

Q&A: Trending Issues on Migration

The Hungarian “STOP Soros” Act

Why does the government fight human rights organisations?

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- Under a proposed package of bills, the governing Fidesz party plans to oblige organisations that ‘support migration,’ which includes helping asylum seekers and refugees, to apply for a newly-created work permit. Before issuing such a permit, the Minister of the Interior will review the opinion of the national security services, meaning that those organisations will be subject to a preliminary national security review.
- Fidesz is seeking the legal authority to ensure that only organisations approved by a Fidesz minister can operate, and also to ensure that only those civil organisations that can secure domestic funding remain viable.
- On the whole, the most realistic scenario for the time being is that, as of spring 2018, assistance to asylum seekers will become a state monopoly in Hungary, and the government will not shy away from curtailing fundamental constitutional rights in order to enforce its monopoly in this realm.

What is in the new "STOP Soros" package?

On February 13th 2018 the deputy prime minister of Hungary, Zsolt Semjén, filed a package of bills on behalf of the government. The package is made up of three different bills, which were christened the "STOP Soros" package by the governing parties¹. This package was presented in the Hungarian parliament, the National Assembly, by Antal Rogán, who is a Fidesz politician. Perhaps it is telling that as a member of the Orbán cabinet, Rogán is not responsible for law enforcement issues but for government communication.

Debate on the bill began on February 20th 2018, but the government only wants a vote after the parliamentary elections scheduled for April 8th 2018. The argument is that the governing party alliance consisting of Fidesz and the Christian Democratic People's Party (KDNP) does not (yet) have the two-thirds supermajority necessary for passing the bills.

The Bill on the Permit for Organisations Supporting Migration defines the range of organisations that are subject to the scope of the proposed law. It proposes that any association or foundation "that sponsors the entry into or stay in Hungarian territory, via a safe third country, of third-country nationals in the interest of providing them with international protection" qualifies as an organisation "supporting migration". At the same time, the government's position is that Hungary is surrounded by "safe third countries", including Serbia.

All NGOs active in assisting asylum seekers and refugees will be subject to the scope of the law (rather than only immigrants, economic migrants or illegal migrants). At the same time, the government will make any interest representation activity in the context of migration – for example the drafting of information materials, border monitoring, financial assistance for asylum seekers, or the acceptance of financial support for such activities – contingent on the provision of a corresponding permit by the government.

In other words, unless it is in possession of an explicit permit issued by the minister responsible for alien/immigration policy, no NGO providing assistance to asylum seekers can operate in Hungary. Before issuing such a permit, the minister will review the opinion of the national security services, with the result that any organisation active in the area of refugees and migration will be subject to a preliminary national security review. Nevertheless, the bill also stipulates that in deciding whether to issue the permit, the minister may not weigh an organisation's scientific, informational, research, educational or mainly humanitarian activities as negative factors. If an organisation were to operate without obtaining a permit, it would be subject to a penalty and then the prosecutor's office would file a petition in court requesting that the organisation in question be banned.

According to the second bill in the STOP Soros package, NGOs that receive a permit for the activities outlined in the first bill must pay a 25% so-called "Immigration Funding Fee" to the State Treasury on all funds sourced from abroad. Although the name of the fee specifically refers to "immigration", the law actually targets all organisations that assist in providing international protection to third-country nationals who arrive in Hungary through a safe third country. Any funds that the given organisation can verifiably show to have devoted to activities other than helping asylum seekers will be exempt from the 25% fee. Humanitarian assistance will also be exempt.

1. The three bills in the package are as follows: 1) Bill T/19776 on the permits for organisations supporting migration; 2) Bill T/19774 on the immigration restraint order; and 3) Bill T/19775 on the immigration funding fee.

The text of the bills in Hungarian:

<http://www.parlament.hu/irom40/19776/19776.pdf>
<http://www.parlament.hu/irom40/19775/19775.pdf>
<http://www.parlament.hu/irom40/19774/19774.pdf>

And in English, translated by the Helsinki Committee, one of the organisations targeted by the bill:

<https://www.helsinki.hu/wp-content/uploads/Stop-Soros-package-Bills-T19776-T19774-T19775.pdf>

Finally, the Bill on Immigration Restraint Order is no longer aimed "only" at NGOs but also extends to Hungarian and foreign individuals/natural persons. According to the law, any person who assists a third-country national arriving here via a safe third country to enter Hungary or stay in Hungary, with the aim of providing them with international protection, can be prohibited from entering any area within an 8-kilometre zone of the border (even if the support is provided in the form of indirect financial assistance). In other words, any person assisting asylum seekers may be barred from entering the area near the border. Indeed, third country nationals may be barred from entering Hungary altogether if they are involved in such activities.

