

Artistic Freedom Monitor:

Hungary

# Systematic Suppression

Hungary's Arts & Culture

in Crisis

ARTISTIC  
FREEDOM  
INITIATIVE

Artistic Freedom Initiative (AFI)  
Central European Press and Media Foundation (KESMA)  
Charter of Fundamental Rights of the European Union (CFR)  
Christian Democratic People's Party (KDNP)  
Committee on Civil and Political Rights (CCPR)  
Committee on Economic, Social and Cultural Rights (CESCR)  
Court of Justice of the European Union (CJEU)  
European Convention on Human Rights (ECHR)  
European Court of Human Rights (ECtHR)  
European Union (EU)  
Hungarian Academy of Arts (MMA)  
Hungarian Civic Alliance (FIDESZ)  
International Covenant on Civil and Political Rights (ICCPR)  
International Covenant on Economic, Social and Cultural Rights (ICESCR)  
Hungarian Forint (HUF)  
Hungarian Socialist Party (MSZP)  
Lesbian, Gay, Bisexual, Transgender, and/or Queer (LGBTQ+)  
Ministry of Human Resources (EMMI)  
National Core Curriculum (NKT)  
National Cultural Fund (NCF)  
National Cultural Council (NCC)  
National Media and Infocommunications Authority (NMHH)  
National Talent Development Non-Profit (NTN)  
Non-Governmental Organization (NGO)  
Office of the High Commissioner for Human Rights (OHCHR)  
Organization for Security and Co-operation in Europe (OSCE)  
Petőfi Cultural Agency (PKU)  
Petőfi Literary Museum (PIM)  
Petőfi Literary Fund (PLF)  
State Audit Office (SAO)  
Talent Development for the Carpathian Basin (KGMT)  
United Nations (UN)  
United Nations Educational, Scientific and Cultural Organization (UNESCO)  
United States (US)  
Universal Declaration of Human Rights (UDHR)  
University of Theater and Film Arts (SZFE)

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Date of publication  
March 14, 2022

ISBN  
978-1-7923-8450-9

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Berkeley Law | Pro Bono  
Program

COLUMBIA | HARRIMAN INSTITUTE  
Russian, Eurasian, and East European Studies



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# Foreword

In 2017, I had the opportunity to become involved with the newly formed Artistic Freedom Initiative, a young but highly impactful organization that had already provided pro bono legal and resettlement assistance to several artists facing persecution in their home countries. At the time, driven by apprehension about the potential stifling of creative expression by ascendant right-wing governments across Central and Eastern Europe, I was pursuing a curatorial research project exploring artists' and cultural workers' efforts to self-institutionalize or otherwise circumvent working with government-led arts institutions. I traveled to Poland and Hungary to conduct informal interviews in order to gain a firsthand understanding of the lived experiences of artists and cultural practitioners in the region. I was dismayed but unsurprised to hear stories of staff dismissals, de-funding of official institutions and individual artists, and the placement of right-wing party loyalists in positions of considerable power and influence. The conditions that attended the rise of FIDESZ in Hungary included constitutional and legislative changes that had paved the way for repression. In spite of the increasingly hostile political environment, I encountered beautiful instances of artistic self-organizing—the founding of Art Quarter Budapest (AQB), Glassyard Gallery, and the OFF-Biennale, to name a few. It was these inspiring responses, born of necessity and struggle, that I sought to better understand.

As it happened, AFI co-founders Sanjay Sethi and Ashley Tucker shared my concerns with the rise of the political far-right across Central and Eastern Europe. Across our networks—the legal community in the case of Sanjay and Ashley, and the arts community on my part—we felt that knowledge of the repression and exclusion facing Hungarian artists, curators, and arts administrators was sadly lacking in the broader international community. We resolved to work together to promote a better understanding of the situation on the ground, in hopes of inspiring stakeholders—locally, regionally and internationally—to take action to prevent and reverse FIDESZ’s ever-tightening bureaucratic grip on major state-run cultural institutions. We also hoped to draw attention to the myriad of subtle ways in which suppression and discrimination were being perpetrated through funding mechanisms, media control, interference in arts and cultural governance, and other means outlined in this report. The aggregation of these mechanisms, as the report elucidates, has created conditions of de facto censorship.

I am grateful for the expert results of AFI’s careful work to integrate hard facts and deep research with stories of the human impact of artistic repression in Hungary. I hope you will agree that this is a sobering critical assessment of the current state of freedom of artistic expression in the region and a stark warning for other nations who have taken the first tentative steps down the same pathways of human rights abuses. We hope you will join us in outcry against such reprehensible actions and help support AFI’s efforts to positively impact the arts and cultural space in Hungary.

Elizabeth M. Grady, Ph.D.

Civic Practice Project Manager | The Metropolitan Museum of Art  
December 2021

# Intro duction

# The Present State of Affairs on ~~Artistic Freedom~~ in Hungary

Artistic Freedom Initiative (AFI) has published this report in the context of the existential crises facing artists and arts institutions in Hungary.

Our aim is to draw attention to the nature of Hungary's restrictions on artistic freedom, and influence stakeholders—both in Hungary and in the region—to take measures to thwart and reverse these dangerous and anti-democratic trends.

In 2010, the Viktor Orbán-led Hungarian Civic Alliance<sup>1</sup> (FIDESZ) party swept into power with a broad legislative majority and proclaimed a mandate to protect what it self-defined as Hungary's Christian heritage and conservative nationalist values. Simultaneously, the Orbán administration publicly blamed Hungary's post-transition, Western-style democracy for the erosion of these nationalist values, embarking on a series of reforms designed to chafe at key democratic institutions. The last decade has seen FIDESZ limit the independence and scope for review of Hungary's judiciary, centralize political control over the media, gerrymander the electoral system in favor of the party, exert ideological control over the nation's key educational institutions, and place restrictions on the development of Hungary's civil society.

A central plank in FIDESZ's strategy of creating a less pluralistic and more politically unipolar Hungary is

wresting control of the arts and cultural sector and refashioning it to serve the interests of the party's agenda. Orbán himself has openly stated he would take a "cultural approach"<sup>2</sup> to effectuate FIDESZ's anti-democratic aims, partly because of the role artistic and creative acts play in advancing pluralistic political discourses in democratic societies. In a joint statement on the right to creative expression, the UN Human Rights Council emphasized the unique ability of art to "convey specific messages and articulate symbolic values in a powerful way."<sup>3</sup> It is the potential of art to challenge dominant political narratives and serve as a counterweight to centers of power that makes it vulnerable to manipulation and control. Further, a state that con-

controls artistic and cultural production has a distinctly dangerous ability to define a nation's political and social values. Over the last decade, Orbán's government implemented a new cultural policy in order to advance a single nationalist narrative and define alternative viewpoints as anti-Hungarian. This has had the effect of limiting creative expression and diminishing plurality in the arts.

Artistic Freedom Initiative (AFI) has published this report in the context of the existential crises facing artists and arts institutions in Hungary. The report seeks to draw attention to FIDESZ's concerted effort to suppress artistic freedom. AFI's overarching interest in researching and reporting on the modes of suppression in Hungary is to better understand how they are wielded by the government to limit free expression, restrict plurality in the arts, and bring about self-censorship among artists functioning outside of the mainstream political environment. We also hope that our work will contribute to the greater body of critical reporting on artistic expression and the rights of artists in Hungary. Our aim is to draw attention to the nature of Hungary's restrictions on artistic freedom, and influence stakeholders—both in Hungary and in the region—to take measures to thwart and reverse these dangerous and anti-democratic trends.

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### Methodology

In order to draw analytical conclusions and provide comprehensive recommendations regarding the state of artistic freedom in Hungary, AFI researched the relevant laws, policies, practices and events which have shaped the artistic environment in the country over the past decade. A variety of resources in both English and Hungarian were consulted, including human rights reports, United States (US) Department of State reports, legal databases, policy briefs, news articles and other media. Anonymous interviews were conducted with key participants who were identified through the research process. Participants were selected for their involvement and expertise in the Hungarian arts and cultural sphere. They were asked to speak to the lived experiences of artists and cultural producers in the country.

### Report Summary

The first chapter of this report provides a brief socio-political context on FIDESZ's changes to Hungary's constitutional framework. It also highlights recent structural changes to the governmental ministries overseeing the arts and cultural sector.

In the second and largest chapter of the report we provide an in-depth analysis of the means used by the FIDESZ government to limit free and pluralistic artistic expression. These 'mechanisms of suppression' were identified in the research stage and among them are: (1) constitutional and legislative changes aimed at restricting free expression and expanding government regulatory authority over the arts; (2) bureaucratic encroachment into and control over arts institutions; and (3) government consolidation and manipulation of the media to curate nationalist cultural narratives and suppress alternative voices.

The third chapter focuses on the lived experiences of eight arts and cultural workers from Hungary that AFI had the opportunity to interview between April and June of 2021. This chapter highlights the impacts of legal, bureaucratic, and policy changes on artists and arts institutions whose ideological leanings are in opposition to those of the current political administration. It features artists and cultural workers who have been increasingly isolated due to the environment of censorship in Hungary; forced to self-censor due to their inability to receive the funding necessary to support themselves; unable to publish, participate in exhibitions, or otherwise perform their work for fear of legal repercussions or personal harm; and/or compelled to leave their country in order to continue

their practice openly. It also attests to the exceptional resilience of the impacted artist community by detailing the alternative arts spaces, practices, and traditions they have created to continue developing and performing their craft, despite opposition.

Subsequently, in the fourth chapter of the report, we introduce the international and regional human rights legal framework within which Hungary operates. It outlines the international treaties and covenants binding Hungary to protect artistic freedom and foster pluralistic expression. It also details Hungary's obligations as a member of the Council of Europe and the European Union (EU), as well as the commitment to free expression enshrined in their national Constitution. The subsequent section outlines how the Hungarian government's legislative changes and actions limiting free expression violate the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the European Convention on Human Rights (ECHR), among other treaties, conventions and declarations.

In the final chapter of the report, we put forth a list of recommendations for stakeholders in Hungary on strategies to improve their ability to protect free artistic expression and foster the conditions necessary for an open and thriving arts and cultural sector.

Overall, AFI's research is driven by our commitment to calling attention to human rights violations in the field of artistic freedom. The intended audiences for this report are international human rights organizations, human rights tribunals, legislators and policy makers in Hungary, the Council of Europe and the EU, free expression activists and NGOs, arts institutions, university arts programs, practicing artists in and around Central and Eastern Europe, and defenders of the rights of artists, including the artist safety housing network. AFI believes that free artistic expression is a human right that states have an obligation to recognize, protect, foster, and promote. We share concern with the interviewed artists and cultural workers that the actions of the FIDESZ administration are stifling free creative expression and limiting plurality in the arts. We hope that this report will draw attention to the impact that the Orbán administration is having on the arts community in Hungary.

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# Socio-political Context

Hungary's arts and cultural sector has been profoundly reshaped, along with many aspects of Hungarian politics and social life, by the ascension of FIDESZ to administrative power in 2010.

The current political situation in Hungary—characterized by a shrinking public sphere, waning free press, anti-immigrant and anti-EU sentiment and surge of ethno-religious nationalism<sup>4</sup>—is the result of the protracted and continuing legislative majority held by FIDESZ and its allies for the past decade under the leadership of Prime Minister Viktor Orbán.<sup>5</sup> The impact that FIDESZ has made on the arts and cultural sector cannot be fully appreciated without an understanding of the broader political context.

In the wake of the financial crisis of 2008, the popularity of the ruling Hungarian Socialist Party (MSZP) diminished rapidly, and the rival FIDESZ party took the 2010 Hungarian election with relative ease.<sup>6</sup> With a new two-thirds majority in parliament, the party was able to draft and pass a new national constitution, also referred to as the Fundamental Law of Hungary.<sup>7</sup> The Constitution, which came into effect on January 1, 2011, effectively empowered FIDESZ to pass legislation, enact policies, and redirect public funds with greater speed and

reduced transparency, while simultaneously limiting the independence and authority of other branches of government, including the judiciary. These changes not only enabled FIDESZ to consolidate power over the administrative structures of government, but they also ensured that FIDESZ will be able to maintain influence, even if they were to lose their parliamentary majority in the future. Among the most important constitutional and legislative changes were measures forcing more than 300 judges into early retirement, the creation of a media oversight body with close ties to FIDESZ, the gerrymandering of electoral districts to maximize FIDESZ voters' impact on elections and the curbing of the authority of Hungary's constitutional court.<sup>8</sup> These key changes laid the groundwork for a barrage of further legislative and bureaucratic changes that placed greater constraints on the development of Hungary's civil society. The changes also reflect FIDESZ's campaign to gain greater political influence at the cost of losing transparency and political neutrality in government bureaucracy.

