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The Sovereignty Protection Office in Hungary – a threat to media freedom?

The Hungarian government has been systematically taking steps to tighten control over the media and limit funding for opposition parties for over a dozen years. An example of such measures is the adoption of the Law on the Protection of National Sovereignty by the Hungarian National Assembly in December 2023. Under this act, a new state administration body, the Office for the Protection of Sovereignty (SZVH), was created, responsible for investigating and controlling public entities that benefit from foreign funding. The act also amended the Criminal Code, introducing a penalty of up to three years in prison for financing an election campaign with foreign funds. The law aims to limit financial support for independent media and opposition parties. In June 2024, SZVH launched an investigation against the independent investigative media outlet "Átlátszó" and Transparency International Hungary, prompting a wave of international criticism.

Tasks and competencies of the office. According to Article 1 of Law LXXXVIII on the Protection of National Sovereignty, the established Office for the Protection of Sovereignty (SZHV) is tasked with protecting Hungary's sovereignty through a wide range of investigative duties, as defined in Section 3 of the law. These include: "investigating activities representing foreign interests (excluding diplomatic and professional organizations), identifying information manipulation and disinformation, and investigating efforts to influence democratic discourse and state decision-making, especially those carried out in the interests of foreign actors"¹. Article 2 of the law establishing the SZHV specifies the competencies of the body, which include "developing and applying methodologies for assessing sovereignty risks, analyzing national sovereignty using data from various sources, and making recommendations aimed at protecting Hungary's sovereignty"². In addition, the law indicates in Article 2 that the SZHV proposes and reviews relevant legislation, compiles an annual report on sovereignty, and funds research to improve conditions that support national sovereignty.

Article 3 of the law outlines the competence of the SZHV to investigate activities that threaten Hungary's sovereignty, i.e., representing foreign interests influencing domestic discourse that affects the electoral decisions of Hungarians³. Articles 7 and 8 address the problem of investigative procedures, including interventions, proceedings and legal consequences if irregularities are found. The law does not identify an appeals institution responsible for resolving cases of abuse of powers by the SZHV, which has raised concerns and questions from citizens regarding the constitutionality of the new office.

Criticism of the law. More than 100 Hungarian NGOs have signed a petition to the government to withdraw the law. The protest was held jointly with Hungarian opposition parties and international watchdog organizations. Nearly 20,000 citizens spoke in favor of abolishing the office, accusing it of lacking transparency. Even during its drafting stage, the law was strongly opposed by the public and condemned by the Council of Europe and the U.S. Embassy in Hungary, which openly described it as "a step backwards for Hungarian democracy." Hungarian specialists in comparative law have been vocal about the similarity of the Hungarian Sovereignty Protection Act to Russia's act on so-called "foreign agents." In February 2024, the European Commission opened proceedings against Hungary for violating EU law in connection with the introduction of the aforementioned law.

Controversy around SZVH. Tamás Láncki, a former speechwriter for Prime Minister Viktor Orbán, has been named head of Hungary's newly established Sovereignty Protection Office. In the past, T. Láncki has been a political analyst

¹ 2023. évi LXXXVIII. törvény a nemzeti szuverenitás védelméről, Nemzeti Jogszabálytár [27.06.2024].

² A Szuverenitásvédelmi Hivatal feladatai, 2023. évi LXXXVIII. törvény a nemzeti szuverenitás védelméről [27.06.2024].

³ A Szuverenitásvédelmi Hivatal vizsgálati eljárása, 2023. évi LXXXVIII. törvény a nemzeti szuverenitás védelméről [27.06.2024].

sympathetic to the Fidesz-KDNP government and the Hungarian right. He has been open about his support for the controversial political reforms introduced by the government of V. Orbán since 2010, and his analyses deviated from accepted academic standards of objectivity. After the 2018 parliamentary elections Láncki, as editor-in-chief of the weekly Figyelő – a magazine that became a propaganda tool in the hands of V. Orbán's government – oversaw the publication of the infamous “list of 200 Soros mercenaries.” The article attacked social activists, anti-government activists, investigative journalists, academics, political critics, opposition figures – anyone whose critical approach to the government broke through to public opinion.

According to experts from the Hungarian Helsinki Committee and Amnesty International, the law targets the activities of independent NGOs, opposition parties, and the mass media in Hungary. Reports point to a direct threat to media freedom, and “investigating foreign interference in the Hungarian media market”⁴ is considered a violation of EU law. Analysts are of the opinion that the new office will not contribute to increasing protection against disinformation activities by Russia, Belarus, and China but will make it more difficult to keep independent media, opposition parties, and NGOs afloat. A direct example of this is the case initiated by the SZHV in June 2024 against two independent entities in Hungary – Transparency International and the investigative daily Átlátszó. The Office for the Protection of Sovereignty, headed by T. Láncki, launched an investigation into “the use of foreign donations aimed at influencing the electorate’s electoral decisions,”⁵ which sparked public outrage. It should be noted that no such action was taken against VoiceofEurope, an Internet portal broken up by Czech and Polish services, which was linked to Russian intelligence⁶.

