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Civil society organisations and their "space" in backsliding democracies

Policy Recommendations

1. The EU should use its new momentum and extend its future comprehensive civil society strategy and the European Civil Space Index to the accession candidates and Western Balkan countries to accelerate EU accession.
2. Rules for applying to and eligibility for funding from governmental and international institutions should be more transparent. The EU needs to reduce or simplify the bureaucracy of the funding application process for civil society organisations in both EU and candidate countries.
3. The collaboration of independent media and civil society organisations might be useful to counter the anti-civil society organisations narrative of the government. The EU could support media campaigns to make people aware of the positive roles civil society organisations play in democracies. Furthermore, the international community should publicly report on the vilification, attacks, threats, and harassment of civil society organisations.

Abstract

The Policy Brief addresses the situation of civil society organisations (CSOs) in Hungary and Serbia by analysing the data provided by the Civil Society Organization Sustainability Index (CSOSI). The "shrinking spaces" of CSOs in both countries mean that the governments are trying to vilify these organisations in the media, control their funding basis, narrow their legal basis,

and in some cases even intimidate CSOs representatives. Although the political backgrounds of Hungary and Serbia are quite similar, the governments use different strategies to hinder the activities of civil society. The marginalisation of CSOs leads to an exclusive form of democracy, that ignores the needs and demands of the broader public.



Civil society organisations and their “space” in backsliding democracies

Definition and clarification

A functioning democracy needs a vibrant and active civil society. Civil society is a rather broad concept and consists, in its organised form, of various organisations (e.g., trade unions, church organisations, volunteering organisations, social and cultural associations, etc.). It provides services, advocates for specific societal issues, encourages political participation, holds the government accountable, raises awareness, and articulates the demands and interests of the public. Civil society organisations (CSOs), and informal citizen associations, supported by the broader civil society, are considered to play an important role in supporting and consolidating democracies.

Autocratic regimes often consider CSOs the “enemy of the state” because they advocate for transparent, inclusive, and democratic processes, which governments perceive to be directed against them. Especially the externally funded CSOs are faced with allegations of undermining the interests of the state. With this reasoning, more anti-liberal governments are justifying their restrictive policies towards CSOs. The better-known examples are the campaigns by the Hungarian government framing the philanthropist and financier of the Open Society Foundation, Georg Soros, as an enemy of Hungarian interests.¹ Government-controlled media are supporting these negative images. In Serbia, CSOs that receive external funding are referred to as “Soros guys”, “NATO traitors”, or “MI5 agents”. CSOs require funding, either from the state or from other external sources, to be able to continue their work. Critics argue that CSOs adapt their activities to fit the objectives of external funding organisations rather than focusing on the actual problems of society. However, the same could be said about the government-funded CSOs (GONGOs), which receive funding because of their pro-government stance.²

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This Policy Brief focuses on the role of CSOs in the two post-socialist countries of Hungary and Serbia. During the political transition processes in the 1990s, strengthening CSOs became a priority on the international community’s agenda. Democratic governments, within the European Union (EU) and the EU candidate countries, are expected to engage with CSOs and provide them with a “space” to fulfil their roles in society. Due to the identified importance of CSOs in supporting the democratic

- 1 The Guardian (12.07.2017): George Soros upset by ‘antisemitic’ campaign against him in Hungary. Available at: <https://www.theguardian.com/world/2017/jul/12/george-soros-upset-by-anti-semitic-campaign-against-him-in-hungary> (last accessed 01.03.2023).
- 2 Reimann, Kim D. (2002): Up to No Good? Recent Critics and Critiques of NGOs, Subcontracting Peace: The Challenges of NGO Peacebuilding, Chapter. 3 (2005), pp. 37-54, here pp. 43-44. Available at: https://scholarworks.gsu.edu/political_science_facpub/5 (last accessed 20.03.2023).



transition, the EU is providing funds for CSOs in the EU candidate countries with the Instrument for Pre-accession Assistance (IPA). EU-funded CSOs should focus their activities on building capacity, inclusion, and civil participation³ and are expected to support the EU's reform agenda and the accession process. CSOs in EU countries have an important role in pointing out autocratic tendencies and the exclusion of civil society from democratic processes. Hungary is an example of democratic backsliding within the EU, whereas Serbia is stuck on the European integration path and lacks the capacity to develop a democratic system. From the authors' point of view, the neighbourhood and the similar political outlook of the current political leadership suggest this effect could be interpreted as a diffusion of autocratic values and a "way of doing things".

