

European Alliance of
Academies
c/o Akademie der
Künste
Pariser Platz 4
10117 Berlin
Germany
Berlin, 15.04.2021

Submission of Information for Consideration and Action to:

Ms. Karima Bennoune, Special Rapporteur in the field of cultural rights

c/o OHCHR-UNOG
CH-1211 Geneva 10
Switzerland

By Email: sculturalrights@ohchr.org

URGENT: HUNGARY – Attacks on the autonomy of cultural institutions

Dear Ms. Bennoune,

The following information to initiate a special procedure is submitted to you by the European Alliance of Academies and its members with respect to the elimination of the autonomy of cultural institutions in Hungary. Since winning the 2010 elections, prime minister Viktor Orbán and the governing Fidesz party have systematically limited institutional independence in the field of culture by (1) reshaping the organizational structure of cultural institutions, (2) appointing cultural administrators on the basis of political affiliation, and (3) redirecting resources to government-conform institutions and artists.

I. Introduction

The European Alliance of Academies was launched in October 2020 as a coalition of more than 65 art academies and cultural institutions from all over Europe. Members of the European Alliance of Academies are committed to the idea of a united Europe and advocate for the freedom of the arts and of thought.

This submission is supported by the European Center for Constitutional and Human Rights (ECCHR), an independent non-profit human rights organization based in Berlin, which uses legal means to protect groups and individuals against systematic human rights violations.

Through this submission, we seek to draw your attention to the dismantling of the independence of cultural institutions in Hungary. We are deeply concerned about state cultural policies implemented since 2010, which allow for an undue governmental interference in the cultural sector and are thus in violation of the freedom of the arts.

We submit that the enjoyment of the freedom of the arts requires the autonomy of cultural institutions as stipulated in Article 15 (3) ICESCR, and that institutional arrangements must be fair, just and equitable, and as transparent and participatory as possible.¹ Furthermore, Hungary must refrain from appointing cultural administrators or directors of cultural institutions on the basis of their political affiliation,² and take artistic freedom into consideration when selecting artists and institutions for state funding.³

We therefore request you to urge the Hungarian state to comply with its duties under international law to respect the autonomy of cultural institutions, to create an organizational structure preventing undue influences outside the realm of art and to refrain from retaliatory measures for political dissent.

II. Facts

The election victory of the Fidesz party in 2010, gaining a two third majority in parliament, marked the beginning of an autocratic development and of the erosion of the rule of law in Hungary. Various reports and statements of international organizations and civil society actors point out the dramatic democratic deficit and severe social problems resulting from the government's extending control of multiple areas of civil life.⁴

The Orbán administration considers culture important only as a means that helps achieve its political goals and has to that end imposed an unprecedented system of governmental control over Hungary's cultural institutions. As a result, institutional autonomy, as the basis for the enjoyment of freedom of the art, is eliminated and the existence of cultural institutions and the

¹ See "General Comment No. 13 on the Implementation of the International Covenant on Economic, Social and Cultural Rights – The right to education (article 13 of the Covenant)", E/C.12/1999/10, 8 December 1999, paras. 38-40.

² See "Report of the Special Rapporteur in the field of cultural rights, Farida Shaheed - The right to freedom of artistic expression and creativity", A/HRC/23/34, 14 March 2013, para. 89h.

³ See "Report of the Special Rapporteur in the field of cultural rights, Farida Shaheed - The right to freedom of artistic expression and creativity", A/HRC/23/34, 14 March 2013, para. 71.

⁴ See European Commission, 2020 Rule of Law Report - Country Chapter on the rule of law situation in Hungary (SWD(2020) 316 final), 30 September 2020, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1602582109481&uri=CELEX%3A52020SC0316>, last accessed: 25.02.2020.

livelihood of dissenting artists are threatened. Institutions and artists are forced to align with governmental policies and engage in self-censorship whenever they depend on public funding.

The facts outlined below are not an exhaustive list of encroachments on the freedom of art but exemplary for the Orbán administration's attempt to bring the Hungarian cultural landscape into line and eliminate any form of dissent and opposition.

1. Reshaping the organizational structure of cultural institutions

1.1. Integrating the National Culture Fund (NKA) in Ministry

In 2010, the previously independent National Culture Fund (NKA) was integrated to the “Ministry of Human Capacities” (EMMI). Since the reform, the Minister - currently Miklós Kásler - holds the position of president of the NKA. The Minister decides directly on the distribution of 50% of the NKA's funds to applicants (“ministerial frame”). The other 50% are distributed according to the decision of the NKA's boards, which in turn is appointed with the involvement of the Minister of Human Capacities. As a result, the Minister has full control over the distribution of funds, which finance institutions, individuals and projects in the field of culture.

