially ‘unauthorized financial activities’…  “In January 2015, a court concluded that the government raids and seizures of the fund operators were unlawful. In February, an independent evaluation of the administration of the Norway  Grants program validated the selection of the fund operators and stressed the importance of maintaining the operators’ independence from the government. Nevertheless, the government continues its public targeting of NGOs. In February 2015, the head of the Prime Minister’s office stated that NGOs should not only publicly account for where their money comes from, but also for their leaders’ personal assets.”[[68]](#endnote-68)  **United States Department of State, Country Reports on Human Rights Practices 2014, Hungary, (released June 25, 2015)**  “On June 2, KEHI officials appeared unannounced at the offices of the Autonomia and DemNet foundations, and at Okotars. KEHI officials ordered the NGOs to turn over certain records and documents. The NGOs handed over some documents but refused access to sensitive information.  […]  “On September 8, NNI agents raided the offices of Okotars and DemNet, conducting searches of their accounting and information technology companies and the private residences of two employees. The NNI confiscated documents and computer equipment. Immediately following the raids, KEHI announced it had broadened the investigation to cover activity related to a Swiss NGO block grant as well. On September 13, approximately 1,000 persons demonstrated against government intimidation and police measures against NGOs.”[[69]](#endnote-69)  **Interviews of Civil Society by OGP Small Review Team, November 2015**  a) Police raid at the offices of the two organisations (Demnet and Ökotárs Foundation) was confirmed in an interview (November 2015) with representatives of a major human rights NGO. | **Response letter from the government of Hungary (July 8, 2015), p. 10:** “As explained above, the President of the GCO filed a criminal complaint to the Police regarding the management of the Norway Fund based the findings of its audit. During the investigation carried out by the Police, it was proven that Ökotárs did not cooperate with the GCO during its audit nor did it provide many of the requested documents. When documents were provided to the GCO, crucial information, such as the names of organizations and signatures, was redacted. Therefore, securing the documents necessary to carry out the investigation and gather evidence was only possible by ordering a house search. Section 8 of the Criminal Procedure Act (CPA) providing that “no one may be compelled to make a self-incriminating testimony or to produce self-incriminating evidence” also supports the ordering of the house search.  “The house search was carried out by plainclothes officials of the Corruption and Economic Crime Department of the National Bureau of Investigation. Officials from the Riot Police were there as well, but only to protect the scene and hold off the press and bystanders. Taking into account the composition of the officials participating in the house search and the protection of the scene, the search was not carried out by riot police officials and it was not carried out as a “raid” nor was it threating or intimidating.”  **Idem, p. 11:** “According relevant records and documents, the Police conducted a house search at the office of the Ökotárs Foundation in Budapest and in one of the advisory board members’ residence in Csobánka on 8th September 2014, and they seized documentary evidence. After the prosecution service refused the complaints submitted by Ökotárs and the member of the advisory board concerned regarding the house searches, both parties turned to the court for legal remedy. (Each party submitted its motion to the local court having competence according to its residence.)  “One of the proceeding courts refused the motion regarding the house search carried out at Csobánka on 16th October 2014, but the other proceeding court accepted the motion regarding the house search in the office of the Ökotárs Foundation on 23rd January 2015 and found that the house search was unlawful.  “According to the written justification of the latter court decision, there was no evidence that the members of the advisory board of the Foundation had breached their trustee obligations at the time when the house search was ordered; therefore, the suspicion of misappropriation of funds cannot be established. The Court added that the Police did not formally decide the criminal complaint filed for unauthorized financial activities. As a result, at the time of the house search the scope of the investigation did not include the criminal offence of unauthorized financial activities.  “In conclusion, two contradictory court decisions have been rendered regarding the lawfulness of the house searches; one judge refused the motion and found the house search at Csobánka lawful, while the other judge found the search at the Ökotárs’s office to be unlawful.” |
| Interference with the OGP Process | | |
| ungarian NGOs which participated in the development of the country’s OGP Action Plan were  very critical of the process, claiming that no real consultation or meaningful discussion took place between the government and civil society. From the very beginning of the process of  drafting the second OGP Action Plan, participating NGOs have repeatedly asked the government to take the necessary measures to restore trust and collaboration with civil society. Among other things, a coalition of participating NGOs has called on the government to review  the laws which restrict access to information and transparency. The Hungarian government has so far never responded to these requests. Instead, the government’s newly adopted anticorruption  action plan envisions the obligation of NGO leaders to declare their private  assets.  **Timeline Of Governmental Attacks Against Hungarian NGO Sphere, 12 August 2015 (Eötvös Károly Policy Institute, Transparency International –Hungary, Hungarian Civil Liberties Union, Hungarian Helsinki Committee)**  20 February 2015 PM’s Office: NGO leaders should account for personal assets: On 20 February 2015, during a sitting in the Parliament the head of the Prime Minister’s Office stated that NGOs are important for the Government, but it requires transparency from the civil organizations, and elaborated that NGOs should not only account for where their money comes from, but also for their leaders’ personal assets.