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Shrinking spaces for civil society organisations

The issue of the freedom of CSOs caught the attention of the EU. The challenges in the last few years, especially the pandemic and the Russian aggression against Ukraine, often allowed authoritarian-minded governments to set up administrative and legal restrictions that limited the opportunities for CSOs to operate. This phenomenon is often called "shrinking space for civil society". The International Federation for Human Rights (FIDH) describes this phenomenon as "[...] authorities place considerable restrictions on civil society's free space by not hesitating to overstep the law with the support of the judiciary or by adopting laws which increasingly threaten freedom and which focus particularly on NGOs' access to funding, registration requirements, and controlling the activities of organisations or freedom of assembly."⁴ FIDH also points out that these political tactics and techniques can be exported from one country to another to suppress human rights abroad.⁵ The CSOs are working against the backdrop of an overall difficult political situation in Serbia and Hungary. The Freedom House Index 2023 categorised both countries as "partly free" and as "transitional or hybrid regime", while the V-Dem (Varieties of Democracy) Index referred to Hungary and Serbia as "electoral autocracy".⁶

As one of the most recent developments regarding CSOs, the Committee on Civil Liberties, Justice and Home Affairs (LIBE) of the European Parliament (EP) pre-

3 EU (n.d.): Civil Society. Available at: <https://webalkans.eu/en/themes/democracy-and-fundamental-rights/civil-society/> (last accessed 01.03.2023).

4 International Federation for Human Rights (n.d.): Shrinking space for civil society. Available at: <https://www.fidh.org/en/issues/human-rights-defenders/shrinking-space-for-civil-society/> (last accessed 20.03.2023).

5 International Federation for Human Rights (n.d.) *ibid.*

6 Freedom House (2023): Nations in Transit. Available at: <https://freedomhouse.org/explore-the-map?type=fiw&year=2023> (Last accessed 20.03.2023); V-Dem Institute (March 2023): Defiance in the Face of Autocratization. Democracy Report 2023. University of Gothenburg: Varieties of Democracy Institute (V-Dem Institute), p. 10. Available at: https://www.v-dem.net/documents/29/V-dem_democracyreport2023_lowres.pdf (last accessed 20.03.2023).



sented its initiative, “The shrinking space for civil society in Europe”⁷ in February 2022. The report highlights the challenges faced by CSOs within the EU.⁸ It proposes a range of measures to ensure that the rights of these organisations, especially freedom of expression and association, are respected. The report focuses on three main pillars to achieve the objectives mentioned above. The LIBE Committee argues that the European Commission (EC) should establish a “European civic space index” to monitor the situation of civil society and civic space within the member states. The EC should also add a separate chapter on civic space to its annual Rule of Law Report. Furthermore, the EC should adopt a comprehensive civil society strategy to safeguard and further develop the civic space and the work of CSOs within the EU. After the parliamentary debate, the EP adopted the resolution on “Shrinking Space for Civil Society in Europe” on 8 March 2022.⁹ In June 2022, more than 300 CSOs from 25 EU countries as well as from six non-EU countries signed an open letter to urge the EC to include a proposal for a European Civil Society Strategy (as formulated in the resolution adopted by the EP) in its work programme for 2023. The open letter argues that “a call for a civil society strategy has been a long-term demand of CSOs at European and national level.”¹⁰ Despite the demands of the resolution adopted by the EP as well as the call of more than 300 CSOs, the EC did not include the topic of shrinking spaces for civil society or a proposal for a comprehensive European Civil Strategy in its work programme for 2023.¹¹

The EC should also add a separate chapter on civic space to its annual Rule of Law Report.