An SZHV report from May 2024 pointed out that “a group of political advisors from Western Europe, in addition to funding the Hungarian opposition, is lobbying for an escalation of the Russian-Ukrainian war, including in the U.S. [...] it is the big donors who are looking for followers to achieve their own goals [...] and the main one is George Soros, which is why the protection of Hungary’s sovereignty needs to be strengthened.”⁷ Many Hungarian journalists fear further attacks on the independent media and a hate campaign targeting key figures in Hungarian civil society. Opposition politicians warn that the law is modeled on Russia’s law on so-called “foreign agents.” Both the Hungarian and Russian laws involve politically motivated actions to identify alleged foreign agents and actors posing a threat to the political system, as well as the creation of ideological enemies by nominally independent state agencies, to the political benefit of both governments. It is worth noting, however, that the Hungarian law, unlike the Russian one, does not include a list of enemy actors.

The law’s impact on independent media. An emerging problem in both this law and more broadly in Hungarian legislation is the lack of a clear definition of “information manipulation,” “disinformation activities,” or “fake news.” Consequently, this loophole creates the potential for abuse. The law also repeatedly includes the concept of “democratic discourse,” which the SZVH directly invoked in its infringement proceedings against Transparency

⁴ Láncki Tamás elismerte, hogy a médiával is foglalkozik a Szuverenitásvédelmi Hivatal, 23.01.2024, <https://media1.hu/2024/01/23/lanczi-tamas-elismerte-hogy-a-mediaval-is-foglalkozik-a-szuverenitasvedelmi-hivatal/> [16.06.2024].

⁵ See the letter sent by SZVH to Transparency International Hungary, https://transparency.hu/wp-content/uploads/2024/06/TI_Hu_szuverenitasvedelmi_hivatal_level_240618.pdf [28.06.2024].

⁶ See hvg.hu's investigation into the matter, https://hvg.hu/360/20240331_megtudtuk-kit-talalt-meg-magyarorszagon-a-kemelharitas-az-orosz-befolyasolasi-halozat-felderitesekor [19.06.2024].

⁷ See the full SZVH report, https://auth.scribd.com/u/signup?state=hKFo2SAyYTFUb01NZXZBNGRk1b1h0WUxYNOJNa0ZqRWtOdjc5SqFur3VuaXZlcnNhbc1sb2dpbqN0aWTZIF9NQnR3OHFMeUV4M3BwVmlPUHU4OWpSbW1SM1prWUxno2NpZnkgZ3ljN3lyZnpzdkpmaXd5bHNIYXU4Y3g5dVZhb2FOU1A&ui_locales=en [16.06.2024].

International and Átlátszó. The lack of precision in the law and the wide range of interpretations of definitions such as “sovereignty” open the way for proceedings against analytical think tanks – e.g., Policy Solutions or Political Capital – which, due to the topics of analysis they undertake (rule of law, political corruption, illiberalism), are problematic for the Hungarian government.

The four largest independent portals and dailies operating in Hungary (Telex.hu, 444.hu, hvg.hu, and 24.hu) remain under close surveillance by state services. For several years, the state administration has been restricting access to public information and manipulating data (as in the case of the number of COVID-19 infections or refugees). Unannounced tax audits and inspections of administrative documents are carried out at the headquarters of independent media without any indication of a violation. In 2021, the phones of investigative journalists from the Direkt36 portal were infected with the Pegasus system. Investigative journalists in Hungary (Direkt36, 444.hu, hvg360.hu) face various forms of intimidation from the state apparatus, and court cases explaining, for example, the illegal use of Pegasus are obstructed by the government-controlled judiciary. The most effective method of pressure from the state apparatus is media campaigns denigrating specific individuals, carried out by public media subordinate to the government. For example, opposition politician Péter Juhás was unfoundedly accused of violence against his partner, and as a result of a prolonged media campaign, he withdrew from political life. Journalists and social activists are also victims of such campaigns based on lies.

Conclusions

Viktor Orbán has been successfully consolidating power over the country's media since 2010 through a semi-oligarchic structure close to Fidesz, called the National Cooperation System (NER)⁸. This process has been ongoing for years and has been carried out through coordinated government action. Administrative and fiscal pressure is being exerted on foreign-backed entities. The Office for the Protection of Sovereignty is a new instrument for intimidating independent organizations and individuals critical of the government.

Heavy government interference in the activities of parts of the media in Hungary is leading to social polarization and the erosion of media pluralism. The National Media Supervisory Board is staffed with Fidesz party appointees who dominate the board structure, allowing them to arbitrarily decide which TV or radio station will be granted a broadcasting license. A decision to refuse and not grant a license entails the withdrawal of the entity from the public space. This was the case with Klubrádió radio, which is critical of government policy and whose license was not renewed.

The SZVH aims to discourage foreign entities from investing in opposition organizations in Hungary, which is indirectly perceived as an attack on their liquidity. In addition, the SZVH declares to protect the national interest, which in Hungarian reality equates to protecting the interest of the Fidesz party. This represents a new tool in the hands of the ruling coalition to limit the ability of opposition parties to campaign in future parliamentary elections in Hungary. The goal remains to maintain Fidesz's status as the dominant party.

⁸ In 2010, after winning the elections, Prime Minister V. Orbán announced the creation of the National System of Cooperation (NER) to symbolize a new social contract. The adoption of the Declaration of National Cooperation created an oligarchic system of business dependencies between the Fidesz party's most trusted people. This directly translated into the NER's gradual takeover of key branches of state functioning, such as the media and civil engineering, for example.