[[70]](#endnote-70) | **E-mails from CSOs to OGP SU regarding consultation on OGP Process**  Paul Maassen <paul.maassen@opengovpartnership.org> Sat, Aug 22, 2015 at 4:59 AM  To: Alonso Cerdan <alonso.cerdan@opengovpartnership.org>  Forwarded  message From:  xxxxxxx <xxxxxxxxxxx@transparency.hu>  Date: 22 August 2015 at 10:34  Subject: Re: New Hungary plan online  To: Paul Maassen <paul.maassen@opengovpartnership.org>, "xxxxxxxxxxxxxx@tasz.hu"  <xxxxxxxxxxxx@tasz.hu>, xxxxxxx <xxxxxxx@kmonitor.hu>  Dear All,  It seems that the government uses our names as a source of credibility, which is not unprecedented. Neither TIHungary, nor KMonitor actively contributed, and HCLU did not do so either. the reason of our restraint was the government's questionable approach to accessibility of public interest information and the regulatory steps it repeatedly took to deteriorate freedom of information.  As already mentioned, we have developed a kind of redline standpoint, to compel the government to withdraw the most destructive regulatory changes to the freedom of information framework. in the end, we did not even receive a formal answer to our suggestions, let alone the government's readiness to address what we have been asking. so the three CSO named above simply stopped contributing to the government’s dishonest  efforts in the OGP process.  best,  miklos  Feladó: Paul Maassen <paul.maassen@opengovpartnership.org>  Elküldve: 2015. augusztus 21. 9:39  Címzett: xxxxxxxxxxxx@tasz.hu; xxxxxxx; xxxxxxxxxxxx  Tárgy: New Hungary plan online  Morning all,  8/24/2015 Open Government Partnership Mail - Fwd: New Hungary plan online  So, the government uploaded the second OGP Action Plan to the website:  http://www.opengovpartnership.org/country/hungary/actionplan  As far as I understood from all of you, there wasn't a real consultation. The plan does mention comments made by civil society (and what they did with them) and very explicitly mentions Kmonitor and TI as coimplementors of some of the commitments. Were you aware of that?  Best  Paul  Paul  Maassen  Director, Civil Society Engagement  Open Government Partnership Support Unit  ------  Forwarded  message From: xxxxxxxx <xxxxxxxx@kmonitor.hu>  Date: 24 August 2015 at 12:30  Subject: Re: New Hungary plan online  To: Paul Maassen <paul.maassen@opengovpartnership.org>  Hi Paul,  As xxxxxxxx said, we did not participate in the process, since the government did not give any answer on our request to reopen the debate on the FOI Act. There was a meeting in January I guess, where we evaluated the previous action plan, and recommended to keep some of the unfulfilled commitments for the second AP. I guess these are those, where they mentioned us.  I heard that the government received a letter from OGP and has just drafted its response. Could you share the letter from OGP with us, or at least give some infos on its content?  Thank you, best,  xxxxxxxx  **Testimony**  **Tad Stahnke, Vice President For Research And Analysis**  **Human Rights First**  **U.S. House of Representatives, Committee On Foreign Affairs,**  **Subcommittee On Europe, Eurasia, And Emerging Threats**  **“The Future Of U.S. - Hungary Relations”**  **May 19, 2015**  “Harassment of non-governmental organizations – human rights and anticorruption groups, independent media – receiving foreign funding  […]  “In January 2015, a court concluded that the government raids and seizures of the fund operators were unlawful. In February, an independent evaluation of the administration of the Norway  Grants program validated the selection of the fund operators and stressed the importance of maintaining the operators’ independence from the government. Nevertheless, the government continues its public targeting of NGOs. In February 2015, the head of the Prime Minister’s office stated that NGOs should not only publicly account for where their money comes from, but also for their leaders’ personal assets.”[[71]](#endnote-71)  **Interviews of Civil Society by OGP Small Review Team, November 2015**   1. Members of the Hungarian Civil Liberties Union (HCLU) confirmed during an interview (November 2015) that there were consultation failures both in relation to the OGP, but also in other forums. During the first national action plan, the HCLU state that both themselves and K-Monitor were involved. However, they left the OGP working group that had been established internally following the 2013 FOI amendments. The working group was re-shaped for the second action plan and the groups were invited to join this new forum. However, in the first meeting HCLU proposed legislative amendments in writing that never received any form of response, nor were such recommendations included in the second action plan. This has led to HCLU no longer engaging within that group. Some groups still participate, but they noted that there is another group – Atlatso (a journalism portal) – that has also stopped attending. 2. A pro-democracy advocate noted during an interview (November 2015) that the OGP has been the first time he had been able to positively engage with state as a member of civil society. He noted that his submissions were expressly included as part of the second action plan. Given his involvement in the OGP process, he was able to alert the review team that the previous lead representative of the OGP in the Hungarian government resigned in August 2015. Further, in spite of positive engagements early, since a new lead has been appointed there has been no follow-up engagement on the implementation of the second action plan that he has been included in. 3. A leader of an NGO working at local government levels expressed his lack of familiarity with the OGP process. According to him, this is indicative of a failure to enable broad-based consultation on the OGP, particularly at the locally community-based organization level.   