The EU is also aware of the difficulties CSOs face in EU candidate countries. The current efforts within the EU to strengthen and protect the role of CSOs in politically difficult environments within EU member states should also act as a plan for the EU candidate countries. The Berlin Process, which was initiated by EU countries to re-energise the enlargement process in 2014, identified civil society as a crucial actor to support the Western Balkan countries’ EU path. As a consequence, the Western Balkan Civil Society Forum was established in 2015 to contribute to six working groups

- 7 European Parliament - Committee on Civil Liberties, Justice and Home Affairs (2021): Draft Report on the shrinking space for civil society in Europe, 2021/2103(INI). Available at: https://www.europarl.europa.eu/doceo/document/LIBE-PR-699075_EN.pdf (last accessed 20.03.2023).
- 8 European Parliament (2022): Report on the shrinking space for civil society in Europe, A9-0032/2022. Available at: https://www.europarl.europa.eu/doceo/document/A-9-2022-0032_EN.pdf (last accessed: 20.03.2023).
- 9 European Parliament (2022): European Parliament resolution of 8 March 2022 on the shrinking space for civil society in Europe, P9 TA(2022)0056. Available at: https://www.europarl.europa.eu/doceo/document/TA-9-2022-0056_EN.pdf (last accessed: 20.03.2023).
- 10 Civil Society Europe (2022): Open letter to the European Commission - European Commission work programme 2023: the need to include the development of a European Civil Society Strategy. Available at: <https://epha.org/wp-content/uploads/2022/06/letter-to-ms-ursula-von-der-leyen-220621.pdf> (last accessed: 30.05.2023).
- 11 European Commission (2022): Commission work programme 2023. A Union standing firm and united, COM(2022) 548 final. Available at: https://commission.europa.eu/system/files/2022-10/com_2022_548_3_en.pdf (last accessed: 30.05.2023).



(rule of law, security and migrations, socio-economic development, connectivity, digital agenda and reconciliation, and good neighbourly relations) within the Berlin Process.¹² As the CSOs in the Western Balkan countries are meant to be involved in the EU accession negotiations as equal partners to ensure transparency in the process, the Western Balkan Civil Society Forum provides a platform for exchange and assistance.

Undermining the legal environment for NGOs: the Hungarian case

The annual Civil Society Organization Sustainability Index (CSOSI) report analyses the role of CSOs in several countries around the globe. The CSOSI describes the progress and setbacks of the CSOs using seven indicators that affect the sustainability of civil society and civic space in the respective countries. The CSOSI uses a scale from 7 (worst result) to 1 (best result) and categorises the countries into three main groups: countries where the sustainability of the civil society organisations is (1) impeded, (2) evolving, or (3) enhanced.¹³

According to the CSOSI report from the year 2021, Hungary received a score of “4.0” and was therefore categorised as a country where the overall CSO sustainability is evolving. Compared to the result from 2020, Hungary’s score has decreased in three of the seven categories: legal environment, organisational capacity, and financial viability, whereas it stayed steady in the other four categories.¹⁴

One of the most significant measures against the CSOs in Hungary was the Act LXXVI of 2017 on the Transparency of Organisations Supported from Abroad¹⁵ (often called “LexNGO 2017”), which discriminated particularly against those CSOs receiving funding from abroad and labelled them as “foreign-funded organizations”.¹⁶

LexNGO 2017 was only the beginning of a strikingly similar pattern of restrictions on CSOs. In June 2018, the Hungarian Parliament approved the so-called “Stop Soros” legislative package, which essentially criminalised the support of asylum seekers. The Hungarian Helsinki Committee and Open Society Foundation filed a complaint against Hungary over the legislation package.¹⁷ In addition to the legislation, a new tax called the “special immigration tax” was also adopted based on Act XLI of

12 Cp. Civil society Forum of the Western Balkan (n.d.): About. Available at: <https://wb-csf.eu/about> (last accessed 07.03.2023).