1.2. Entrusting the right-wing Hungarian Academy of Arts (MMA) with public tasks

In 2010 the Orbán administration entrusted the previously private entity Hungarian Academy of Arts (MMA) with the public task “to facilitate the prevalence and protection of the values of Hungarian and universal culture, the respect of the traditions of Hungarian arts and the birth of new and significant artistic works”.⁵ By appointing a private entity loyal to the government to carry out public tasks and providing it with immense resources, any semblance to institutional autonomy was undermined. The MMA is represented in every jury, board and committee, which decides on the distribution of public grants in the field of art. Together with the Ministry of Human Capacities it holds a two third majority in each of these decision-making bodies.

In 2014 the Hungarian Constitutional Court found that the provision, entrusting the MMA with the national task to promote the arts, was in violation of the Constitution.⁶ The Court held that the organizational structure of the MMA - especially its biased requirements for membership - violated the freedom of art under Article X of the Hungarian Constitution, and the principle of neutrality and pluralism guaranteeing the freedom of art.⁷ Yet, the MMA has not been restructured but has hardened its political bias.

⁵ Website of the Hungarian Academy of Arts (MMA), statement available at: <https://www.mma.hu/web/en/about>, last accessed: 25.02.2020.

⁶ Judgement of the Hungarian Constitutional Court regarding AZ Alkotmánybíróság 18/2014. (V. 30.) AB Határozata a Magyar Művészeti Akadémiáról szóló 2011. évi CIX. törvény 7. §-a alkalmazásával összefüggő alkotmányos követelmény megállapításáról.

⁷ Ibid., para 22.

1.3. Establishing a centralized control of the cultural sector - National Cultural Council

In a widely protested and internationally criticized “culture law”,⁸ adopted on 10 December 2019, the government established a centralized National Cultural Council responsible for determining a unified strategic direction of various segments of culture.⁹ The director of the National Cultural Council is directly appointed by the government. The Council determines, which institutions are culturally significant enough to receive state funding.

1.4. Privatizing the University of Theatre and Film Arts (SZFE)

In September 2020, a legislative reform transferred the University of Theatre and Film Arts in Budapest (SZFE) to a private foundation.¹⁰ The Orbán government appointed its board of trustees, staffed on a solely ideological basis, without including a single name recommended by the SZFE staff.¹¹ The SZFE was privatized after other previously state-owned universities had undergone the same procedure. All privatized universities have been subordinated to a board of trustees, consisting of government-friendly economic and political actors, appointed by the government. The privatization of the SZFE was accompanied by immense national and international protests and expressions of solidarity with the ousted academic staff.¹²

⁸ Act on strategic cultural institutions, 10 December 2019, “2019. évi CXXIV. törvény a Nemzeti Kulturális Tanácsról, a kultúrstratégiai intézményekről, valamint egyes kulturális vonatkozású törvények módosításáról”, available at: <https://net.jogtar.hu/jogszabaly?docid=A1900124.TV&searchUrl=/gyorskereso>, last accessed: 25.02.2020.

⁹ See “Theaters in Hungary Feel the Chill of Viktor Orbán’s Culture War”, Palko Karasz in: The New York Times, 13.12.2019, available at: <https://www.nytimes.com/2019/12/13/arts/hungary-theater-orban.html>, last accessed: 25.02.2020; “The Guardian view on Viktor Orbán’s laws: controlling culture - Editorial” in: The Guardian, 11.12.2019, available at: <https://www.theguardian.com/commentisfree/2019/dec/11/the-guardian-view-on-viktor-orban-laws-controlling-culture>, last accessed: 25.02.2020; “Hungary passes law tightening grip on country’s theaters”, Felix Schlagwein in: dw, 12.12.2019, available at: <https://www.dw.com/en/hungary-passes-law-tightening-grip-on-countrys-theaters/a-51642455>, last accessed: 25.02.2020; “Hungarians rally against government’s bid to tighten cultural control”, Daniel McLaughlin, in: The Irish Times, 09.12.2019, available at: <https://www.irishtimes.com/news/world/europe/hungarians-rally-against-government-s-bid-to-tighten-cultural-control-1.4109875>, last accessed: 25.02.2020.