He further noted that – out of the 50 or so organsiations he works with – none actively engage and are able to collaborate with the state, in spite of having largely service delivery focused functions. This is in spite of the fact that many of the organisations he works with are significantly established, some having been existence for 10-15 years. | **Response letter from the government of Hungary (July 8, 2015), p. 20:** “The letter of concern voices concerns… which would oblige the heads of civil society organizations to declare their private assets… the possibility to extend the personal scope of the obligation to submit an asset declaration. This measure takes into consideration the tendency that civil society is getting increasingly involved in the decision-making in line with the principle of multilevel governance. Therefore, the transparent operation and the accountability of the utilization of state subsidies have to be ensured in the case of civil society organizations as well. It is a substantial and legitimate demand of the state and its citizens that the lawfulness and transparency of the use of the grants received, the proportion of the operational costs and the remuneration of managers and employees be ensured.  (…)  “Some NGOs show deficiencies in certain areas of budget management which lead from the infringement of the law to the lack of conditions that are not yet regulated by the legislations on transparency but can be reasonably expected. It is an actual risk that an organization’s budget management is unlawful and the financial and material resources of the organization are used unlawfully and without authorization. Organizations like this are non-transparent not just for third parties, but for its members and employees as well. Similar abuses were revealed recently not only in connection with organizations receiving grants from the Norway Fund and caused a significant loss of public trust.  “Using the ability to exert pressure in order to gain undue advantage or benefits is another problem that exist in Hungary as well as internationally and is considerably harder to detect than infringements related to financial management. In this case, a civil society organization uses its constructive aims and agenda to put pressure on an economic organization and exert subsidies in order not to set up against the company. An example of this practice is the case of an Audi investment in the city Győr, where a NGO active in the field of environment protection made the withdrawal of its appeal against the resolution giving permit to the investment conditional upon receiving an economic benefit. The court decision sentencing the head of the NGO concerned for imprisonment of three years and prohibition from participation in public affairs for bribery is not yet final, however, this case is a good example of the phenomenon described above.” |
| The government, in its latest attempt to restrict freedom of information, adopted a bill that obliges the refund of costs triggered by the servicing of public interest  information requests. Setting new barriers to accessing public data restricts the degree to which this fundamental right can be enjoyed and further hinders civil society in fulfilling its watchdog  role. | **OSCE Representative of Freedom of the Media: Draft amendments to Freedom of Information Act in Hungary should be discussed with all stakeholders, OSCE Representative says, 6 July 2015**  Draft amendments to the Freedom of Information Act of Hungary raise concerns about access to public information and should be consulted with all stakeholders before adoption, Dunja Mijatović, the OSCE Representative on Freedom of the Media said today.  “I call on the Parliament not to adopt the proposed amendments and to launch a public discussion with all stakeholders to ensure that the changes will support, and not limit, access to public information.”  Mijatović said that freedom to access information is essential to guaranteeing transparency and the accountability of public affairs.  “It is an indispensable instrument for citizens to remain well informed, and an essential tool for journalists to do their job,” Mijatović said.  The draft amendments, proposed by the Justice Ministry on 26 June under a fast-track procedure, are set to be voted on in Parliament. Hungarian and international media NGOs have expressed concern on several amendments.  “The media performs a key role as the public watchdog,” Mijatović said. “Restricting this role by limiting freedom of information could stifle public debates and weaken journalism and media freedom in Hungary.”  Mijatović is in Podgorica, Montenegro, to discuss media freedom issues with the Prime Minister of Montenegro and to promote the work of major Montenegrin media outlets on media self-regulation.[[72]](#endnote-72)  **Index on Censorship, Hungary: Government cracks down on freedom of information, 7 July 2015**  The Hungarian parliament has voted yes to plans to allow the government and other public authorities to charge a fee for the “human labour costs” of freedom of information (FOI) requests this week, as well as granting sweeping new powers to withhold information. It just needs the signature of President Janos Ader before it becomes law.  The bill, submitted by Minister of Justice László Trócsányi, was published on the government website just days before the vote, on 3 July, precluding any meaningful debate about the proposal. It is widely believed that through this initiative, governing party Fidesz is trying to put a lid on a number of scandals involving wasteful government spending, uncovered through FOI requests.  According to Transparency International, the bill “appears to be a misguided response by the Hungarian government to civil society’s earlier successful use of freedom of information tools to publicly expose government malpractice and questionable public spending”.  One provision of the bill allows public bodies to refuse to make certain data public for 10 years if deemed to have been used in decision-making processes, according to Index award-winning Hungarian investigative news platform Atlatszo.hu. As virtually any piece of information can be used to build public policies upon, this gives the government a powerful argument not to answer FOI requests.  The bill also allows government actors to charge fees for fulfilling FOI request. Until now, government actors could ask for the copying expenses of documents. From now on, they can ask the person filing the request to cover the “human labor costs” of the inquiry.  