13 United States Agency for International Development (2023): 2021 Civil Society Organization Sustainability Index for Central and Eastern Europe. Available at: <https://www.fhi360.org/sites/default/files/media/documents/csosi-europe-eurasia-2021-report.pdf> (last accessed: 20.03.2023).

14 United States Agency for International Development (2023) *ibid.*

15 The original text of the Act LXXVI is not available anymore because it was modified in 2021.

16 TASZ / Hungarian Helsinki Committee (2017): What Is The Problem With The Hungarian Law On Foreign Funded NGOs? Available at: <https://helsinki.hu/wp-content/uploads/What-is-the-Problem-with-the-Law-on-Foreign-Funded-NGOs.pdf> (last accessed 20.03.2023).

17 European Council on Refugees and Exiles (2018): Hungary: Hungarian Helsinki Committee and Open Society Foundation file complaint against Hungary over legislation that criminalises support for refugees. Available at: <https://ecre.org/hungary-hungarian-helsinki-committee-and-open-society-foundation-file-complaint-against-hungary-over-legislation-that-criminalises-support-for-refugees/> (last accessed 20.03.2023).



2018¹⁸. Non-governmental organisations (NGOs) supporting migration processes of any kind and receiving more foreign than domestic funding, had to pay a special tax of 25%. The government legitimised this approach by declaring CSOs assisting in migration matters “illegal migration assistance.”¹⁹ In November 2021, the Court of Justice of the European Union (CJEU) declared that the “Stop Soros” legislation breaches EU law. The CJEU stated, “Criminalising such activities impinges on the exercise of the rights safeguarded by the EU legislature in respect of the assistance of applicants for international protection.”²⁰

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The CJEU also declared in June 2020 that “LexNGO 2017” is not in legal accordance with existing EU legislation²¹. Following this ruling, the Hungarian government only repealed “LexNGO 2017” in May 2021. The modified legislation, the LexNGO 2021 (Act XLIX of 2021 on the Transparency of the Organisations Carrying out Activities Capable of Influencing Public Life²², entered into force in July 2021. CSOs capable of influencing public life in Hungary, particularly those with a budget above 20 million HUF, need to open their internal records for inspection by the State Audit Body, regardless of how they acquire their budget, whether it is public or private.²³ This shrinking space for CSOs becomes evident when considering that CSOs supporting governmental values, such as religious groups that support traditional values, are exempt from such regulations.²⁴

Measures, like State Audit Body inspections, have since mainly targeted CSOs dealing with the rule of law and human rights, among them LGBTQIA+ organisations

- 18 2018. évi XLI. törvény „az egyes adótörvények és más kapcsolódó törvények módosításáról, valamint a bevándorlási különadóról” (Act XLI of 2018). Available at: <http://www.kozlonyok.hu/nkonline/MKPDF/hiteles/MK18117.pdf> (last accessed 20.03.2023).
- 19 Hungarian Civil Liberties Union (2018): Hungary’s New Immigration Tax: Pay if You Have a Different Opinion. Available at: <https://www.liberties.eu/en/stories/hungary-you-have-to-pay-if-have-a-different-opinion/15484> (last accessed 20.03.2023).
- 20 Court of Justice of the European Union (2021): Judgment in Case C-821/19 Commission v Hungary (Criminalisation of assistance to asylum seekers), Press Release No 203/21. Available at: <https://curia.europa.eu/jcms/upload/docs/application/pdf/2021-11/cp210203en.pdf> (Last accessed 20.3.2023).
- 21 Court of Justice of the European Union (2020): Judgment in Case C-78/18 Commission v Hungary, Press Release No 73/20. Available at: <https://curia.europa.eu/jcms/upload/docs/application/pdf/2020-06/cp200073en.pdf> (last accessed 20.03.2023).
- 22 2021. évi XLIX. törvény „a közélet befolyásolására alkalmas tevékenységet végző civil szervezetek átláthatóságáról” (Act XLIX of 2021). Available at: <http://kozlonyok.hu/nkonline/MKPDF/hiteles/mk21097.pdf> (last accessed 20.03.2023).
- 23 Hungarian Helsinki Committee (2022): LexNGO2021 – A look into Hungary’s Lex-NGO2021 on its first anniversary. Available at: <https://helsinki.hu/en/information-note-on-hungarys-lex-ngo-2021/> (last accessed 20.03.2023).
- 24 Hien, Melanie (2021): The Hungarian Government Takes Further Steps Against NGOs. In: ZOiS Spotlight, Nr. 24/2021. Available at: <https://www.zois-berlin.de/en/publications/the-hungarian-government-takes-further-steps-against-ngos> (last accessed 20.03.2023).