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The party has branded their ideological approach to politics as a pivot towards “illiberal democracy,” or a putatively democratic system that reflects Christian and nationalist values which, they claim, have been overrun by the country’s liberal minority.<sup>10</sup>

Some of the new constitutional changes also reflect the larger “culture war” that has been ongoing in Hungary under FIDESZ’s administration.<sup>9</sup> The party has branded their ideological approach to politics as a pivot towards “illiberal democracy,” or a putatively democratic system that reflects Christian and nationalist values which, they claim, have been overrun by the country’s liberal minority.<sup>10</sup> This approach is also evident in the 2011 Constitution; for example, the new preamble characterizes the nation as a community of ethnic Hungarians belonging to a European-based Christian tradition.<sup>11</sup> Such rhetoric has been criticized for marginalizing minorities by positioning their beliefs and behaviors as a threat to the concept of Hungarian national identity.

The Council of Europe, the EU, international organizations and human rights NGOs have raised concern over new constitutional and legislative changes. Importantly, the EU has taken legal action against Hungary in 2020 and 2021, requiring them to repeal or change legislation that was deemed incompatible with EU values. Despite these interventions, FIDESZ has continued with its strategy to wield law and policy to cement their political influence by reducing transparency measures and transferring control of institutions and funding to FIDESZ loyalists. Relevant to this report, these policies and actions have limited free expression and have resulted in self-censorship in the arts. In the following sections, we detail the mechanisms used by FIDESZ to suppress free artistic expression. We also highlight the impacts of these actions on the lives and livelihoods of the Hungarian arts community.



**Mechanisms of**

**suppression**

# Legal Mechanisms of Artistic Suppression

In the last decade, FIDESZ has enacted constitutional and legislative changes that increase and consolidate the party's control over the arts. These changes have served to limit the plurality of creative expression and advance a singular nationalist narrative. Further, these changes are in violation of the protections on civil, political, social, and cultural rights that Hungary has committed to through its ratification of key international human rights treaties and conventions.

## Constitutional & Legislative Changes with a Demonstrable Impact on Artistic Freedom

### The Hungarian Academy of Arts

Shortly after assuming power, FIDESZ made clear that it would give legal effect to its increasingly overt intention of consolidating control over the arts and cultural sector in Hungary. Most prominently, FIDESZ codified its authority over arts institutions in Article 10, Section 3 of the Amended Constitution of 2010, which reads “Hungary shall defend the [...] artistic freedom of [...] the Hungarian Academy of Arts.”<sup>12</sup> The Hungarian Academy of Arts (MMA) was founded in 1992 as a private association of conservative artists that required “evident national consciousness”<sup>13</sup> as a condition for membership. It is highly unusual for a nation’s foundational document to include a provision on the protection of an arts academy. With hindsight, this was an early signal of FIDESZ’s ideological encroachment into the arts, as including the MMA in Hungary’s Constitution was in essence the first step in transforming a formerly undistinguished, right-wing arts academy into a powerful public entity. The purpose of this restructuring became even more apparent when the new head of the MMA, György Fekete, stated upon his appointment that the institution’s overarching intention would be to prioritize state support of “works reflecting a Christian-Nationalist ideology.”<sup>14</sup>

In the subsequent years, the MMA became officially associated with the Ministry of Human Resources (EMMI), the fountainhead for many previously ministerial departments which were merged into secretariat departments under the EMMI, including education, public collections, healthcare, social care, and cultural institutions.<sup>15</sup> The MMA was invited to participate in all key Ministry decisions regarding

arts and culture and were also given one-third of the board seats in every decision-making body governing the arts.<sup>16</sup> Most importantly, the MMA’s inviolability under the Constitution ensures that it will continue to assert its ideological authority over the arts irrespective of the political regime.

### 2019 Culture Bill

In addition to the constitutional recognition of the MMA, Orbán’s administration enacted legislation to alter existing systems of government funding for the arts, and in doing so, enabled greater government oversight. The leaked draft of the 2019 “Culture Bill” included a provision to abolish the National Cultural Fund (NCF), the main source of arts and cultural funding in Hungary prior to the integration of the MMA. This proposal prompted national outrage—including a petition of over 50,000 artists’ signatures<sup>17</sup>—which resulted in the eventual removal of this element from the bill. Despite the revision, the legislation nonetheless abolished the Hungarian corporate tax system, which had previously provided a primary funding source for theater companies as it matched up to 80 percent of all box office receipts.<sup>18</sup> Under the new regulations, federal funding for municipally run theatres is contingent on a number of factors, most notably, federal approval of appointed directors.<sup>19</sup> Additionally, the revised 2019 “Culture Bill” established a National Cultural Council (NCC) for the “centralized strategic steering of cultural sectors.”<sup>20</sup> The NCC—whose president is elected by the Hungarian government—decides which institutions are “culturally significant enough to receive funding for the next five years.”<sup>21</sup>

### SZFE and Other Arts Universities

The legislature’s restructuring of government funding has also impacted Hungary’s art schools. In July 2020, Hungarian parliament passed an act establishing a foundation to oversee the University for Theater and Film Arts (SZFE). The foundation operates as a government-appointed board of trustees, with the authority to manage the University’s state funded budget and the appointment of its faculty and president.<sup>22</sup> Upon being selected as the chairman of the

foundation, theater director Attila Vidnyánszky, reportedly expressed the desire for SZFE to place greater emphasis on “the nation, the homeland and Christianity.”<sup>23</sup>

This parliamentary act was followed by a second, much larger bill, passed in April 2021, which transferred administrative oversight of eleven major universities and cultural institutions to private foundations headed by Orbán appointees. In addition to the transfer of administrative oversight, this second bill transferred billions of dollars of university budgets, state funding, public assets and EU recovery funding to these same foundations—in total, an amount nearly four times greater than the country’s university spending in the last seven years.<sup>24</sup> It builds upon legislation passed in 2020 that broadened the definition of public funds.<sup>25</sup> Consequently, foundations appear to have more discretion on public funding without full transparency as to how these funds are disbursed. Five of the eleven impacted universities and cultural institutions provide higher education in the arts.<sup>26</sup>

Of all the universities impacted, SZFE was the only one that publicly refused this change;<sup>27</sup> its faculty of notable film directors, playwrights, and actors stepped down in solidarity with its students, whose protests lasted for months.<sup>28</sup> In an iconic show of solidarity, thousands of supporters formed a “live chain” around the university’s building, which was later extended through downtown Budapest until it reached the Parliament building. A document declaring the university’s autonomy was passed along the three-mile long human chain, and its ultimate arrival on the Parliament steps was met with cheers.<sup>29</sup> The protest movement gained global recognition through the support of international celebrity artists—Helen Mirren, Cate Blanchett, and Salman Rushdie, to name a few—who shared viral selfies with ‘SZFE’ or ‘Free SZFE’ inscribed on their palms.

Shortly thereafter, the government-appointed Board of Trustees, as established under the first act, announced that it would retroactively cancel the fall semester and nullify course credits for all SZFE students.<sup>30</sup> In addition, the overall SZFE staff was downsized while the positions made free by former actors and academics resigning in protest were filled with new employees poached from theaters and opera houses that had been taken over by the EMMI and the MMA in the years prior.

### Media Law

In the past decade, Hungary has enacted laws which have enabled the FIDESZ government, and private entities with whom FIDESZ is alleged to have close ties, to take gradual control of the media. Shortly after the election of FIDESZ in April 2010, the Hungarian government amended its Constitution, “removing a passage on the government’s obligation to prevent media monopolies.”<sup>31</sup> Later that same year, the party passed the Media Act<sup>32</sup> and the Press Act,<sup>33</sup> which restructured the regulatory apparatus governing the media and placed content-based restrictions on media outlets.<sup>34</sup> The new law required media firms to register with the state and placed them under new restrictions which were vague and poorly defined. For example, the Media Act states the generalized requirement that media outlets provide “balanced” coverage.<sup>35</sup> It also asserts that listeners and viewers must “be given a fair warning” before being exposed to content that “is likely to harm the[ir] religious convictions, [] beliefs, or other philosophical convictions, or [is] otherwise disturbing.”<sup>36</sup> The statutory language of the Press Act is similarly vague; it generically states that media content providers “shall respect the constitutional order” and that commercial communication cannot be presented in a manner “offend[ing] religious or ideological convictions.”<sup>37</sup>

The media law also sanctioned the creation of the National Media and Infocommunications Authority (NMHH) and the Media Council, both charged with the exclusive responsibility of regulating private broadcast, print and web-based media. Further, the Media and the Press Acts give the Media Council exclusive control over funding for the State’s public service media system, which includes three national TV stations, three radio channels and one national news service.<sup>38</sup> The NMHH and Media Council’s members are appointed by parliament, where FIDESZ has held a two-thirds majority for nearly a decade.<sup>39</sup> It is the Media Council who holds the primary responsibility for interpreting and enforcing the aforementioned vaguely worded 2010 Media and Press Act. This effectively gives a regulatory body elected by FIDESZ expansive power to decide when a program or publication runs afoul of the law.<sup>40</sup>

In the words of Hungarian art historian Edit András, where there is centralized government control of arts and cultural organizations in place, “[t]here is then no further need for official censorship, since **this process automatically guarantees the proper ideological content.**”

Most recently, Hungary's new "anti-LGBTQ+ law,"<sup>41</sup> passed by Orbán's government in June 2021, raises grave concerns on the narrowing scope of artistic expression in Hungary. Under the pretext of protecting minors, the law attempts to restrict the public's exposure to Lesbian, Gay, Bisexual, Transgender, and/or Queer (LGBTQ+) issues and themes in educational institutions and media. Specific provisions of concern include restrictions on LGBTQ+ broadcasting and advertising during the daytime, the criminalization of transmission of LGBTQ+ content to minors, and the banning of materials that address homosexuality and gender reassignment in primary education.<sup>42</sup> Similar legislation, such as Russia's "anti-gay propaganda law", has resulted in the censorship of artworks which either feature LGBTQ+ themes or are produced by LGBTQ+ artists.<sup>43</sup>

### Criminalization of Defamation

In Hungary, defamation laws have been used to sanction a wide variety of creative expressions. Hungary has criminalized defamation under Section 226 and 227 of its Criminal Code, and a conviction under the statute includes up to one-year imprisonment and/or substantial fines.<sup>44</sup> In 2013, Hungary amended the code to include a sentence of imprisonment of up to two years for "anyone [convicted of making a] fake video or sound recordings with the purpose of harming another person's reputation."<sup>45</sup> International human rights institutions have roundly denounced criminal defamation as a disproportionate interference with free speech, and the UN Human Rights Committee has advised states to "consider the decriminalization of defamation" or only invoke such laws in "the most serious of cases" and without the imposition of imprisonment.<sup>46</sup> The very existence of criminal defamation statutes has a "chilling effect on the media and on freedom of expression;" they are "prone to abuse [by state governments] in order to silence opponents and critics."<sup>47</sup>

### Lex NGO

In 2017, the Hungarian parliament passed a bill, "Lex NGO," which required any civil society organization or NGO that received more than 7.2 million Hungarian forint (HUF) (roughly 20,000 euros) to register as a "foreign-funded organization"<sup>48</sup> and advertise themselves as such in all public media. NGOs who failed to comply with the law risked increased fines, government sanctions, or the ultimate dissolution of their operations in Hungary.<sup>49</sup> The impact of the laws led to a significant loss of foreign direct investment

from Hungary's European peers, notably Norway, who cited concern over the lack of transparency in funding disbursement.<sup>50</sup> FIDESZ claimed that the purpose of the bill was to limit the influence of foreign funders in Hungarian society, as well as to curb money laundering crimes; though in practice, the bill has made it difficult for many NGOs with international ties to continue their operations in Hungary.<sup>51</sup> The Deputy Director of Human Rights Watch stated that, in effect, the law is "about silencing critical voices in society, not improving financial transparency or protecting the country."<sup>52</sup>