It is not yet clear how much members of the public will have to pay. “There will be a separate government decree in the future regarding the costs that can be charged for a FOI request,” Tibor Sepsi, a lawyer working for Atlatszo.hu, says.  Because the public has no means to verify whether these costs are well-grounded, and at some government agencies the salaries are known to be very high, the government might be in a discretionary position to ask prohibitive costs for answering the FOI requests, critics of the amendment say.  “The FOI requests usually ask for data that are already available somewhere in electronic format, therefore no government body can say that fulfilling a request involves gathering information,” says Tamás Bodoky, the editor-in-chief of Atlatszo.hu.  “It is unacceptable to plead for extraordinary workload and expenses when much of the requests refer to things that should be published in accordance with transparent pocket rules. This information should be readily available in the settlement of accounts and reports,” he adds.  The work of investigative journalists and watchdog NGOs is further complicated through another provision, regarding copyright. In some cases, the government will be able to refer to copyright issues and only give limited access to certain documents, without making them publicly available.  While the bill will make life harder for those making FOI requests, Sepsi also points out that the situation is not as bad as it may initially seem: “The government will have half a dozen of new ways to reject vexatious FOI requests, but on the implementation level, ordinary courts, the constitutional court or the Hungarian National Authority for Data Protection and Freedom of Information Authority will have the power to keep things under reasonable control.”  Nevertheless, Hungarian and international NGOs working for the transparency of public spending and government decisions are protesting against the bill. An open letter, signed by the groups Atlatszo.hu, K-Monitor, Energiaklub Szakpolitikai Intézet and Transparency International Magyarország Alapítvány has been sent to the Minister of Justice Trócsányi, to the Hungarian National Authority for Data Protection and Freedom of Information Authority, as well as the MPs whose votes decided the fate of the proposal.  “We believe the government would do the right thing if – instead of rolling back on transparency – it would increase the so-called proactive disclosure, meaning that it would publish the information regarding its functioning in electronic format, without a request. We can provide international examples where this can be achieved simply, without extraordinary costs. This would increase not only the transparency of public spending, but the number of FOI requests would also decrease significantly,” the letter argues.  After the vote, a group of 50 opposition MPs pledged to ask the constitutional court to review the text.[[73]](#endnote-73)  **Committee to Protect Journalists, New hurdles for Hungary's press as Orbán restricts FOI requests, July 24, 2015**  “Despite protests from international anti-corruption watchdog Transparency International, which warned that "the law must not be passed," and Access Info Europe, a European FOI-organization that accused the Hungarian government of "sabotaging" the legislation, parliament approved the bill. The rulings which, as Transparency International put it, have the potential for "full state control of public information," will start to be enforced from October 1. The government's argument is that a better balance should be established between those who request the information and those who hold it, and a better protection should be guaranteed to the latter against what is deemed to be abusive requests.  Among the concerns of activists and journalists are that the new rules would allow requests to be refused on the grounds that documents are "preparatory," meaning they are relevant to future government decisions, or that making them public would infringe the copyright of third persons. It also allows repeat requests to be rejected, even if the initial one has not yet been answered. The most controversial clause allows public bodies to charge arbitrary fees for what has been described as the "human labor costs" of responding to a FOI request. "Until now, only incidental costs of photocopying were normally approved by the courts," Sepsi told me. Details of the fees have not yet been released, but Sepsi said that he thinks the amendment leaves open the possibility that filing an FOI-request would be prohibitively expensive.  "A lot depends on how the implementation goes and how the judges will react to these arguments, but the amendment will definitely create uncertainty and a feeling that FOI-requests are impossible without a professional lawyer," he said.”[[74]](#endnote-74)  Access Info condemns sabotage of Hungarian FOI law  Madrid, 1 July 2015 – Access Info Europe today condemned the proposal by the Hungarian government to amend the Freedom of Information Act in ways that would seriously limit the exercise of the right of access to information in Hungary.  Hungarian civil society is reacting strongly to the proposal put by the government to an accelerated decree process in parliament which would result in arbitrary fees for searching for data and for copying and delivering it.[1]  Other concerns are that the new rules would permit refusal of requests on the grounds that documents are “preparatory” or the copyright of third persons and rejection of repeat requests even if initial requests have not been answered.  Another worrying dimension of the new rules is that they could be used to deny access to information coming from third countries – which could include much of the information obtained from the European Union.  Despite being an EU members state and a participating country in the Open Government Partnership, democracy has been on the backslide in Hungary for a number of years now, with the activities of independent civil society under pressure and a series of curbs on media freedom.  The FOI Act, which was the first in central and eastern Europe, adopted in 1992, has already been a victim of this negative trend, having been weakened through constitutional changes in 2011 that resulted in the parliamentary information commissioner being abolished.