promoting the same rights for all minorities and citizens. The involvement of the State Audit Body seems unreasonable because many of those organisations do not receive public funding, which means they are out of the jurisdiction of the State Audit Body. Furthermore, the State Audit Body gets more involved in other activities outside of their competence, such as a report that claimed that a high percentage of women in academia disadvantage men and reduces childbirth.²⁵

The Hungarian government tries to create a homogenous society. Viktor Orbán claimed in a speech in 2017 that “homogeneity in Hungary” was the key to the country’s positive economic development.²⁶ This approach does not contemporary in a modern EU with the right for free movement. As the development since 2017 shows, CSOs that do not promote a homogenous society receive consequences.²⁷ How seriously the government takes this strategy becomes evident in the most recent anti-LGBTQIA+ legislation in June 2021. The Act LXXIX of 2021 on “Tougher action against paedophile offenders and amending certain laws to protect children”²⁸ was supposed to combat paedophilia but, at the same time, “contains clauses prohibiting the portrayal of homosexuality and gender-reassignment to minors”.²⁹ Furthermore, featuring homosexuality or gender reassignment is not allowed in education; such classes are only allowed to be conducted by specially registered organisations.³⁰

As the development since 2017 shows, CSOs that do not promote a homogenous society receive consequences

Beyond the anti-NGO legislation, the Hungarian government also aims to influence the public image of CSOs negatively. Due to the dominance of the Fidesz party (Hungarian Civic Alliance / Magyar Polgári Szövetség) over the Hungarian media landscape, pro-government media outlets can easily shape the public image of the CSOs through the anti-CSO strategy of the Hungarian government. They are generally hostile towards those Hungarian CSOs, that are not supported by the government. After the CSOs dealt with migration, the main targets of the media outlets were LGBTQIA+ and children’s rights organisations. They were accused of spreading the “transsexualisation of children”, “gender craze”, and “homosexual propaganda”, among others.³¹

- 25 Aradi, Hanga Zsófia / Horváth Kávai, Andrea (2022): The State Audit Office worries that too many Hungarian women getting university education will lead to less children being born. Available at: <https://telex.hu/english/2022/08/25/the-state-audit-office-worries-that-too-many-women-getting-university-education-will-lead-to-less-children-being-born> (Last accessed 20.03.2023).
- 26 Euroactiv (01.03.2017): Orbán calls ‘ethnic homogeneity’ a key to success. Available at: <https://www.euroactiv.com/section/justice-home-affairs/news/orban-calls-ethnic-homogeneity-a-key-to-success/> (last accessed: 30.05.2023).
- 27 Cf. Hien, Melanie (2021).
- 28 2021. évi LXXIX. törvény „a pedofil bűnelkövetőkkel szembeni szigorúbb fellépésről, valamint a gyermekek védelme érdekében egyes törvények módosításáról” (Act LXXIX of 2021). Available at: <http://kozlonyok.hu/nkonline/MKPDF/hiteles/mk21118.pdf> (Last accessed 20.03.2023).
- 29 European Parliament (2021): LGBTI rights in the EU, recent developments following the Hungarian law. Available at: [https://www.europarl.europa.eu/RegData/etudes/ATAG/2021/690707/EPRS_ATA\(2021\)690707_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2021/690707/EPRS_ATA(2021)690707_EN.pdf) (Last accessed 20.03.2023).
- 30 Cf. European Parliament (2021).
- 31 Cf. United States Agency for International Development (2023).