Why are certain NGOs being subjected to such fierce attack by the government?

There are several competing interpretations as to the real goal pursued by the proposed laws. According to Prime Minister Viktor Orbán and the government parties, migration is nothing short of an attack on Christian values and the biggest potential threat to Western civilisation. In the long term, they argue, it will lead to the eradication of Hungarian values, the spread of crime and terrorism, and ultimately to the Muslim conquest of Hungary. Government party politicians believe – or claim to believe – that the migration policies pursued by Western countries have thus far been a failure, and the solution is not to accept refugees and migrants but to keep them away from Europe (and to help them only in their own home countries). The government claims that all attempts at helping migration constitute a national security risk and must be countered accordingly. It considers all migration policies or activities that contravene its own policy as dangerous, and regards George Soros as the main financier of these threats.

Naturally, there are also other interpretations of the law that differ from those proffered by the government. The least pessimistic of these consider the STOP Soros package a mere communication ploy that Fidesz is using to high-

light the stakes of the national parliamentary election scheduled to take place a few weeks later: "If Fidesz secures a two-thirds majority, it will be able to protect Hungary from migrants". The government's communication campaign against refugees and migrants is not new; since 2015, it has spent several hundred million euros in taxpayer money on billboard campaigns, television, radio and newspaper advertising, all aimed at convincing Hungarians that migration is the biggest threat looming over Hungary and that "Brussels", the European Union and George Soros want to settle "millions of illegal migrants" in their country and in Europe. This non-stop campaign, which has gone on for three years now, has yielded some predictable results: 70% of the public fully agree with the government on this subject, and compared to its nadir three years ago, the governing party's popularity has soared: 32 % of the entire electorate and 51 % of likely voters with a party preference support Fidesz. Hence, the bill can be seen as a Machiavellian attempt at dominating the political agenda.

According to the interpretation that takes the dimmest view of the package and considers it most dangerous, the goal of the Orbán government is not merely to boost its popularity and to score communication points. Instead, the government intends to clamp down on critical NGOs. In other words, it is seeking the legal authority to ensure that only NGOs approved by a Fidesz minister can operate, and to ensure that the only civil organisations which remain viable are those that can secure domestic – read governmental – funding. If that is indeed the actual goal of the bill, then the government can impede or even simply halt the operations of a continuously expanding circle of civil organisations with reference to new, concocted national security risks.

What will happen with the law?

So, what is the STOP Soros package? A radical response to the migration crisis? A Machiavellian communication campaign? Another step in building a Putinesque system by hindering the work of NGOs? No matter which interpretation applies (or interpretations, for that matter, since these are not necessarily mutually exclusive scenarios), what is certain is that the fate of the law does not hinge on Fidesz alone, but primarily on Hungarian voters and, to a lesser extent, on those international players that can influence the Hungarian government. The Hungarian Prime Minister will only enter into battles that will ultimately help his efforts at consolidating his power, enriching his business confederates or weakening his political opponents, and he will only fight when he thinks he can actually win. Orbán's actions are mainly governed by pragmatic considerations.

If the government primarily wishes to score communication points with this campaign, but ultimately fails to secure a two-thirds majority, then they will forget about the bills on the very next day following the election, citing the lack of the requisite majority.

If, however, the bills were introduced because of their substance (rather than their communication function), then the adoption of the law may well be one of the first acts of the freshly re-elected Orbán government. The only provisions of the bills that are subject to a two-thirds majority are those that pertain to the national security services. Correspondingly, after the election in spring 2018, the new parliament could pass a slightly amended version of the package with a simple majority. If Fidesz receives a two-thirds majority then Orbán's mandate to have the bills approved by parliament will be even more unequivocal. Nevertheless, in response to international pressure, the government has on several occasions toned down bills that were intended to provoke a scandal. Orbán loves publicly voiced international criticism because it allows him to cast himself in the role of Hungary's saviour and protector.

At the same time, however, behind the scenes the judgments of the European Court, or international criticisms that hold the threat of real legal or financial consequences, or which jeopardise Fidesz's domestic popularity, are occasionally successful in making the government back down from some of its more controversial aspirations.

Still, on the whole the most realistic scenario for the time being is that as of spring 2018 the assistance of asylum seekers will become a state monopoly in Hungary, and the government will not shy away from curtailing fundamental constitutional rights in order to enforce its monopoly in this realm.

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- Monitoring national discourses on flight, migration and integration and contributing to mutual understanding among the European countries.
- Exchanging experiences concerning integration and sharing best practices in the field of integration policies.
- Developing ideas and recommendations for a Common European Migration and Asylum Policy, as well as contributing to a rapprochement of the divergent approaches towards migration policy within Europe.