[[75]](#endnote-75)  **Interviews of Civil Society by OGP Small Review Team, November 2015**  a) Representatives from a major human rights NGO pointed out in an interview (November 2015) there have in fact been two periods of amendments to the relevant access to information law of concern to civic organisations. The response from government spoke to the 2015 amendments, as these were the amendments mentioned in the original complaint.  There were amendments made in 2013 and 2015. The 2013 amendments were passed within two days[[76]](#endnote-76) .There were no public consultations on these amendments. The amendment was summarized as: “Most crucially, the new law will limit data requests that pertain to information that may be subject to audit, review or scrutiny by public offices designated in the law. The restriction says that a request to obtain public interest data may not result in as extended and profound access to and processing of data by the requester as supervisory authorities defined in the law may exercise”.[[77]](#endnote-77)  The 2015 amendments (which are the amendments addressed in the original complaint letter) of concern were summarised as:   * + “Freedom of Information requests have to be paid not only for the cost of copying or scanning but also for the worktime of the agency. The amount of fee is arbitrary as no scale of tariff is provided.   + The same law classifies for 10 years all documents outside actual government decisions such as impact assessments on which government decision had been based. In other words, Freedom of Information requests can be denied if the agency defines the documents​ as preparatory.   + If someone submits a Freedom of Information request repeatedly, the request can be denied even if the state agency has not given any answer for the first time.   + Anonymous Freedom of Information requests cannot be submitted anymore.   + Data under copyright protection can no longer be handed over to the requesting party, they can only have a look at it on the premises of the agency. Any data can be seen as copyrighted if the author deems so”.   These clearly add additional exemptions and restrictions on access. It is also worth noting that these amendments were pushed through, again, under an accelerated parliamentary process. The government response noted that a one-month consultation period was open on these amendments. They pointed out, however, that the period for comments was for a draft of the amendments that was not the final draft actually passed. | **Response letter from the government of Hungary (July 8, 2015), p. 13:** “The possibility to require the reimbursement of the costs incurred by the request for public information is in line with Article 7 of the Council of Europe Convention on Access to Official Documents which was signed and ratified by Hungary. The Convention has not yet entered into force, since the requirement for it, namely the ratification of at least ten states, has not yet been fulfilled.  The following provisions, translated into English, show the essential elements of the amendments and their relation to the regulation currently in force: …  “Section 28  (…)  “(2) Unless otherwise provided for by law, the processing of personal data of the requesting party in connection with any disclosure upon request is permitted only to the extent necessary for disclosure, including the collection of payment of charges for copies, where applicable .  (…)  “Section 29  (…)  (3) The requesting party may also be provided a copy of the document or part of a document containing the information in question, irrespective of the form of storage. The body with public service functions processing the data in question may charge a fee covering only the costs incurred in connection with making the copy, and shall communicate this amount to the requesting party prior to the disclosure of the requested information.”  **Idem, p. 17:** “Labour cost is often included in the fee charged for provided data request. Examples of this practice can be found in several countries of Europe, such as:  “Czech Republic  “The costs relating to the provision of information (copying and postage costs) are charged for providing a public information request, however, if the provision of the information was extremely complicated and labour intensive, the administrative body may charge an extra fee.  “Estonia  “The costs directly related to the provision of the data are charged, which may include the reasonable amount of amortization and depreciation required in relation to the sustainability of the service.  “Croatia  “The requesting party may be obliged to pay the costs relating to the issuance and delivery of the information.  “Ireland  “By virtue of the detailed ministerial regulations applicable to costs relating to public information requests, no procedural duty is charged, and under 101 EUR the costs relating to the collection, copying, and the provision of data need not be paid. However, over 101 EUR, the entire amount must be paid, provided that the amount of the cost refund may not exceed 500 EUR. If the foreseeable amount of the costs exceeds 700 EUR, the public body may require clarification and the narrowing of the scope of the request. In case of non-compliance with such refund requirements, the public body is entitled to refuse the request.  “Latvia  “Public information requests for the provision of generally accessible data and not requiring extra input are free of charge. In other cases, however, a fee may be charged for the cost of collecting, compiling and copying data. The requesting party can apply for cost exemption under the conditions specified in the related government decree.  “Lithuania  “Duty or fee may be charged for compliance with information requests as specified by a special law. The amount of the fee may not exceed the costs relating to the preparation and provision of data, including the value of resources used for providing the request.  “Portugal  “The costs of photocopying can be charged for providing a request for public information. It is a fixed amount and it includes the cost of materials, the costs of physical and human resources as well, but may not exceed the average market price of similar services.” |