As arts and cultural organizations often take the form of non-profit initiatives, some of these outfits were posed with challenges in procuring foreign funding as a direct result of the NGO law. Further, given the limited opportunities for funding in Hungary's small cultural sector, foreign funding to arts-based NGOs can play a critical role in sustaining key productions, events, and initiatives. For example, several artists interviewed for this report noted that the OFF Biennale, Hungary's biggest contemporary multi-media art exhibition, was compelled to hold their event biannually rather than annually as a result of the financial constraints due to a reduction in foreign funding caused by Hungary's NGO law.<sup>53</sup> In June 2020, the CJEU found Hungary's "Lex NGO" to be in breach of EU law on the grounds that it unlawfully restricted the free movement of capital and violated fundamental EU rights on the respect for private life.<sup>54</sup>

### Electoral Law

Hungary has also attempted to suppress artists under the putative claim of preserving election integrity. In 2016, the Party of the Two-Tailed Dog—a satirical political party led by the artist Gergely Kovács—created a "cast-an-invalid-vote app" allowing for the anonymous sharing of photographs documenting ballots destroyed in protest of the Hungarian referendum of the EU migration relocation plan.<sup>55</sup> Shortly thereafter, the National Election Commission ruled that Kovács violated Hungary's elections laws, finding that his actions held the potential to discredit the electoral process.<sup>56</sup> While the Supreme Court of Hungary upheld this decision, in a pointed rebuke, the ECtHR found that Hungary violated Article 10 of the European Convention on Human Rights by failing to articulate a legitimate aim for restricting Kovács' right to freedom of expression.<sup>57</sup>

## Bureaucratic Interference Into the Arts & Cultural Sector

### Consolidating Control, Nationalizing Content

In Hungary, the past decade has seen a gradual escalation of government oversight and control of the arts and cultural sector. This heightened interference into cultural production has been accomplished through a FIDESZ-initiated three-part scheme: (1) the creation of centralized management structures governing the arts and cultural sector; (2) the strategic placement of government loyalists into seats of authority within those structures; and (3) the realignment of funding towards FIDESZ-aligned artists and cultural institutions.

Simultaneously, artists and cultural workers who stand in opposition to the increasingly centralized control over the arts, either in their personal politics or in the politics expressed in their works, lose access to financial support and opportunities for professional advancement. Thus, a multi-layered political screening process becomes embedded in the arts and cultural infrastructure. This lends the government greater control over what is deemed acceptable and desirable for cultural production, thereby facilitating their ability to curate right-wing and nationalist narratives. In the words of Hungarian art historian Edit András, where there is centralized government control of arts and cultural organizations in place, “[t]here is then no further need for official censorship, since this process automatically guarantees the proper ideological content.”<sup>58</sup>

### Bureaucratic Control of the Arts and Cultural Sector

Over the last decade, the FIDESZ-run Hungarian government has significantly expanded its managerial leverage and regulatory authority over the arts and cultural sector. In 2010, the EMMI was formed and given the responsibility of managing not only arts and culture, but also public education and public collections.<sup>59</sup> This shift of the management of arts and culture from the ministerial level to the secretariat level left the sector with fewer budgetary and staff

resources to draw on, as well as less specialized staff knowledge of the arts and cultural landscape.

Two years later, the Minister of Human Resources, Zoltán Balog,<sup>60</sup> announced that the entirety of the state’s cultural management would be outsourced to the MMA.<sup>61</sup> Over the course of 2012, the Hungarian government allotted the equivalent of 6.7 million USD to the MMA, announcing that it would be given “access to and decision-making rights in virtually the entire system of cultural financing in Hungary.”<sup>62</sup> This figure has nearly doubled every year since, with the 2020 budget at nearly 40 million USD, including a 20 million USD renovation budget for the MMA’s Headquarters in Budapest.<sup>63</sup> Alongside controlling management and financing, the MMA also gained considerable authority in the administration of state awards, including the Artist of the Nation award, Hungary’s preeminent state-funded culture prize.<sup>64</sup>

The MMA has furthered its control over cultural institutions through its acquisitions of some of the country’s most influential and prestigious museums and concert halls. In 2013, the Hungarian Parliament passed a resolution that transferred the Múcsarnok-Kunsthalle and other previously state-owned institutions, such as Vigadó Concert Hall and the Hild Palace, to the hands of the MMA. The ownership transfer of the Múcsarnok-Kunsthalle was particularly notable, as the museum is Hungary’s largest and most prominent arts venue and a key part of the country’s cultural and political fabric.<sup>65</sup> Throughout Hungary’s recent “culture wars” the institution has been the topic of criticism, debate, and protest, as there is often a political dimension to the artists whose work is chosen to be exhibited.<sup>66</sup> Given its importance in matters of public debate, it becomes apparent why FIDESZ prioritized the control of such a key cultural institution.

Throughout this bureaucratic consolidation over the arts, FIDESZ functionaries were clear that their governing ideology within the cultural space would be based upon conservative, Christian and nationalist values. In reference to the MMA take-over of the Múcsarnok-Kunsthalle, György Fekete, Orbán’s first appointee to head the MMA, stated, “I don’t give a damn about this modern democracy” and “[t]here must not be blasphemy in state run institutions,”<sup>67</sup> sending a clear message that party ideology would be central in curating cultural content. The MMA is centrally involved in appointing representatives in all key boards and committees in Hungary’s arts

and cultural institutions.<sup>68</sup> Typically, one-third of the board members in any public or state-dependent arts institution is selected by the MMA, with an additional third often selected by a government body, such as the EMMI.<sup>69</sup> As a result, the management and operation decisions of such institutions frequently align with FIDESZ's political interests.

In 2010, Hungary also centralized control over the National Culture Fund (NCF), a hitherto independent institution, funded through a tax on the national lottery. It is "responsible for distributing subsidies across all cultural sectors."<sup>70</sup> The Orbán-led government consolidated the Culture Fund into the EMMI, now headed by Miklós Kásler, an ultra-conservative FIDESZ-appointee with no professional background in the arts. The FIDESZ party effectively possesses majority control over disbursements from the Culture Fund,<sup>71</sup> which provides considerable budgetary support to cultural institutions nationwide.<sup>72</sup>

The aforementioned Culture Bill,<sup>73</sup> passed in 2019, expanded federal control over the arts and cultural sector, largely through the creation of the National Cultural Council (NCC). As was previously mentioned, this bill transfers considerable managerial control of theaters to the federal government. Under this new law, municipal theaters are able to decide whether or not to receive federal subsidies; if they accept such funding, the national government will have a say in how the theaters are operated and who leads them.<sup>74</sup> As municipal theaters are highly dependent on state subsidies, it appears that the NCC will indeed exert considerable influence on the management and content of local performance spaces. The announcement and passage of the Culture Bill was met with considerable protests from human rights activists and cultural workers due to fears that the centralization of cultural funding would significantly impair artistic freedom.<sup>75</sup>

The effect of the centralized management structures that FIDESZ has imposed on arts and cultural institutions means that key decisions on funding, programming, and management are being made by government bureaucrats rather than by independent professional experts in the field. At best, these choices are uninformed; at worst, they are ideologically driven.

### Managerial and Budgetary Interference into Arts and Cultural Institutions

Upon consolidating administrative control of the arts and cultural sector, the FIDESZ government has set out to remake Hungary's cultural institutions and artistic spaces along political lines, employing two strategies towards this end: the placement of government loyalists into seats of authority within arts and cultural institutions and the reorienting of funding towards FIDESZ-aligned programs, artworks, or artists. FIDESZ has employed this strategy in a wide variety of artistic industries, including the fine arts, theater and literature.

### The Fine Arts

As mentioned in the previous section, the MMA has been pivotal in FIDESZ's strategy to cement its influence in the arts and cultural sector. Of particular importance is the MMA's authority to appoint certain professionals to influential positions in the country's preeminent arts and cultural institutions. These appointments have resulted in a dramatic shift towards conservatism in the composition of the national arts and culture leadership.

The head of the MMA stated that the new objective of the Academy would be to "counter liberal tendencies in contemporary fine arts."<sup>76</sup> The MMA has indeed reconfigured the fine arts sphere in Hungary by installing FIDESZ-aligned functionaries into the directorship positions of the country's most important institutions for contemporary art: the Ludwig Museum and the Műcsarnok-Kunsthalle. In 2013, Julia Fabényi, who was backed by FIDESZ and supported by the MMA, was appointed as head of the Ludwig Museum.<sup>77</sup> Given that she was running against Barnabás Bencsik, this choice was patently political. Mr. Bencsik had headed the museum for the previous five years and was instrumental in transforming it into an institution of international repute; he was also endorsed by the independent Ludwig Foundation and held letters of recommendation from many influential art institutions in Europe.<sup>78</sup> Local students and artists protested the nomination, occupying the Ludwig Museum for a week. However, the demonstration was to little avail.<sup>79</sup>

Furthermore, in 2014, the MMA appointed György Szegő as the Art Director of the Műcsarnok-Kunsthalle, the other major contemporary art museum in Budapest. Upon assuming the directorship, Szegő asserted that art should remain apolitical and

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avoid being critical of religion.<sup>80</sup> He also openly expressed his distaste for contemporary Hungarian art, which he characterized as elitist and oriented towards the West. He signaled that he would favor art steeped in “traditional” techniques, despite directing a museum of contemporary art.<sup>81</sup>

In the case of the Hungarian National Gallery, appointments at the museum were accompanied by major structural changes. In 2012, the National Gallery lost its independent status and was merged into the Museum of Fine Arts—both museums hold the most extensive art collections in Hungary.<sup>82</sup> Ferenc Csák, the Director of the National Gallery resigned in protest of the merger, taking issue with the fact that it took place without a feasibility assessment and without consulting the arts community.<sup>83</sup> The Director of the Museum of Fine Arts, László Baán, was appointed to take over the management of the National Gallery’s collection. Simultaneously, Mr. Baán also took over management of the Ferenc Hopp Museum of East Asiatic Arts, the Museum of Applied Arts, and the new museum quarter in Városliget Park in Budapest, even though he has no training as an art historian.<sup>84</sup> While Mr. Baán does not appear to have made overtly political decisions during his leadership of these museums, the scope of his power and the de-professionalization of Museum management is alarming.

The centralization and politicization of museum management has had a real impact on the visual arts. Since the centralization process began, only a few controversial works have been made accessible to the public eye, and their ultimate removal from display is reflective of the intense pressure felt by arts and cultural workers to avoid themes that FIDESZ would deem offensive. In 2019, the Ludwig Museum in Budapest removed an interactive art installation, reportedly because it depicted Prime Minister Viktor Orbán in an unflattering light.<sup>85</sup> János Brückner’s mural *Here and Now* was co-constructed with the museum’s visitors over the course of two months. The interactive installation was originally a plain white wall, mounted with two clocks with the phrase “This Too Shall Pass” spelled out across their two faces. The wall was covered in plain paper and accompanied by instructions for museum visitors to draw on the piece, in a paint-by-numbers style. Over the course of eight weeks, an image of Viktor Orbán began to appear in which Orbán’s eyes were replaced by the two clocks. The artist claimed that his collaborative artistic method,

which he has dubbed the “human printer” technique, is meant to demonstrate “the result of common creation and/or error.”<sup>86</sup> On April 1, 2019, the final day of the installation’s display, the artist was invited to the museum and informed by its director, the aforementioned Ms. Fabényi, that his work was stoking a “negative reaction” among the public. He was told that the museum would not let him leave with the piece unless he signed a new contract stipulating his full responsibility for the installation after it was removed from the gallery.<sup>87</sup> The piece was removed the same day.