¹⁰ Act concerning the University of Theatre and Film Arts, 2020. évi LXXII. törvény a Színház- és Filmművészetért Alapítványról, a Színház- és Filmművészetért Alapítvány és a Színház- és Filmművészeti Egyetem részére történő vagyonjuttatásról, available at: <https://net.jogtar.hu/jogszabaly?docid=a2000072.tv>, last accessed: 25.02.2020.

¹¹ See “Free country, free university – students at Hungary’s University of Theatre and Film Arts protest against restricted academic freedom”, Anna Frenyó - Heinrich Böll Stiftung, 18.09.2020, available at: <https://www.boell.de/en/2020/09/18/free-country-free-university-students-hungarys-university-theatre-and-film-arts-protest>, last accessed: 25.02.2020.

¹² See “Hungary’s students are making a last stand against Viktor Orbán’s power grab”, George Szirtes in: The Guardian, 14.09.2020, available at: <https://www.theguardian.com/commentisfree/2020/sep/15/hungary-students-viktor-orban-university-theatre-budapest>, last accessed: 25.02.2020; “Heads of Hungary’s top arts university quit amid fears of state control”, Than/Fenyo, in: Reuters, 31.08.2020, available at: <https://www.reuters.com/article/us->

2. Appointing cultural administrators on the basis of political affiliation

The list of political appointments of cultural administrators is long and reaches into all areas of the culture life, including literature, theatre, music, fine arts and the film industry. Even conservative cultural administrators find themselves being attacked when giving space to artists not entirely aligned with the governmental ideology and are replaced with cadres, which often lack the professional ability or experience necessary for the position.¹³ Two of the more striking and prominent example of this practice are the following:

2.1. National Theater

In 2013, the contract with the internationally acknowledged artistic director of the National Theatre of Hungary, Robert Alföldi, was prematurely dissolved. The Orbán administration had repeatedly castigated Mr. Alföldi for his political views and his homosexuality and finally deprived him of his position as the National Theatre's director.¹⁴ Instead it appointed Attila Vidnyánszky, who follows a pro-government line, embodying the government's enthusiasm for patriotism and a nominal Christianity.¹⁵

2.2. Petöfi Museum of Literature (PIM)

In 2018, Szilárd Demeter, a ministerial commissioner and one of Orbán speech writers, was appointed director of the Petöfi Museum of Literature (PIM). Demeter triggered an international wave of outrage, when he called the government's scapegoat George Soros a "liberal Führer" who wanted to persecute Hungarians and Poles, stating that: "toxic gas flows from the capsule of a multicultural open society."¹⁶ Since Demeter's takeover, the PIM gained power in the field of culture by equipping it with significant state funding for distributing grants to writers.¹⁷

[hungary-politics-education-theatre-idUSKBN25R264](#), last accessed: 25.02.2020; "Solidarity with Students of Budapest University of Theatre and Film Arts", Akademie der Künste, 08.09.2020, available at: https://www.adk.de/de/news/index.htm?we_objectID=61550, last accessed: 25.02.2020.

¹³ See "State of Artistic Freedom 2019. Whose narratives count?", Freemuse Report 2019, p. 84, available at: <https://freemuse.org/wp-content/uploads/2019/03/saf-2019-online.pdf>, last accessed: 25.02.2020.

¹⁴ See "Politics Spills Onto Stage in Budapest", Jonathan Levi in: The New York Times, 04.04.2013, available at: https://www.nytimes.com/2013/04/05/arts/05iht-angels05.html?pagewanted=all&_r=0, last accessed: 25.02.2020.

¹⁵ See "Hungary's students are making a last stand against Viktor Orbán's power grab", George Szirtes in: The Guardian, 14.09.2020, available at: <https://www.theguardian.com/commentisfree/2020/sep/15/hungary-students-viktor-orban-university-theatre-budapest>, last accessed: 25.02.2020.

¹⁶ See "George Soros: Orbán turns to familiar scapegoat as Hungary rows with EU", Shaun Walker in: The Guardian, 05.12.2020, <https://www.theguardian.com/world/2020/dec/05/george-soros-orban-turns-to-familiar-scapegoat-as-hungary-rows-with-eu>, last accessed: 25.02.2020.