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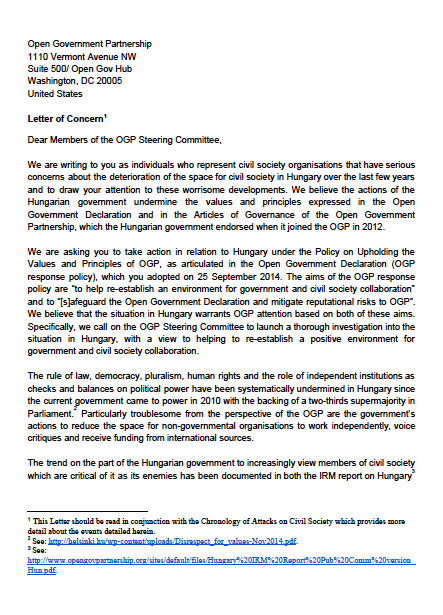
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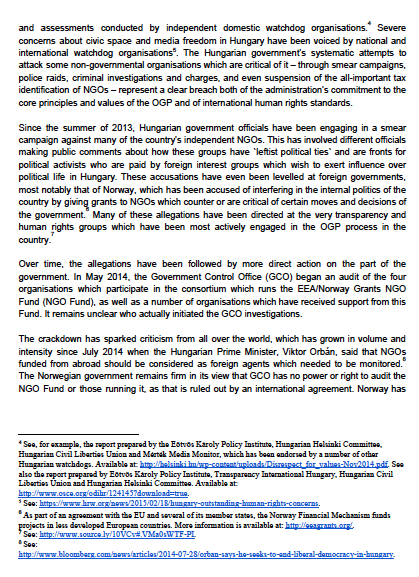
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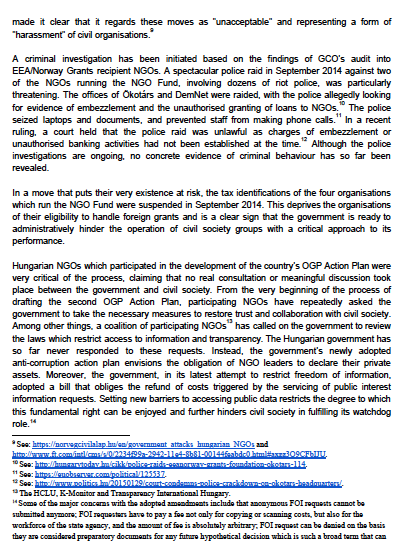
    List of interviewees