Other instances of removal in recent years similarly hint at the systematic stifling of government criticism in the Hungarian art and creative sphere. In 2016, the Balassi Institute, a Hungarian organization that aims to share Hungarian Culture abroad, merged into FIDESZ’s Ministry of Foreign Affairs.<sup>88</sup> One year later, the collaborative artistic entity, Lőrinc Borsos, had its work removed from an exhibition at the Balassi Institute in Vienna, Austria.<sup>89</sup> The work in question, entitled *Hear No Evil, See No Evil, Speak No Evil*, featured three Hungarian flags, each with one of their stripes painted over in black. Lőrinc Borsos insisted that the piece was not meant to be political, but rather was intended as a critical response to the name of the exhibition, *Real Hungary*. Nonetheless, it was taken down hours before the opening by one of the Hungarian curators, who cited its political nature and contribution to the desecration of national symbols as reasons for its removal, even though she had not personally seen the work.<sup>90</sup>

It is important to consider the impact incidents such as these have on artistic expression and production. Arts and cultural institutions provide important professional opportunities for artists; their neutral and transparent management is crucial for fostering equity among the artistic community. In addition to providing physical spaces where art and cultural production can be readily accessed by the public, arts and cultural institutions provide artists with funding, grants, residencies, and awards. Since the national cultural budget came under the control of the MMA, many have accused the institution of favoring artists, institutions, and art projects that align with the presiding administration’s political views when selecting whom to support. For example, the MMA granted “monthly stipends in perpetuity to artists like Gyozo Somogyi, best known for depicting Hungarian military heroes, and Pal Ko, who has made a career from sculpting Hungarian historical figures.”<sup>91</sup>

In order to better understand the impacts that FIDESZ's administrative and legal actions have had on the artistic community in Hungary, AFI conducted semi-structured interviews with eight artists and cultural producers, including three interviewees in the visual arts space.<sup>92</sup> The interview data revealed that Hungarian artists that oppose the government find it increasingly difficult—and some speculate even futile—to earn state support without yielding to governmental demands and thus compromising their artistic or personal integrity.<sup>93</sup> On the other hand, the interviews also showed that artists who accept such funding self-censor in order to assure their continued financial stability and potential to advance in their career.<sup>94</sup> Thus, it appears that FIDESZ has been increasingly successful in commandeering arts and cultural institutions to promote conservative and nationalist narratives, while also marginalizing dissenting and alternative viewpoints.

#### Theater and the Performing Arts

Much like art museums, the Orbán government is deploying the strategy of appointing government loyalists into management positions of theaters while simultaneously funding performance spaces that comport with the party's nationalist agenda. Central to these efforts are the FIDESZ-controlled MMA and NCF, both with near complete authority in distributing funds and making managerial appointments to theaters in Hungary. Another key institution in effectuating FIDESZ's cultural policy is the Hungarian Theatrum Society, an association of right-wing theater professionals with the mission of countering liberalism in the performing arts.<sup>95</sup> The Theatrum was founded by Attila Vidnyánszky, a self-proclaimed “cultural nationalist,”<sup>96</sup> with close personal ties to Viktor Orbán.<sup>97</sup> Conservative theatre directors associated with the Theatrum Society have “rapidly acquired influence in the sphere” and even “have a say in distributing NCF grants.”<sup>98</sup>

FIDESZ began to interfere in the governance of Hungary's theaters shortly after its assumption of power, when György Dörner was installed as the director of the Újszínház (New Theater) in 2012. Mr. Dörner was appointed to the position despite a history of outspoken anti-Semitism, anti-Roma statements, and his vehement support of Jobbik, a Hungarian political party that characterized itself as neo-fascist.<sup>99</sup> He was instated by Budapest's mayor at the time, who was also a FIDESZ-party member.<sup>100</sup> In Mr. Dörner's application to the role, he stated his intention to turn theater into “a repository for

Hungarian values,”<sup>101</sup> and eliminate the “degenerate, sick, liberal hegemony” in Hungary's arts scene.<sup>102</sup> The appointment was even more surprising considering the theater's prior director, István Márta, was widely acclaimed for his successful management of the venue, which showcased diverse, well-attended productions.<sup>103</sup>

Today, the Újszínház hosts only Hungarian plays and holds a yearly festival that aims to highlight Christian narratives.<sup>104</sup> Mr. Dörner even attempted to stage “The Sixth Coffin,” an anti-Semitic play by the openly racist author, István Csurka.<sup>105</sup> When a protest forced the production to be cancelled, Mr. Dörner simply staged another, less-controversial play by the same author.<sup>106</sup> Mr. Dörner has also made efforts to purge the theater's personnel. He fired the lead actor Balázs Galkó—a regular participant in anti-FIDESZ demonstrations—as well as allegedly making other employment decisions based upon religion.<sup>107</sup>

The Budapest National Theater was forced to make a similar leadership change when Róbert Alföldi, an accomplished Hungarian actor-director and head of the theater from 2008 to 2013, was rejected for renewal of his contract despite an exceptionally successful term as director.<sup>108</sup> Alföldi was well-known for bringing popularity and financial success to the theatre, as well as for his “provocative productions,” many of which challenged existing national narratives about Hungarian identity and politics.<sup>109</sup> In the months before his rejection, Alföldi, an openly gay Jewish man, had been the subject of ridicule and hate speech from far-right conservatives in the Hungarian parliament who called him “a f\*g, a pervert, and a Jew;” they claimed that, as such, he was unfit to lead the theater.<sup>110</sup> Following the rejection of Alföldi's contract renewal, the Orbán-government set up a special board to select the next director of the National Theater and ultimately chose Attila Vidnyánszky, the aforementioned right-wing founder of the Hungarian Theatrum Society.<sup>111</sup> It is important to note that Mr. Vidnyánszky's tenure as Director has been largely unsuccessful. In 2018, half the tickets for performances on the main stage remained unsold and the theater lost approximately 500,000 USD.<sup>112</sup>

Opera houses have also been subject to political interference, most prominently when the Minister of Human Resources, Zoltán Balog, appointed Szilveszter Ókovács as the General Director of the

Hungarian State Opera in 2013. While initially he seemed to run the theater without controversy, Mr. Ókovács received a great deal of backlash by Hungary's conservative media in 2018 for staging *Billy Elliot*, a popular musical which portrays a young boy in an English mining town who discovers his passion for ballet. Pro-FIDESZ media outlets, like *Magyar Idők*, described the performance as homosexual propaganda.<sup>113</sup> Due to the negative campaign against the musical, Mr. Ókovács cancelled the last fifteen shows.<sup>114</sup>

FIDESZ's interference into theater management has also extended to smaller municipally run theaters throughout Hungary. These municipal theaters are dependent on federal subsidies, and consequently, are subject to government interference into management decisions in order to assure continued funding; this arrangement was made official with the passage of the Culture Bill.<sup>115</sup> Moreover, since 2006, FIDESZ's dominance in municipal elections has enabled further ideological interference into the management of local theaters. As a result, over the last fifteen years, most local theater directors have been replaced with FIDESZ-affiliated or supported appointees.<sup>116</sup>

Funding and subsidy decisions by the relevant federal ministries, municipal governments, the MMA, and the Culture Fund also appear to be driven by ideology. In 2016, the Budapest Festival Orchestra had its funding significantly cut. This was purportedly due to the outspoken opposition of its leader, the internationally acclaimed Jewish composer Iván Fisher, to FIDESZ's democratic backsliding.<sup>117</sup> In contrast, federal funding for the Hungarian National Philharmonic, whose leader remained uncritical of FIDESZ, was increased. More recently, in February 2021, the EMMI decided to withdraw its funding from the Budapest Spring Festival, despite its successful 40-year run;<sup>118</sup> it will now be solely funded by the city of Budapest, which has consequently been forced to scale back the programming for the festival.<sup>119</sup> Simultaneously, the Orbán administration formed two counter-festivals, the Bartók Spring International Art Weeks and the Liszt Ferenc International Cultural Festival, both "heavily-subsidized" by the federal government.<sup>120</sup>

### Literature

In Hungary, the literary and publishing industry has markedly changed under the leadership of FIDESZ. The most significant development has been the transformation of the Petőfi Literary Museum (PIM) into a major cultural center. In 2019, Szilárd Demeter was appointed head of the PIM.<sup>121</sup> Demeter is a writer, editor, and publisher, who worked for the conservative philosophy journal, *Kellék*, for over a decade prior to his appointment at the Petőfi Museum.<sup>122</sup> Demeter's professional life is also linked to FIDESZ: he worked for a FIDESZ-supported think tank and has written several of Prime Minister Orbán's speeches.<sup>123</sup> His appointment followed the removal of the Museum's long-standing director, Gergely Prőhle. Mr. Prőhle was attacked in a 2017 article in the *Magyar Idők*, a conservative newspaper closely associated with the FIDESZ government, for giving funding to "leftist-liberal" authors who had spoken against FIDESZ.<sup>124</sup> Though Demeter claims that he is open to authors of all genres and perspectives, he has made his preference for conservative literature clear. In his application for the position at PIM, Demeter stated that he wished to redirect Hungary's literary tradition from one that incites world change to one that presents the world to readers.<sup>125</sup> In the same application, he made clear his desire to promote Christian, nationalist narratives through literature, which he believes have been neglected by Hungarian authors.<sup>126</sup> He stated,

"We see that those whom we call globalists claim all identities to be correct and good, except for the national identity. Every religion should be protected, except for Christianity. Practice shows there are weak and strong identities. The question we need to ask ourselves concerning the oft-used Brussels buzzword is this: Who integrates whom? [...] We, Christian nations of Europe are currently losing this battle. Therefore, our job is not to look for arguments in support of the Christian and national culture, but to strengthen our own identity."<sup>127</sup>

The interview data revealed that Hungarian artists that oppose the government find it increasingly difficult—and some speculate even futile—to earn state support without yielding to governmental demands and thus compromising their artistic or personal integrity.

In 2020, Demeter further demonstrated anti-liberal sentiments, publicly calling billionaire philanthropist George Soros the “liberal Führer.”<sup>128</sup> He described Soros’ news reporting and benevolent giving as “poisoning Europe” and likened his work to the Nazi gas chambers.<sup>129</sup> Despite ample public outcry against Demeter for his comments, he was not removed from his position.<sup>130</sup>

Demeter’s appointment coincides with the EMMI declaring its intention to transform PIM into a “cultural center of power” that will be used to help FIDESZ achieve its cultural goals; it is, therefore, of particular interest.<sup>131</sup> The Ministry submitted a non-public parliamentary proposal in which they described their plan to transform PIM. Under the EMMI guidance, PIM will become a major influencer and incubator for Hungarian authors.<sup>132</sup> The proposal also states that PIM will be responsible for literary exchanges in Hungary; this would include introducing international authors to Hungarians and advertising contemporary Hungarian voices abroad.<sup>133</sup> Importantly, PIM is now also in charge of allocating subsidies and other scholarships for English language translations of new Hungarian works.<sup>134</sup> This means that PIM now holds an exceptional degree of control over which authors will represent Hungarian literature abroad, thus determining which works eventually become part of the international literary canon.

In July 2021, the Foundation for Hungarian Culture was created.<sup>135</sup> This transferred ownership of the PIM and other associated bodies, including the Petőfi Literary Fund (PLF) and the Petőfi Cultural Agency Ltd. (PKU), from the state to a private foundation.<sup>136</sup> The fund is chaired by Szilárd Demeter himself, who stated, “[w]e set up the Foundation for Hungarian Culture to protect a significant part of Hungarian culture from the effects of changes in the political conjuncture. For large-scale cultural developments, a timeframe of at least five to ten years should be expected.”<sup>137</sup> Upon its creation, the fund was given various real-estate properties to manage, including the Andrassy Palace, part of Shipyard Island, the Zichy Castle, and various other art spaces and art residency buildings. Importantly, this means that Demeter, or another government loyalist, will be able to remain in power for up to a decade.<sup>138</sup> This enables continued influence in cultural and artistic affairs, regardless of a regime change.