¹⁷ <https://hungarianspectrum.org/2020/01/23/viktor-orban-entrusts-hungarian-culture-to-the-far-right/>

2.3. Directors of municipal theatres

Since the Fidesz party won municipal elections in 2006, it sacked directors and boards of provincial theatres and replaced them by local Fidesz-appointed figures.¹⁸ In the culture law from December 2019, this practice was institutionalized by requiring municipal theatres, which applied for state funding, to let the central government appoint the director of the respective theatre, otherwise the municipal theatre is not eligible for state funding.¹⁹

3. Arbitrary funding and intransparent allocation procedures

The Hungarian administration also uses intransparent and selective funding as a way of pressuring institutions and artists into conformity:

- As mentioned under 2.3., municipal theatre only receive funding, if they agree to the appointment of theatre directors through the central government.
- The entire allocation by the Ministry for Human Capacities (EMMI) for independent theatre and dance organisations and the hosting theatres cooperating with them has been 773 million HUF per year, while the government-conform National Theatre (see 2.1.) alone has received a triple of that sum.²⁰
- The Talent Development in the Carpathian Basin Ltd. (KMTG), a national writing training center established by the state in 2015, received 1.4 billion HUF in 2018, without providing information - for “data protection reasons” - on who received its grants nor who decided which authors would get the grants and on what basis.²¹ In comparison, the annual budgetary support for the largest Hungarian organisation of writers, the Hungarian Writers’ Association, receives 100 million HUF annually.
- By far the best-funded cultural institution is the Hungarian Academy of Arts (MMA, see 1.2.), with 10 billion HUF annually. Yet, the organisation has not succeeded - even with the enormous amount of financial resources - in gaining real cultural significance.²²

¹⁸ See “Hungary’s students are making a last stand against Viktor Orbán’s power grab”, George Szirtes in: The Guardian, 14.09.2020, available at: <https://www.theguardian.com/commentisfree/2020/sep/15/hungary-students-viktor-orban-university-theatre-budapest>, last accessed: 25.02.2020.

¹⁹ See “Inside Europe: Hungary passes ‘culture law’”, Stefan Bos in: dw, 20.12.2019, available at: <https://www.dw.com/en/inside-europe-hungary-passes-culture-law/av-51739613>, last accessed: 25.02.2020. .

²⁰ See “Hungary turns its back to Europe - Dismantling culture, education, science and the media in Hungary 2010-2019”, Bajomi et al., 2020, p. 57.

²¹ See “State of Artistic Freedom 2019. Whose narratives count?”, Freemuse Report 2019, p. 85, available at: <https://freemuse.org/wp-content/uploads/2019/03/saf-2019-online.pdf>, last accessed: 25.02.2020.

²² See “Hungary turns its back to Europe - Dismantling culture, education, science and the media in Hungary 2010-2019”, Bajomi et al., 2020, p. 55.

III. Conclusion and Request for Action

The described measures in the field of culture interfere with the autonomy of cultural institutions necessary for the enjoyment of the freedom of the arts. They are part of a broad attack against civil society in Hungary and the progressive undermining of the rule of law in the country.

As the Council of Europe has recently stated, artists and cultural professionals are the ones “who hint at problems, spell out uncomfortable truths, speak the unspoken and make the unseen visible – using their artistic and cultural means, and creating spaces for societal debate within and beyond the mainstream bodies of political discourse and in social media”. In an autocratic attempt to control societal debates, the Orbán administration is seeking to deprive cultural institutions of their independence and to eliminate spaces for dissent and free artistic expression.

In the course of the last decade, the Hungarian government has created an organizational structure, which allows it to control the orientation of cultural and artistic programming. The Ministry of Human Capacities is unduly involved in selecting cultural administrators and experts who assess projects submitted to state funding programmes. Also, funding in the field of culture is intransparent and politically biased and supposedly neutral cultural institutions like the Hungarian Arts Academy (MMA) or the Petöfi Museum of Literature (PIM) - which are significantly involved in the distribution of funds - are openly acting as extended arms of the Minister.

The European Alliance of Academies therefore formally requests you, in your capacity as UN Special Rapporteur in the field of cultural rights, to urge the government of Hungary to respect the autonomy of cultural institutions, to refrain from undue influence especially in the appointment of cultural administrators and directors and in the selection process of artists and institutions for state funding, and to guarantee the institutional frame for a full enjoyment of the freedom of the arts.

If we can be of any further assistance, or provide any more information, please do not hesitate to contact us.

We wish to be kept informed about any action taken.

With my best regards, on behalf of the European Alliance of Academies

Prof. Jeanine Meerapfel
President
Akademie der Künste

Prof. Gyözö Ferencz
Executive Director
Széchenyi Academy of Letters and Arts