The Hungarian case shows that civil space gets easily restricted by legal means by the government, which claims to protect the interests of an allegedly homogenous society against “foreign” and liberal influences.

A divided civil society: the Serbian case^{32 33}

Serbia’s CSO Sustainability Index in 2021 reached a score of 4.3 on a scale from 1, the highest, to 7, the lowest grade. Serbia and the neighbouring Western Balkan countries fall into the category of “evolving” concerning the level of strength and sustainability of the CSO sector in the country. However, compared to its Western Balkan neighbours, Serbia has the lowest CSO sustainability score in the region. The overall score compared to 2020 remained the same, but out of the seven categories, the legal environment and service provision deteriorated, but advocacy, due to the environmental protests in 2021, improved. The worsening situation for CSOs in Serbia was recorded in the 2022 EU progress report for Serbia, where it mentioned that “systematic cooperation between the government and civil society” needs to be established and an “enabling environment for developing and financing civil society organisations still needs to be created on the ground”.³⁴ According to the Serbian Business Registers Agency (SBRA), 35,733 CSOs were registered in Serbia in December 2021. The Serbian CSO scene is characterised by intense competition among the organisations due to the high number of CSOs, the limited available funding possibilities, and the ideological division of CSOs working closely with the government and others in de facto opposition. Recently, a newly manifesting dividing line has been Russia’s invasion of Ukraine. Some CSOs have turned into more business-like organisations, where their main objective is to sustain the organisation’s existence rather than lobbying for societal interests. The number of GONGOs (governmental NGOs) mushroomed in the last five to six years in Serbia. Legally, there are no restrictions for CSOs in Serbia, but the overall political situation is not conducive to civil activism. The government gained full control of the parliament in the summer of 2020 because of the election boycott by the opposition. During that time, members of CSOs received death threats, property was damaged, people were attacked, and smear campaigns were orchestrated. Freedom House noted that in recent years, CSOs have faced intimidation, harassment, and threats when opposing the government or controversial topics.³⁵ This campaign of vilification intensified in August 2021, when NGOs addressed the Ministry of Human Rights and called for protection.³⁶ CSOs would report these incidents to the *Civic*

- 32 Interviews with Radomir Aleksić, Programme Assistant at Foundation BFPE for a Responsible Society, on the situation of CSOs in Serbia on the 8th of March 2023, and Bojan Elek, Deputy Director at Belgrade Centre for Security Policy on the 17th of March 2023.
- 33 CSO Sustainability Index for Serbia (October 2022), 2021 Civil Society Organization Sustainability Index, available at: <https://storage.googleapis.com/cso-si-dashboard.appspot.com/Reports/CSOSI-Serbia-2021.pdf> (last accessed 05.03.2023).
- 34 European Commission (12.10.2022): Serbia 2022 Report, Brussels. Available at: <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Serbia%20Report%202022.pdf> (last accessed 24.05.2023).
- 35 Freedom House (2022): Serbia, Freedom in the World 2022. Available at: <https://freedomhouse.org/country/serbia/freedom-world/2022> (last accessed 05.03.2023).
- 36 Amnesty International (2012): Serbia; <https://www.amnesty.org/en/location/europe-and-central-asia/serbia/report-serbia/> (last accessed 17.03.2023).



*Committee for the Protection of Human Rights Defenders and Whistleblowers*³⁷, which would provide legal aid for victims of the harassment campaigns. Although CSOs are legally free to organise and assemble, in some cases, demonstrators were charged with crimes or publicly attacked in the pro-government media.