PIM, the Fund for Hungarian Culture, and associated bodies are also responsible for giving awards and

grants to authors to foster national literary talent.<sup>139</sup> The aforementioned EMMI proposal also allocated the PIM responsibility for the National Talent Development Non-Profit (NTN).<sup>140</sup> In this new structure, the PIM—in partnership with major Hungarian media companies—is responsible for fostering the nation’s up-and-coming journalistic talent. Their penchant is for those who have “an eye on national interests.”<sup>141</sup> When asked to comment, Demeter elaborated that “national interests” included the protection of European and Hungarian values based on Christianity.<sup>142</sup> Under FIDESZ, an exorbitant amount of money has been funneled into the development of new authors. In 2015, the non-profit organization, Talent Development for the Carpathian Basin (KGMT) was established and given nearly four times the budget than any similar organization had previously been given.<sup>143</sup> The program was established by János Dénes Orbán in consultation with Géza Szócs, FIDESZ’s former secretary of state and current political advisor to Viktor Orbán.<sup>144</sup> Since its inception in 2015, KGMT has launched a magazine, a series of books, and a literary awards program. Despite their limited success, KGMT continues to receive a substantial amount of government support.<sup>145</sup>

FIDESZ has also overseen a concerted effort to interfere with cultural and literary magazines and journals through funding reallocation. In 2016, the National Cultural Fund (NCF) cut funding for several of the country’s popular cultural journals. These included, *Muzsika*, a 64-year-old classic music journal; *Színház*, a theatre magazine; and *Beszélő* a cinema and film journal.<sup>146</sup> Loss of funding proved critical for some, including *Muzsika*, which ceased operations as a result.<sup>147</sup> In their stead, government funding has been pumped into the creation and circulation of government-aligned cultural journals. These include the KGMT journal, *Előretolt Helyőrség*, and the MMA journal, *Magyar Művészet*.<sup>148</sup>

Private publishers continue to survive in Hungary, but their accessibility is strained due to pressure put on them as a result of the newly restructured arts and cultural funding bodies. They are further strained when it comes to decisions regarding with whom they can work. Due to the high costs associated with publication, many authors are unable to publish through private agencies without the support of state grants from PIM, NCF, or the like.<sup>149</sup> This is a major challenge for liberal and independent Hungarian authors who are unlikely to receive state funding. Further, there is evidence that government

loyalists have attempted to buy large shares of the country's remaining private publishers, demonstrating the expansiveness of FIDESZ's political strategy to remodel the entire arts and cultural sector to reflect their values.<sup>150</sup>

Furthermore, literary associations responsible for fostering young authors and connecting them to major publishers have been forced to cease operations as a result of diminished funding. This includes József Attila Kör, a previously prestigious organization which supported some of the country's most prominent authors in their youth. One of the association's former board members stated that “without an organization like this the younger generation has little access to publishing, to literary life, to the biggest publishing companies.”<sup>151</sup>

PIM has also made a concerted effort to tie awards, scholarships, grants and other funding back to the Museum. They have done so by establishing professional obligations for recipients to appear at the museum on a monthly basis, among other demands.<sup>152</sup> These requirements both facilitate the self-filtering of candidates who do not wish to be linked closely with the government, as well as reinforce PIM as the central literary hub of the country. According to Hungarian author, Gábor Schein, these obligations—as well as other moral compromises he considers to be bound up in the process of accepting funding from PIM, NCF, and other bodies linked to FIDESZ—have resulted in an exodus of many of Hungary's best contemporary literary talents.<sup>153</sup> He states,

“While the government spends untold amounts of money on propaganda, ceaselessly evoking national self-esteem, the estates of the most important Hungarian writers of the recent past—Imre Kertész, Péter Esterházy, and Konrád György—are housed in the Akademie der Künste in Berlin, because both the authors and their families felt these manuscripts would find a more fitting home in Berlin than Budapest. These inestimable treasures of Hungarian culture—which, one day, will play an important role in the cultural and mental renewal of the country—have emigrated.”<sup>154</sup>

In this way, FIDESZ and its allied institutions affect not only the literary canon of Hungary's past, but also limit the scope, depth, and diversity of its future.

### Government Interference into Arts Education

Arts education provides an important platform for public access to arts and culture, as well as to vocational training for arts and cultural professionals. Accordingly, their administrations and resources have undergone similar restructurings to those seen in arts and cultural institutions.

At the beginning of his term of power in 2010, Orbán renationalized public schools, bringing them under centralized direction.<sup>155</sup> Ten years later, Orbán, still in power, released a new National Core Curriculum (Nemzeti Kerettanterv, NKT), reforming the content of education at all K-12 public schools.<sup>156</sup> Amidst many alarming deviations from the previous curriculum, there have been notable changes to the literary syllabus: Imre Kertész, Hungary's sole Nobel laureate for literature and a Holocaust survivor, has been removed from the curriculum, as has the internationally recognized and awarded novelist, Péter Esterházy, who has been vocal in his opposition to Orbán and his government.<sup>157</sup> In their stead, Orbán's government has made Hungarian authors such as József Nyíró and Albert Wass mandatory reading.<sup>158</sup> Nyíró was a member of the fascist Arrow Cross Party, and Wass was “an avowed anti-Semite and convicted war criminal.”<sup>159</sup> The ideological imperatives that are communicated through changes such as these are hardly subtle.

There is also an ongoing struggle to prevent a similar restructuring at the university level. As was mentioned earlier in this section, in the last year, Parliament passed a law transferring ownership of the previously state-run SZFE to a private foundation.<sup>160</sup> The government appointed a board of five trustees, rejecting members proposed by the university. The university's senate said it had been deprived of its right to decide on budgetary, organizational and personnel issues.<sup>161</sup> Then, in April 2021, new legislation was passed in parliament that gave control of universities and public arts education institutions to private foundations, with oversight boards appointed by FIDESZ.<sup>162</sup> The bill was introduced by FIDESZ on the premise that the role of the state in university affairs needed to be recalibrated to significantly increase government involvement in major decision-making.<sup>163</sup> While the legislation includes the granting of EU recovery

funds to revitalize the institutions, it also transferred significant state assets to the foundations.<sup>164</sup> This gives them control over university spending, operations, university staffing decisions, and other key aspects of student life.<sup>165</sup> Due to the COVID-19 pandemic, Hungarians were unable to protest the legislative change. Consequently, public reaction to the legislation was minimal compared to the SZFE protests that had occurred only months prior.<sup>166</sup>

### Effects of Bureaucratization on Cultural Production

FIDESZ's increased oversight and control of funding has fostered a degree of institutionalized fear in the Hungarian arts and cultural sector. This has influenced which artists and art projects enter circulation. Fearing potential negative repercussions, such as retracted funding or job losses, arts institutions in Hungary may choose not to work with certain artists or engage with certain material in order to continue operating, effectively chilling free expression. While many cultural workers with decision-making authority in arts institutions have chosen to self-censor in order to retain limited influence, some have stopped producing works in Hungary or have resigned, citing the marginalization of critical voices as their reason.<sup>167</sup>

Independent artists also have two choices: retreat into alternative spaces where funding and publicity are scarce or conform to the FIDESZ platform. Thus, without having to engage in the kind of heavy-handed censorship that would attract international scrutiny, FIDESZ has succeeded both in silencing alternative artistic perspectives and amplifying those of conservative and nationalist artists. Indeed, the Hungarian government is well aware of its treaty obligations and has no geopolitical interest in overtly violating international, regional, and EU legal protections on free expression. Instead, FIDESZ has implemented a robust control of arts and cultural funding and governance to lessen the need for the type of direct intervention into arts institutions that

invites international monitoring. Further, by creating shadowy foundations and bureaucratic state structures in order to exert control over artistic and cultural production, the Orbán-led government can claim that artistic production is undergoing an organic process that reflects the perspectives of the artists and desires of arts institutions. The opaqueness of FIDESZ's strategy is ultimately what has facilitated the near complete transformation of the arts and cultural sector from a free and open creative space into a restrictive one.



## Media and Culture Control

FIDESZ has acted through the media to undermine and discredit arts and cultural workers and institutions. Over the last decade, the FIDESZ party has increased its regulatory oversight of the press and progressively centralized its control over public service and private media. This has facilitated a curation of social narratives that fit with the party's political agenda. FIDESZ has deliberately advanced uncritical, pro-government narratives and suppressed media outlets that have been deemed insufficiently nationalist in content. Prime Minister Orbán has made clear his desire to politicize cultural narratives, stating “[a]n era is determined by cultural trends, collective beliefs and social customs. This is now the task we are faced with: we must embed the political system in a cultural era.”<sup>168</sup>

FIDESZ has employed the media to limit artistic and cultural expression in several different respects. First, the Media and Press Acts<sup>169</sup> have enabled the Hungarian government to influence the content of arts and cultural programming—a traditional component of both public and private media. Second, the government has shaped public opinion of the arts by directing negative coverage towards artists that are critical of the Hungarian government, advance viewpoints that run contrary to the FIDESZ-defined nationalist narrative or threaten social norms or the political status quo. Third, according to the artists who we have interviewed, pro-government media outlets are silencing dissenting artists' voices by failing to report on their grievances towards FIDESZ's increasing control of the arts and cultural sector.<sup>170</sup>

### Increased Media Consolidation, Decreased Plurality

In the past decade, Hungary has seen a gradual consolidation of its major media channels by companies alleged to have close ties with the FIDESZ administration.<sup>171</sup> Consequently, many news outlets in the country have been accused of promoting pro-government agendas and silencing criticism of FIDESZ.<sup>172</sup>

The centralization of Hungarian media outlets has culminated in the recent creation of the Central European Press and Media Foundation (KESMA), a media conglomerate with close ties to FIDESZ. Its stated mission is “to promote those activities of the print, radio, TV, and online sections of the Hungarian mass media which serve to build values and strengthen Hungarian national consciousness,” which it defines as based in the country's “Christian values.”<sup>173</sup> Today, KESMA holds the ownership rights of 470 Hungarian media outlets,<sup>174</sup> and is a majority owner of more than half of all of Hungary's public media outlets.<sup>175</sup>

Since a key function of media outlets—both public and private—is cultural reporting and broadcasting, the change in media ownership has directly and detrimentally impacted the arts. In 2020, Hungary's last independent radio broadcaster of significant size, Klubrádió, was forced off the air by the Media Council for alleged technical violations, including not properly filling out documentation showing that more than 50% of their content came from Hungarian sources.<sup>176</sup> Klubrádió was well-known, both for its robust cultural programming in Budapest's metropolitan region, and its commonly expressed FIDESZ-critical viewpoints. The station maintains that any paperwork issues were minimal and not grounds for rejection and contends that it was targeted by the Media Council for its political opposition to the administration. Klubrádió's frequency was ultimately given to a radio station whose owner is closely allied with Orbán.<sup>177</sup> In response to the Hungarian Court ruling upholding the decision to not renew Klubrádió's license, the Human Rights Commissioner for the Council of Europe, Dunja Mitajovic, stated, “Another silenced voice in Hungary. Another sad day for media freedom.”<sup>178</sup> In June 2021, the European Commission launched infringement proceedings against Hungary over the rejection of Klubrádió's application. The commission stated its belief that “the decisions of the Hungarian Media Council to refuse renewal of Klubrádió's rights were disproportionate and non-transparent and thus in breach of EU law.”<sup>179</sup> At the time of writing, the EU has triggered the first two steps in the procedure. If Hungary fails to respond, the EU can refer the case to the Court of Justice of the European Union (CJEU).

FIDESZ has also cornered the media market by harnessing the purchasing power of its wealthy allies. Media watchdogs have noted that a sharp rise in the purchase of media shares by pro-FIDESZ

investors has effectively put more than half of the country's private media organizations under the control of FIDESZ by proxy.<sup>180</sup> One piece of independent research found that more than 80% of Hungary's media outlets are "financed by sources decided by the ruling party."<sup>181</sup>

The rise of KESMA since 2018 has coincided with a wave of resignations from news and media staff; they cite declining media freedom in Hungary as preventing them from doing their job. These resignations are concerning because they further embed the homogeneity of arts and cultural programming in the Hungarian media. In June 2020, more than 80 reporters resigned in protest from Index.hu, a leading Hungarian news website, after their editor-in-chief was fired due to the publication of material which classified Hungarian media freedom as "in danger."<sup>182</sup> Index.hu was referred to as one of the last independent media sources that actively challenged FIDESZ and criticized Orbán. Its decline indicates the effectiveness of FIDESZ's indirect suppression of the media sector through economic pressure. Much like Klubrádió, Index.hu played a critical role reporting on developments in the Hungarian arts and cultural sector. As a result, this mass resignation has created a gap in independent news reporting in the arts.

As well as limiting the dissemination of art itself, the nationalization of media has also minimized the role that artists and arts institutions play in matters of public discourse. Artists often play a key role in publicly discussing, debating, and protesting restrictions on essential democratic rights. However, the function of the artist as a public critic is dependent on securing an amplified public forum, such as an independent media. Several interlocutors interviewed for this report lamented the lack of media coverage given to efforts made by arts communities to resist the democratic backsliding in Hungary. One interlocutor formed a protest group which disbanded after three years of activity, primarily because of the disappearance of the independent media organizations which would typically report on their protests and amplify alternative voices on matters of public interest.<sup>183</sup>

### Mobilizing the Public Against Artists and Arts Institutions

The rise of FIDESZ-allied media has undermined the arts and cultural sector by using its influence to turn the public against certain artists and institutions. In particular, Magyar Idők, one of the country's most

prominent news outlets with a staunch pro-government stance, has repeatedly attacked liberal artists and arts institutions who they claim deride Hungarian values.