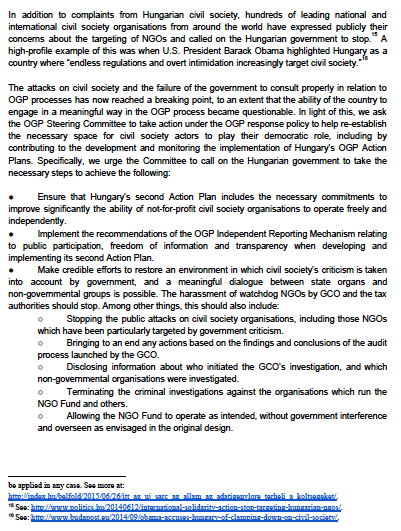
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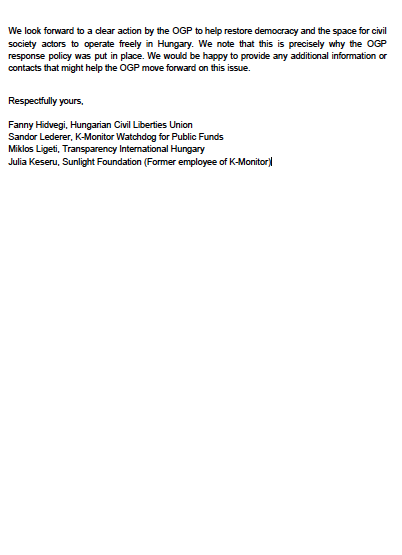
    Annex 4: Letter of Concern from Hungarian Civil Society