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Some CSOs were publicly defamed by the media, claiming that 57 CSOs were investigated for money laundering and terrorist financing in 2020.³⁸ Already in 2019, Serbian CSOs have adopted a strategy, a joint document, and established a platform called “Three Freedoms” to ensure “the preservation of space for the civil society in Serbia, to protect and advance the freedom of association, assembly, and information.”³⁹ The political environment for civil society is hostile in Serbia.⁴⁰

CSOs are officially allowed to accept foreign funding, however, suspicion of externally funded CSOs is fuelled by negative government and state media narratives. Consequently, the reputation of externally funded CSOs is tainted; hence, state institutions or municipalities might shy away from cooperation, as this might have negative political implications for politicians or administrators collaborating. State funding for CSOs is limited and directed to pro-government institutions. CSOs have a good understanding of whether they are “eligible” for state funding or not, and some do not even try to apply for state funds and consequently have to opt for external sources. The process of awarding financial support for CSOs and projects lacks transparency. This situation does not only apply to state funding but also to international organisations and external donors.

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The strengthening of CSOs through capacity building is an important form of support by external organisations, e.g., the EU, USAID, the Norwegian Embassy in Belgrade, and others. The identified weaknesses of the Serbian CSOs are mainly in the areas of communication, financial management, and the lack of transparency of the organisation’s structure and roles.

In 2021, Serbia faced several protests on the issue of the Rio Tinto mining company, which planned to extract lithium close to the town of Loznica in western Serbia, despite the objections of the local population, because of the negative environmen-

37 Belgrade Centre for Security Policy (n.d.): Civic Committee for the Protection of Human Rights Defenders and Whistleblowers. Available at: <https://bezbednost.org/en/project/civic-committee-for-the-protection-of-human-rights-defenders-and-whistleblowers/> (last accessed 17.03.2023).

38 Balkan Civil Society Development Network (15.03.2021). Available at: <https://www.balkancsd.net/serbia-the-abuse-of-anti-money-laundry-legislation-for-the-suppression-of-civic-space/> (last accessed 05.03.2023).

39 Simić, Julija (11.04.2019): Serbia’s civil sector, NGOs demand more rights, Euractiv.rs. Available at: <https://www.euractiv.com/section/enlargement/news/serbias-civil-sector-ngos-demand-more-rights/> (last accessed 17.03.2023).

40 Freedom House (2022): Serbia, Freedom in the World 2022. Available at: <https://freedomhouse.org/country/serbia/freedom-world/2022> (last accessed 05.03.2023).



tal impact. The Jadar lithium mine would have generated wealth and income for the state. In this context, the Serbian government intended to change the Law on Expropriation to make it easier for the state to take control of private property. Additionally, a referendum with an amendment concerning the required threshold on the issue was planned. CSOs and environmental groups argued that the amendments to the Law on Expropriation and the Law on Referendum would make it easier for foreign companies to ignore the concerns of the public.⁴¹ Demonstrations against the Rio Tinto mine project escalated in December 2021 when protesters blocked highways in Belgrade and other places all over the country. In the end, the government withdrew the Law on Expropriation and suggested amendments to the Law on Referendum and People's Initiative.

During the protests, CSOs officially applied to hold demonstrations or gatherings, but this was rejected by the government. Despite this, protests still took place, which were then attacked by hooligans, and the police ignored those attacks. There were no consequences for the hooligans attacking the protesters. These tactics are aimed at feeding the intimidation of CSO members and demonstrators. Freedom House has downgraded the score for freedom of assembly, due to the fear of prosecutions and the imitation of protesters by private security groups and individual hooligans, which are allegedly connected to the government.⁴²

In February 2022, the government adopted a strategy to stimulate a positive environment for civil society for 2022-2030, which was linked with the demand to establish a council for civil society cooperation.⁴³ The documentation was provided to CSOs at very short notice, and the deadline for requesting changes was too short to thoroughly deal with the content of the proposed strategy. CSOs were included in the consultation, but only at the end of the process, with no transparency and a limited timeframe to react to the proposed strategy. With this approach, the Serbian government is excluding meaningful cooperation from CSOs.