As was previously mentioned, in 2018, the popular musical *Billy Elliot* was cancelled after facing fierce criticism from Magyar Idők. The channel claimed that children who watched the performance were at risk of thinking it would be acceptable to be gay,<sup>184</sup> and described one scene in which young male characters dress in 'women's clothing' as "corrupting."<sup>185</sup> Though the director of the opera tried to defend the show by advocating a message of tolerance in a rebuttal article, also published in Magyar Idők, his efforts were to little avail—ticket sales fell dramatically after Magyar Idők released its article and the institution ultimately decided to cancel the remaining 15 shows of the season.

Magyar Idők has also attacked and discredited famous Hungarian artists by criticizing their devotion to Hungarian values and questioning their role in the Hungarian nation. When the works of Hungarian poet Endre Ady were featured at PIM, conservative academic Andrea Vastag wrote an article for Magyar Idők, criticizing the museum for highlighting the work of a poet who had failed to serve his country during World War I.<sup>186</sup> In the article, Vastag criticized Ady's favorable opinions on Jewish immigration to Hungary, and questioned why the museum could not showcase an artist whose personal beliefs did not include the intermixing of immigrants and native Hungarians.<sup>187</sup> Though Vastag suggested that Ady's works were valuable and should not be removed completely from Hungarian history, she claimed that his liberal beliefs and political stances threaten Christian values in Hungary.

Magyar Idők has also targeted prominent arts and cultural institutions in Hungary. In August 2018, it criticized the Hungarian National Gallery for hosting an exhibition on the works of Frida Kahlo, one of the 20th century's most influential artists. The newspaper accused the National Gallery of "promoting communism" with state money, as Kahlo was a member of the Mexican Communist Party and was known to have had personal relationships with a number of communist exiles.<sup>188</sup> The article was published shortly after Orbán's third election victory and the exhibition was used as an example of how the arts and cultural sector was in need of change in order to reflect the dominance of the conservative

Prime Minister Orbán has made clear his desire to politicize cultural narratives, stating “[a]n era is determined by cultural trends, collective beliefs and social customs. This is now the task we are faced with:

we must embed the

political system in

a cultural era.”

majority in Hungary rather than its liberal minority.

Similar sentiment was communicated by Magyar Idők in 2018 when it published a series of articles entitled “Whose Cultural Dictatorship.”<sup>189</sup> The goal of the series was to demonstrate that many Hungarian public institutions continue to support liberal values that conflict with the beliefs of FIDESZ.<sup>190</sup> The writer of the series, Árpád Szakács, claimed that the fine arts were “the strongest bastion of the liberal left” in Hungary and accused artists of conspiring to undermine the Hungarian nation with their pro-immigration agendas.<sup>191</sup> He criticized Hungarian arts institutions in Budapest for misusing public funds to promote liberal indoctrination. Museum Director Gábor Gulyás bore the brunt of Szakács’ criticism. Szakács claimed that Gulyás was involved in a conspiracy to permit “as many African migrants as possible” to Hungary and went as far as to publish a list of the institutions, artists, authors, and popular liberal thinkers known to associate with Gulyás.<sup>192</sup> This use of media to blacklist alternative voices can lead to increased risk of discrimination or harm against arts and cultural producers, or may result in a self-imposed silencing if they feel threatened by the possibility of repercussions.

The reaction of these same media organizations to the controversy surrounding Boldizsár Nagy’s children’s book, “Wonderland is for Everyone” further evidences the ability of the media to mobilize public opinion against artists and art institutions. In October 2020, far-right politician Dóra Dúró shredded the book page by page during a televised press conference. She considered the book, which portrays LGBTQ+ characters as heroes, to be “homosexual propaganda.”<sup>193</sup> Multiple book publishers throughout Hungary have spoken out against Dúró, including the Hungarian Publishers and Bookseller’s Association, who compared her actions to “Nazi book burners and communist book shreds.”<sup>194</sup>

Continued media scrutiny of this, and other art portraying LGBTQ+ persons, culminated in the passage of the aforementioned “anti-LGBTQ+ law.” Under this law, it is prohibited to display content which shows homosexual relationships or indicates transgender issues.<sup>195</sup> Despite impressive public backlash against the bill, including pro-LGBTQ+ marches in Budapest in July 2021, conservative groups have already begun using the legislation to censor artists. In July 2021, the bookshop chain Lira Könyv was fined 600 euros for failing to place a label on

“Wonderland is for Everyone” warning readers that the book contains “content which deviates from the norm.”<sup>196</sup> The media and culture war over the law also stoked homophobic slander and attacks against Boldizsár Nagy, the author of “Wonderland is for Everyone.” After receiving death threats over the phone, Nagy began to feel unsafe in Hungary—he relocated abroad in order to continue his work.<sup>197</sup>

### Effects of Media Interference on Cultural Production

FIDESZ’s deployment of an increasingly homogeneous media to advance nationalist viewpoints seems to be part of an overall strategy to influence state and private institutions—including universities, museums, and theaters—in the service of a party-driven cultural narrative. FIDESZ’s actions fall short of outright, narrowly-defined censorship; the government has not adopted an authoritarian mode of controlling artistic and cultural production. Instead, it has used funding mechanisms and a regulatory apparatus to sanction, suspend, or starve independent media outlets who are insufficiently nationalist in content—such as Klubrádió and Index.hu—and has employed party controlled or influenced media outlets to advance pro-FIDESZ positions, vastly reduce the diversity of arts programming, and silence resistance to the government.

While the EU has expressed profound concern over FIDESZ’s limitations on the press, Hungary maintains that its media operates without government interference and within a normal regulatory framework.<sup>198</sup> In reality, artists and arts and cultural institutions in Hungary are at risk of being marginalized by the pro-government media for their association with liberal values, or worse, face intense, government-sanctioned criticism should they take controversial public stances in their art. In certain cases, the government has incited the public to disparage minority opinions or representations in the arts and demonized arts and cultural workers for exercising their creative rights. Such practices have frayed the autonomy of public arts institutions and limited individualized creative expression in Hungary.



Lived experiences

# Lived Experiences of Artists and Cultural Producers in Hungary

As detailed in the sections above, the national cultural policies implemented by FIDESZ have been used to amplify the voices of artists whose beliefs align with those of FIDESZ and marginalize those who challenge their agenda. These policies have in turn influenced what cultural producers can and cannot create in order to survive in Hungary.<sup>199</sup>

According to many of our interlocutors, the newfound inability of Hungarian cultural producers to secure funding from government institutions without conformity to Orbán's politics makes continued applications for financial support feel pointless; this process leaves many artists discouraged from seeking funding in the first place.

With this socio-political framework in mind, AFI conducted semi-structured interviews from April to June 2021 with eight stakeholders in the Hungarian arts and cultural sphere: one independent artistic collective, two artist/academics, two curators, one editor, and one academic specialized in the history of art. This allowed us to better understand the changing definition, role, and responsibility of the artist and cultural producer in Hungary's current political environment. Drawing upon our interlocutors' lived experiences as described in the interviews, this section reveals two key themes: (1) artists' and cultural workers' frustration with the ethical dilemmas and impracticability associated with applications for government support; and (2) the importance of alternative spaces and actions to the contemporary Hungarian arts scene.

#### **Bias in Funding Allocation and Professional Appointments under FIDESZ**

The restructuring of Hungarian arts and cultural institutions under FIDESZ has enabled the regime to embed its regulatory authority into the processes used to grant funding and opportunities to artists

and cultural workers across the country. Prior to the FIDESZ regime, arts and cultural institutions functioned largely in an unbiased manner; they have now become a conduit for the political right.<sup>200</sup> According to many of our interlocutors, the newfound inability of Hungarian cultural producers to secure funding from government institutions without conformity to Orbán's politics makes continued applications for financial support feel pointless; this process leaves many artists discouraged from seeking funding in the first place. The persistent frustration felt by our interlocutors results from FIDESZ's strategic restructuring of the Hungarian arts and cultural sector.

Regarding changes on the ministerial level, the independent editor with whom we spoke described Orbán's strategy as a "reshaping [of] cultural institutions through centralization and disintegration," the result of which is the systematic diminishing of autonomous spaces for culture.<sup>201</sup> The editor claimed that the shrinking of the independent cultural space began with the elimination of the Ministry of Culture: "We do not have a ministry of education, we do not have a ministry for healthcare, ministry for social care and cultural institutions—it all merged into one fountainhead which is called the Ministry of Human Resources." According to the editor, the significance of this development is that government oversight of the arts and cultural sector has moved from the ministerial to secretarial level, where the decision-making process is far less transparent and more difficult to access; consequently, centrally-directed administrative and funding changes in the arts and cultural sector are more difficult to influence and contest through democratic political campaigning.

Another interviewee, an independent curator, described these changes as strategic and likened them to a process of cultural "desertification." The "innovative and brutal" processes initially came as a surprise in 2011, with the new Hungarian constitution and the financial and ideological restructuring of key cultural institutions, such as the MMA. "The art scene just was shocked," they said. "What's going on? Even for us, who've been part of the [cultural scene]—we had no clue." This interlocutor explained that FIDESZ's strategy relied on increasing political control over public funding for culture and dimin-

ishing the independent media that would readily report on anti-government protest movements. This reduced the scope for autonomy amongst independent cultural producers and, according to our interlocutor, steadily produced a cultural landscape in Hungary equivalent to a desert: an environment devoid of meaningful autonomy, creative freedom, and financial opportunity for artists.

Several of our interlocutors also highlighted restaffing efforts, including the forcing out or firing of certain employees, as a key facilitator of FIDESZ's agenda for the arts and cultural sector. Indeed, Orbán himself explicitly outlined the replacement of elites as one of his regime's specific goals: "The liberal elite can be replaced with a Christian democratic elite," he said in his 2018 speech at the 29th Bálványos Summer Open University and Student Camp after his reelection as Prime Minister.<sup>202</sup> Our interlocutors described how the regime supplanted cultural elites following FIDESZ's victory in 2010, often through abrupt replacement. "The people who were the leaders of [cultural institutions] were just kicked out and [the Orbán government] put their people in," explained the independent artist collective we spoke to. They explained that the government described this process as "centralizing" and gave the example of Székesfehérvár, a city in central Hungary, where this has happened: "There were five independent galleries or museums [there]. And they just overtook [all of] them with one chancellor from the MMA and put him in control. [...] All the galleries [in Székesfehérvár] were not independent anymore. And this chancellor decides what exhibitions should be there."

Another of our interlocutors, a high-level arts administrator whose contract was not renewed despite a superlative record, described the removal of employees considered to be in opposition to FIDESZ as a very slow but systematic process. They reported multiple instances in which a cultural worker was immediately removed, regardless of their professional merit, as soon as their contract expired. They also recounted how, when the contract for their position was up for renewal, there was a procedural call for applications: candidates were invited to apply and a jury of art critics was established to evaluate the competition; however, it was clear to them that someone loyal to FIDESZ had already been chosen and that they would have no chance of continuing in their position.

Arts universities in Hungary have also been impacted by the same restructuring and restaffing efforts. According to one of our interlocutors, professors who have been critical of the government or who have pushed for liberalizing reforms within the university have been particularly targeted by the government. This interlocutor, who taught university-level arts courses in Hungary, described being refused a position within the university despite being the only applicant and having the required excellent recommendations for the position from three professors. The artist attributed the decision, made by a hiring committee consisting of "many supporters of the MMA," to his political activities, including attempts at organizing a faculty labor union and efforts at implementing reforms within the university, such as gender inclusivity. "When you have one [job] applicant that is fully supported by their recommenders, and then they don't get hired," he said, "then something's wrong." He also emphasized that censorship is prevalent in academia, pointing to a law that prohibits employees at state institutions from making public statements without their supervisors' approval. "I cannot [make] any public statements about my university," he said, "unless I agree with my bosses. You're just not allowed to say whatever you want to say." Another of our interlocutors, an independent curator, who described themselves as being "out of the system," and a *persona non grata*, explained that they are "not allowed to teach in Hungary" and are therefore teaching online at a university outside of Hungary.