    **Annex 5: The Open Government Declaration**

    **We acknowledge** that people all around the world are demanding more openness in government. They are calling for greater civic participation in public affairs, and seeking ways to make their governments more transparent, responsive, accountable, and effective.

    **We recognize** that countries are at different stages in their efforts to promote openness in government, and that each of us pursues an approach consistent with our national priorities and circumstances and the aspirations of our citizens.

    **We accept**responsibility for seizing this moment to strengthen our commitments to promote transparency, fight corruption, empower citizens, and harness the power of new technologies to make government more effective and accountable.

    **We uphold the value** of openness in our engagement with citizens to improve services, manage public resources, promote innovation, and create safer communities. We embrace principles of transparency and open government with a view toward achieving greater prosperity, well-being, and human dignity in our own countries and in an increasingly interconnected world.

    Together, we declare our commitment to:

    **Increase the availability of information about governmental activities.**  
    Governments collect and hold information on behalf of people, and citizens have a right to seek information about governmental activities. We commit to promoting increased access to information and disclosure about governmental activities at every level of government. We commit to increasing our efforts to systematically collect and publish data on government spending and performance for essential public services and activities. We commit to pro-actively provide high-value information, including raw data, in a timely manner, in formats that the public can easily locate, understand and use, and in formats that facilitate reuse. We commit to providing access to effective remedies when information or the corresponding records are improperly withheld, including through effective oversight of the recourse process. We recognize the importance of open standards to promote civil society access to public data, as well as to facilitate the interoperability of government information systems. We commit to seeking feedback from the public to identify the information of greatest value to them, and pledge to take such feedback into account to the maximum extent possible.

    **Support civic participation.**

    We value public participation of all people, equally and without discrimination, in decision making and policy formulation. Public engagement, including the full participation of women, increases the effectiveness of governments, which benefit from people’s knowledge, ideas and ability to provide oversight. We commit to making policy formulation and decision making more transparent, creating and using channels to solicit public feedback, and deepening public participation in developing, monitoring and evaluating government activities. We commit to protecting the ability of not-for-profit and civil society organizations to operate in ways consistent with our commitment to freedom of expression, association, and opinion. We commit to creating mechanisms to enable greater collaboration between governments and civil society organizations and businesses.

    **Implement the highest standards of professional integrity throughout our administrations.**  
    Accountable government requires high ethical standards and codes of conduct for public officials. We commit to having robust anti-corruption policies, mechanisms and practices, ensuring transparency in the management of public finances and government purchasing, and strengthening the rule of law. We commit to maintaining or establishing a legal framework to make public information on the income and assets of national, high ranking public officials. We commit to enacting and implementing rules that protect whistleblowers. We commit to making information regarding the activities and effectiveness of our anticorruption prevention and enforcement bodies, as well as the procedures for recourse to such bodies, available to the public, respecting the confidentiality of specific law enforcement information. We commit to increasing deterrents against bribery and other forms of corruption in the public and private sectors, as well as to sharing information and expertise.

    **Increase access to new technologies for openness and accountability.**  
    New technologies offer opportunities for information sharing, public participation, and collaboration. We intend to harness these technologies to make more information public in ways that enable people to both understand what their governments do and to influence decisions. We commit to developing accessible and secure online spaces as platforms for delivering services, engaging the public, and sharing information and ideas. We recognize that equitable and affordable access to technology is a challenge, and commit to seeking increased online and mobile connectivity, while also identifying and promoting the use of alternative mechanisms for civic engagement. We commit to engaging civil society and the business community to identify effective practices and innovative approaches for leveraging new technologies to empower people and promote transparency in government. We also recognize that increasing access to technology entails supporting the ability of governments and citizens to use it. We commit to supporting and developing the use of technological innovations by government employees and citizens alike. We also understand that technology is a complement, not a substitute, for clear, useable, and useful information.

    We acknowledge that open government is a process that requires ongoing and sustained commitment. We commit to reporting publicly on actions undertaken to realize these principles, to consulting with the public on their implementation, and to updating our commitments in light of new challenges and opportunities.

    We pledge to lead by example and contribute to advancing open government in other countries by sharing best practices and expertise and by undertaking the commitments expressed in this declaration on a non-binding, voluntary basis. Our goal is to foster innovation and spur progress, and not to define standards to be used as a precondition for cooperation or assistance or to rank countries. We stress the importance to the promotion of openness of a comprehensive approach and the availability of technical assistance to support capacity- and institution-building.

    We commit to espouse these principles in our international engagement, and work to foster a global culture of open government that empowers and delivers for citizens, and advances the ideals of open and participatory 21st century government. [↑](#endnote-ref-77)