Civil societies in autocratic-minded regimes

The Hungarian score of the CSOSI was "4,0", whereas Serbia received a score of "4,3", but both countries are categorised as countries where CSO sustainability is "evolving". Although Hungary's score is a bit higher if compared with other EU countries in the neighbourhood, only Croatia is in the same group as Hungary, but it even has a better score of 3,3. The most recent CSOSI report indicates that the situation of civil society in Hungary is the most endangered within the EU.

The Hungarian government's strategy for dealing with independent CSOs' is conducted to constantly change the legal framework, thus diminishing the space of civil society. Additionally, and similarly to Serbia, Hungary uses negative media

41 Radio Free Europe / Radio Liberty (04.12.2021): Thousands of Serbs Protest 'Anti-Environment' Laws; Vucic Vows To 'Solve Problems', Serbia. Available at: <https://www.rferl.org/a/serbia-environment-protesters-traffic/31593785.html> (last accessed 12.03.2023).

42 Freedom House (2023): Nations in Transit – Serbia; <https://freedomhouse.org/country/serbia/freedom-world/2023#CL> (last accessed 13.03.2023).

43 Cp., Ministry of Human Rights and Minority Rights and Social Dialogue (03.02.2023): The Strategy for Creating an Enabling Environment for the Development of Civil Society in the Republic of Serbia for the period from 2022 to 2030. Available at: <https://www.minijmpdd.gov.rs/doc/Strategy-for-Creating-an-Enabling-Environment-for-the-Development-of-Civil-Society-in-the-Republic-of-Serbia2022to2030.docx> (last accessed 07.03.2023).



campaigns to damage the public image of CSOs. Regarding anti-CSO strategies, the Serbian government takes a step further and occasionally mobilises certain violent groups of people to intimidate members of CSOs and even physically attack them. It is also important to mention that, especially in the case of Hungary, Viktor Orbán took Russia and the “Kremlin playbook” as an example to dismantle several areas of a democratic system, including the civic sector (cf. the Russian and Hungarian “foreign agent law”).⁴⁴

Apart from the negative campaigning against CSOs, both countries apply several anti-democratic practises, but with a similar goal: to limit the impact and influence CSOs have in society and maybe on the political mainstream. One possible reason why the countries use different strategies towards their CSOs is that Hungary is a member of the EU and Serbia is not. Hungarian membership in the EU has sustained the space for CSOs to be able to fulfil their role within society for years, but their opportunities and outreach are currently deteriorating.

In Hungary’s case, after the fulfilment of the EU accession criteria, the government dismantled several areas of liberal democracy after 2010, using its power due to the two-thirds majority. The EU should use its new focus and momentum in the area of civil society to take a closer look at the environment of CSOs in its member states. If the EC were to add a separate chapter on civic space to its annual Rule of Law Report, the issue of the shrinking space of civil society could be part of the rule of law mechanism in order to protect and safeguard the core values of the EU.⁴⁵

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Serbia is bound by the EU’s conditionality of the accession process; hence, it refrains from tampering with the legal framework of CSOs but falls back on informal measures to control the organisations. It seems that it might be in the interest of the Serbian government to foster divisions within civil society, as a way to further weaken and delegitimise the activities of the more liberal CSOs.

A democracy with a weak civil society, unable to aggregate and articulate the various voices and opinions of a pluralistic society, is becoming more and more exclusive, ignoring society’s demands in the end. An exclusive democratic system is a regime, that dominates the political public sphere and marginalises everyone else.

44 Krekó, Péter (2017): Hungary: Crackdown on Civil Society à la Russe Continues. Available at: <https://www.csis.org/blogs/international-consortium-closing-civic-space/hungary-crackdown-civil-society-la-russe> (last accessed: 30.05.2023).

45 European Commission (n.d.): Rule of law mechanism. Available at: https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism_en (last accessed: 30.05.2023).



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