The systematic way in which the government replaced museum directors, curators, arts instructors, and other cultural producers throughout cities and towns in Hungary was a type of 'retribution' exacted by artists with ties to FIDESZ who had felt shunned when the center-left and Socialist coalitions were in power, our interlocutors said. The artistic collective we spoke with felt that this group of people had been previously rejected by the contemporary art scene because of what the collective described as their "Conservative, nationalist and Christian-based ideology [and] what they try to communicate about our 'great national past.'" When Orbán was elected, they felt vindicated and triumphant. "Many artists who felt somehow oppressed or not accepted [during the pre-Orbán years], were just flocking into [the MMA]," the independent editor explained. "There was this feeling of, 'Okay, now it's our turn and we're going to take revenge on that oppression that we felt under this liberal left wing [leadership].'"

Under FIDESZ's administration, these voices are now centered as prolific producers of Hungarian art and culture, effectively rewriting the cultural canon to showcase individuals, symbols, and themes that align with the beliefs of FIDESZ.

Our interlocutors characterized the above processes as a form of soft, gradual censorship that ingrained itself into the arts and cultural sector to a point that government intervention was no longer needed. In their view, increased government oversight and control of the arts and cultural sector allowed FIDESZ to filter out non-government approved artists from the Hungarian mainstream. The independent editor said,

**“If you don’t find an exhibition space for [your work] with institutional backing or connections, if you don’t have access to the media, that automatically creates a situation where there is less [...] space for you as an artist and [...] you can just stay in your little bubble. The government allows these bubbles to exist because they know that if you don’t find the funding, if you don’t find spaces, if you don’t have institutions, the rest will automatically happen, and you will be silenced in the end.”**

#### **Ethical Dilemmas Facing Artists and Cultural Producers under FIDESZ**

For many of the cultural producers with whom we spoke, accepting government funding in Hungary's current political climate also presents an existential dilemma. A substantial private investment network never emerged in the wake of communism in Hungary, thus the arts and cultural community has historically been dependent on government funding. As a result, cultural workers have few options to meet their financial needs and are beholden to the government for support.<sup>203</sup> As such, it is common for Hungarian artists to contemplate compromising their artistic integrity in order to survive professionally.

For many of our interlocutors, applying for and accepting government funding would be a betrayal of their values. They explained that doing so would be, in some ways, a validation of FIDESZ's changes to the arts and cultural sector which they are funda-

mentally opposed to. They also expressed a belief that, because funding may only be received for projects that are uncritical of the government, any successful funding application would necessarily represent acceptance of their own self-censorship.

A curator we interviewed described the “moral dilemma” of deciding whether to apply for government funding or participate in Government funded events: “It really became an issue for the artist even to accept an invitation to be part of an exhibition in a publicly funded institution which is supported [by the] MMA,” they explained. However, they also noted how refusal to participate has led to marginalization and even professional obsolescence for some of their colleagues. They articulated how this gradual exclusion is made even more bitter with the knowledge that these institutions are maintained with their own taxpayer money. If an artist chooses to boycott public institutions in this way, they may be unable to benefit from vital public resources to which they contribute with their tax money. As one interlocutor elaborated, “[t]his is [...] an existential question for artists. Especially in the case of Hungary, [where] there is no private market and there are no private institutions, so there is no independent scene, and everyone is depending on public funding.”

For many of our interlocutors, the question of self-censoring their work in order to support themselves economically has been tormenting. The artistic collective explained, “The market itself is so weak in Hungary that [artists] cannot survive just by selling artwork to collectors.” Economic precarity, one independent artist explained, is intensely exacerbated for all cultural producers who oppose the Orbán regime: “whether you can apply for support for your work or not, and if you decide to apply whether you get it or not, whether you can get a certain job or not, or commissions,” is entirely dependent upon one's relationship to the regime. Another interlocutor expressed that there are “endless ways to make your life [...] easier, if you are on the side [of the regime],” but positioning oneself against the regime can make one's career “harder or [even] impossible.” Many of our interlocutors described a culture of self-censorship prompted by the fear of not being able to survive financially without ties to public funding or institutions.

Another artist, who expressed that they would refuse to exhibit at a state institution if invited, explained that while they never faced explicit

*“We do not apply for state jobs;  
we do not apply for any funding or  
state [support]; so, we cannot be  
rejected or kicked out from  
anywhere, because  
we are nowhere.”*

– artistic collective,

Hungary

resistance or challenges to their work, they sense that the risk of their artwork being removed from exhibitions increases the longer FIDESZ remains in power. “Previously I was able to exhibit anywhere, and there were no ‘no-go’ zones,” they shared, “and now there are.” “Unfortunately, this means that I exercise a level of self-restriction, obviously.” This self-restriction is also present, they explained, because “artists who thematize political or social issues—not necessarily as activists but as artists—[are] considered to be participants or players in the political field, which mean[s] that they become targets of political threats.” “It’s obvious,” they continued, “that an artist wouldn’t have the same protections or privileges as an elected politician, but s/he would still be drawn into a political fight and would become an easy target. And the cynical response from the government is, basically, that an artist shouldn’t talk about politics if they don’t want to fight.” Personal loyalty to FIDESZ, they explained, is “the real criterion” for museum directors at state institutions when deciding whose artwork to exhibit.

Another independent curator described the same phenomenon, stating their opinion that the MMA was an unprofessional institution where “political judgement decides who is an artist and who is a good artist enough to be part of the academy.” They said, “The only [requirement] of the MMA [is] loyalty.” Even those who “try to fly under the radar,” and pursue the few commercial and private options available to them inevitably face FIDESZ control because of ties between the party and the private sector. “That’s also no way to escape.”

Young artists in Hungary, according to one of our interlocutors, bear the heaviest burden when it comes to questions of artistic integrity and survival. Because their careers are not yet established, refusal to gain recognition through the Hungarian mainstream may not only be financially challenging, but could also result in their inability to pursue a career in the arts in Hungary at all. Emerging artists, another interviewee told us, are often forced to make compromises in their professional choices—in their artistic methods, thematic or ideological exploration, and modes of presentation—to apply for state funding. They described these compromises as “very difficult [for the young artists] to handle.” This interlocutor, an older artist with an established career and stable income, described their feelings of uncertainty about how to advise young artists trying to survive professionally and financially in

Hungary whilst maintaining their artistic integrity. “There were many young students around me who were telling me, ‘the new establishment [MMA] started to promote some opportunities for young artists.’ And they were asking me whether to apply or not because it’s problematic.” They shared that they were ambivalent about their advice; they ultimately encouraged the students to apply unless they either had the means to support themselves through the early stages of their career or could work internationally. They said that they felt it would be irresponsible, in a sense, to advise them otherwise.

For some, financial and other pressures have led to the decision to operate within FIDESZ’s new structure. Many of the cultural producers who actively opposed the MMA’s agenda through the Free Artists movement of 2012-2015 eventually became discouraged after years of unsuccessful activism, our interlocutor said. Some artists and activists, they informed us, feel economically compelled to work with the very institutions they had previously been protesting against. “They might have decided that their life should go on,” our interlocutors mused, describing the eventual submission of their previous comrades as the result of a “very deceptive process of normalization.”

### Emigration of Hungarian Artists and Cultural Producers

The limited options available to artists and cultural producers in Hungary, especially those openly critical of Orbán, has caused and continues to cause them to leave Hungary, many settling in Berlin. The Hungarian Network of Academics (*Oktatói Hálózat*) detailed in its 2020 report, *Hungary Turns Its Back on Europe: Dismantling Culture, Education, Science and the Media in Hungary 2010-2019*, that “excellent artists are forced to leave Hungary to work freely and make a living, because in Hungary they are regarded as enemies due to their political beliefs, thus they do not receive job invitations or commissions either in the public or in the private sector.”<sup>204</sup> Our interlocutors explained that many of the artists and cultural workers who left were “mostly those people who just couldn’t make those compromises which you need to make if you want to stay [in Hungary].” For those artists, the marginalization inflicted by the MMA and other major cultural institutions, along with the precarity of regularly securing international grants and residencies, has resulted in a creative scene that is too heavily restricted for them to operate within. Many of

our interlocutors felt that the options available to these artists were too limited by the environment in Hungary and that they had no choice but to leave if they wanted to gain professional success. Another of our artist interviewees further explained that many of their close colleagues had left the country because they felt that they could not make the necessary compromises - artistically, economically, and politically - to stay relevant in the arts scene in Hungary today.

### Alternatives and Resistance

*“We do not apply for state jobs; we do not apply for any funding or state [support]; so, we cannot be rejected or kicked out from anywhere, because we are nowhere.”* – artistic collective, Hungary

For artists who choose to stay and work in Hungary, the creation and nurturing of alternatives to the mainstream—including mediums, spaces for exhibiting and interaction, professional networks, and more—are crucial methods of resistance or self-expression. Some of our Hungarian interlocutors used vivid spatial metaphors, such as “out of the system” and “being nowhere,” to describe how they see themselves in Hungary’s arts and cultural sphere. Though these analogies describe their feelings of exclusion, they are also used to articulate new forms of creating and being that these ostracized artists have constructed as necessary alternatives.

Some of the artists and curators we interviewed who boycotted MMA-funded institutions have turned to unconventional spaces for their exhibitions and installations. The artistic collective we interviewed recently themed an exhibition around “going underground.” They explained, “we think that it’s almost the only way possible to exist.” For them, existing “underground” includes a new configuration of the creative imagination, one which is communal and internationalist.

They described their practice as working under the framework of Hungarofuturism, a movement that, according to its manifesto, “aims to oppose the notions of an ethnic, biopolitical, and racial essentialism of Hungarianness as promoted by the far-right government of Viktor Orbán.”<sup>205</sup> It defines itself as “an alternative concept of what it means to be Hungarian, namely the discovery of post-Hungarianism.”<sup>206</sup> The aim of Hungarofuturism, as proclaimed in the manifesto, is “the transformation of imagination in

both a spatial and a temporal sense,” away from nationalist ideology and historical myths and towards a rebuilding of “progressive forms of thinking Hungarianness.”<sup>207</sup> It promotes free expression, openness, and the promise of autonomy. “There are really good thinkers behind [Hungarofuturism],” the artistic collective told us. “They are not centralized, so anybody can join. And there is no censorship [...] it’s an open-source thing [...] it’s international [...] you can be a Hungarofuturist if you are from Brazil, or anywhere. And somehow it gives relief, of not taking everything so dramatically, seriously and tragically.”

They also discussed the techno scene in Hungary. In particular, the culture incubator project, “Technologie und das Unheimliche,” an offshoot of Hungarofuturism that describes itself as a “Berlin-Budapest-Elsewhere based publishing project and cross-disciplinary movement [that] aims to circuit the cultural phenomena resulting from the confrontation between the *conditio humana* and technology.”<sup>208</sup> Illegal techno raves, the artistic collective said, are a practice of resistance and political protest embodied in a different form than street protests and marches. This alternative form may also be a response to what they see as the impotence of traditional forms of political expression. “People always went to protest,” they said, “but somehow it lost its value, because after the protest, nothing changed. The people in this techno scene will not go to these protests. But just how they exist is like a protest because they are working through trauma, frustration [...] they dance with it.”

Several of the interviewees also described the OFF-Biennale, launched in 2014 by a small group of artists and arts professionals, as one of the few openings for independent cultural producers in an otherwise increasingly bleak, “desertified” cultural landscape. It was described as an exception to what some interlocutors called the “impotent” environment for the arts and for protest; an antidote to an atmosphere otherwise marked by limited financial and intellectual support for creative expression. An independent curator who created a rare space for the distribution of books about art, culture and international social justice issues, celebrated the OFF-Biennale as the first major protest movement by the art world against the 2011 establishment of the MMA and the ensuing legal, socio-political and ideological shifts in Hungary. Another artist we interviewed called it “an incubator for projects [...] a community.”

“People always went to protest, but somehow it lost its value, because after the protest, nothing changed. The people in this techno scene will not go to these protests.

But just how they exist is like a protest because they are working through trauma, frustration [...]

they dance

with it.”

– artistic collective,

Hungary

Alternative forms of protest have also arisen as an important mode of resistance for Hungarian artists. In particular, the protests of summer 2020 against the privatization of Budapest's University of the Arts and Theatre (SZFE) by a foundation funded by FIDESZ. This prompted the Free SZFE movement, which captured public attention for both its creative nature and moving message. One of our interlocutors, an editor, spoke about the importance of "Emergency Exit," a project formed as part of the protest movement. Through this project, faculties participating in the protest negotiated for 150-200 students to "exit" the SZFE and continue their studies under the auspices of foreign universities. The SZFE professors continued to teach the students, donating their teaching as part of the resistance movement.<sup>209</sup> Our interlocutor imagines the liberatory potential scope for such "exits" in other spheres across the country:

**"You don't want to play that role and you just stand up and walk away. This is something new and [...] I see it as a game-changer. If we are able to imagine these kinds of emergency exits and if we can find institutional partners outside of the country, or even imagine translocal or transnational institutions that can protect these [exiting] groups in certain countries, that's something new! [...] They could walk away and find a door that is leading elsewhere [...] That is excellent."**

### **Artists' Perspectives on the Future of Hungarian Arts and Culture**

All of our interlocutors described the sublimation of cultural policy to a nationalistic political agenda that squelches the possibility for the professional, financial, and personal survival of cultural producers who remain fully independent of state funding or validation. As one of our interviewees expressed, "Hungary is a small country with a small cultural scene and cultural production," and "given the incredible advantage that the FIDESZ party got in 2010, by getting this two thirds majority in the parliament...it has been very easy to take over practically everything." Every institution, they said, "has been transformed to serve the needs of the current cultural policy." This totalizing and centralizing process has left many former cultural producers dejected and concerned that in this "desertified" environment, younger creative professionals may look to different fields or be pushed to pursue their careers abroad. "This is really a crisis in the reproduction of an artistic generation," one of our interlocutors said, reiterating what many other interviewees expressed. "That's the most tragic consequence of all of this: how to keep the inspirational ambience [and] the spiritual, artistic climate [alive] if all the big institutions are irrelevant, if there isn't money in the non-profit scene, if there is no support for grassroots initiatives."

Many Hungarian artists and cultural producers persist in their struggles to resist government discrimination, maintain professional integrity, and enjoy meaningful creative autonomy. While their commitment to creating and nurturing alternatives to the 'desertified' arts and cultural scene is a cause for hope and inspiration, it comes at a personal cost.

A large, stylized graphic of the year 2014 is centered on the page. The number is rendered in a dark blue, almost black, color. The '0' is a simple circle, the '1' is a vertical bar, the '4' has a thick, slanted top bar, and the '4' has a thick, vertical stem. The text is placed within white rectangular boxes that are part of the graphic's structure.

**The right to freedom**

**of artistic expression**

**in Hungary**

# Legal Frameworks

So far, this report has documented the domestic legal changes,<sup>210</sup> public resource adjustments,<sup>211</sup> and media consolidation<sup>212</sup> which have drastically altered the arts and cultural scene in Hungary. It has also detailed the effect these alterations have had on the lived experiences of artists.

This section assesses these phenomena in terms of the right to freedom of artistic expression. First, it identifies Hungary's legal obligations in relation to the protection of artistic freedom at the international, regional, and national level. Next, it analyzes the recent behavior of FIDESZ, noting occasions where the government's actions have fallen short of the legal standards to which it has committed itself.

## Freedom of Artistic Expression: International, Regional and Domestic Obligations

International and regional declarations, treaties, and conventions—beginning with the Universal Declaration of Human Rights (UDHR) in 1948—have established freedom of artistic expression and the right to culture as fundamental human rights. States such as Hungary, which are party to the key instruments detailed below, must respect the freedom of expression of artists and take positive steps to facilitate the public's participation in artistic and cultural life. National obligations to protect artistic freedom also flow from Hungary's constitution.

### International Treaties and Conventions Governing Artistic Expression

#### *International Covenant on Civil and Political Rights (ICCPR)*

The ICCPR protects a broad range of civil and political rights, including freedom of opinion and expression. Hungary is legally bound by the convention, having ratified it in 1974.<sup>213</sup> Article 19 of the ICCPR specifically guarantees freedom of expression, and sets forth permissible limitations to this right:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of this choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others;
  - (b) For the protection of national security or of public order (*ordre public*), or of public health or morals.<sup>214</sup>

The UN Committee on Civil and Political Rights (CCPR) has confirmed that Article 19 § 2 of the

ICCPR protects “cultural and artistic expression” and forms of “non-verbal expression,” as well as the right to access art.<sup>215</sup>

*International Covenant on Economic, Social and Cultural Rights (ICESCR)*<sup>216</sup>

The ICESCR protects socio-economic and cultural rights, complementing the civil and political protections of the ICCPR. Hungary has been legally bound by the ICESCR since it was ratified in 1974.<sup>217</sup> An important aspect of artistic freedom is guaranteed in Article 15:

1. The States Parties to the present Covenant recognize the right of everyone:

- (a) To take part in cultural life;
- (b) To enjoy the benefits of scientific progress and its applications;
- (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.<sup>218</sup>

The Committee on Economic, Social and Cultural Rights (CESCR) has defined culture as encompassing, “ways of life, language, oral and written literature, music and song, non-verbal communication, [...] the arts, customs and traditions.”<sup>219</sup>

*UNESCO Instruments on Artistic and Cultural Freedom*

Conventions developed by the United Nations Educational, Scientific and Cultural Organization

(UNESCO) have strengthened and reinforced the right to artistic and creative expression. Hungary is a party to UNESCO’s *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*, which outlines the manner in which artists, cultural professionals, practitioners, and citizens should be allowed to produce, create, disseminate and enjoy a broad range of cultural goods, services and activities.<sup>220</sup> It encourages governments, non-profit organizations, and public and private institutions to nurture artists to develop and promote the free exchange and circulation of ideas.<sup>221</sup>

UNESCO’s *Recommendation Concerning the Status of the Artist to Recognize and Strengthen the Role of the “Creative Worker”*<sup>222</sup> calls upon member states to implement policies that promote the education, social security, employment, income and tax conditions, mobility, and free expression of artists.<sup>223</sup> While the recommendation is not legally binding on states, it reconceptualizes artistic freedom to account for the central role of artists in creating diverse cultural expressions; as such it is a useful framework for the interpretation of other, binding instruments.

**Regional Treaties, Conventions, and Mechanisms of Enforcement**

*The European Convention on Human Rights*

Forty-seven European states are bound by the European Convention on Human Rights (ECHR), including Hungary, which ratified the Convention in 2008.<sup>224</sup> The ECHR guarantees essential civil and political rights. Article 10 of the Convention protects freedom of expression, while also setting out limitations to the scope of the right:

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers [...]

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights

of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

European Court of Human Rights (ECtHR) jurisprudence has made clear that artistic acts are also protected under Article 10.<sup>225</sup> In cases of State interference with the right to free expression, the ECtHR employs a three-part test to ascertain the lawfulness of the restriction. First, as per Article 10 § 2 of the Convention, the interference in question must be “prescribed by law,” requiring the act restricting free expression to have “some basis in domestic law.”<sup>226</sup> Second, a restriction on free expression must be in pursuit of one of the legitimate aims enumerated in Article 10 § 2 of the Convention. Third, the interference must be shown to be “necessary in a democratic society,” which can be demonstrated if it responds to a “pressing social need” and is “proportionate to the legitimate aim pursued.”<sup>227</sup> While states are typically afforded a “margin of appreciation” in determining the proportionality of a restriction and the existence of a pressing social need, where freedom of expression is at stake this margin of appreciation is limited.<sup>228</sup>

#### *Charter of Fundamental Rights and the Court of Justice of the European Union*

As a member of the EU, Hungary is legally bound by its obligations and subject to its enforcement mechanisms. The EU first adopted the Charter of Fundamental Rights of the European Union (CFR) in 2000, and the document became legally binding for member states in 2009.<sup>229</sup> The CFR provides for freedom of expression and information in Article 11:

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.
2. The freedom and pluralism of the media shall be respected.<sup>230</sup>

Article 13 of the CFR, “Freedom Of The Arts And Sciences,” makes specific reference to artistic freedom: The arts and scientific research shall be free of constraint.<sup>231</sup> While Article 13 is worded broadly, the rights contained therein are “deduced primarily from the right to freedom of thought and expression.”<sup>232</sup> Limitations on the right to free expression

under the CFR cannot exceed the scope of Article 10 § 2 of the ECHR.<sup>233</sup> Violations of the Charter of Fundamental Rights by EU member states such as Hungary are adjudicated by the Court of Justice of the European Union (CJEU) following a pre-litigation phase known as infringement proceedings.

#### **National Instruments**

##### *Hungarian National Constitution*

The recently adopted Hungarian Constitution of 2011 explicitly recognizes the right to free expression and cultural participation:

- Article 9 establishes the right to free speech and guarantees the freedom to disseminate information through any legal means of communication.<sup>234</sup> The state has a duty to ensure that the preconditions necessary for free communication, including freedom and diversity of the press, are present in the country.<sup>235</sup>
- Article 10 of the Hungarian Constitution obligates the Hungarian state to ensure the freedom of artistic creation, education, and scientific discovery.<sup>236</sup>

The rights and protections listed in the document reflect the country’s commitments to international human rights frameworks, as elaborated throughout this section.

# Hungary's Violations of its Legal Obligations

Understanding the legal frameworks which bind Hungary at the international, regional, and national level is critically important as it illustrates that—in addition to being morally, culturally, and politically dangerous—recent actions taken by the Hungarian government to restrict artistic expression are legally questionable, at best, and violative of international human rights law, at worst.

## Violations of Freedom of Expression

In the last decade, Hungary has enacted several laws restricting artistic expression, some directly and others indirectly. Taken together, all have created an environment that is hostile to free artistic production. Further, given the civil and political nature of the violations, each of the following legislative acts potentially gives rise to challenges before the European Court of Human Rights and/or the EU Court of Justice:

### (1) The Media and Press Acts

The Media and Press Acts' content-based restrictions on the media—and actions taken pursuant to those provisions—can be seen to run afoul of Article 19 of the ICCPR, Article 10 of the ECHR and Article 11 of the CFR. Due to the vague wording of the Acts, media outlets cannot conform their conduct to the laws, leaving Hungarian authorities (including the Media Council) with unconstrained discretion to define the laws as they so choose. Indeed, the Media and Press Acts are replete with vague and overbroad language:

- Article 16 of the Press Act: “Media contents shall *not violate the constitutional order*;”
- Article 20 of the Press Act: “No such commercial communication can be presented in media content that *offends religious or ideological convictions*;”
- Article 4 of the Press Act: “freedom of the press may not constitute or encourage any acts of crime, *violate public morals*;”
- Article 17(2) of the Press Act: “The media content *may not be aimed for the dissociation of any peoples, nations, national, ethnic, linguistic, and other minorities, or any majority or religious community*;”
- Article 14 of the Media Act: “The viewers or listeners shall be given a forewarning prior to the broadcasting of any image or sound effects in media services that may *hurt a person's religious, faith-related or other ideological convictions*;”

- Article 24(1)(a) of the Media Act: “The commercial communication broadcasted in the media service [...] may not *violate the dignity of a national symbol or a religious conviction*.”

It is arguable that the overbreadth of the Media and Press Acts is violative of the requirement under Article 19, Section 3 of the ICCPR and Article 10, Section 2 of the ECHR, which provide that any interference with freedom of expression should be prescribed by law.

Further, Articles 124 to 129 of the Media Act oversaw the creation of the Media Council, the principal body in charge of regulating Hungary's media. Under the law, the President and four members of the Media Council are directly elected by Hungary's parliament.<sup>237</sup> The political nature of the Media Council manifested itself in its decision to force the independent radio station Klubrádió off the airwaves. In June 2021, the European Commission launched infringement proceedings against Hungary over the rejection of Klubrádió's application to reinstate its radio frequency. The commission stated its belief that, “the decisions of the Hungarian Media Council to refuse renewal of Klubrádió's rights were disproportionate and non-transparent and thus in breach of EU law.”<sup>238</sup> At the time of writing, the judicial proceedings have yet to begin.

### (2) The Anti-LGBTQ+ Law

Hungary's recently passed “anti-LGBTQ+ law” also appears to be a violation of Article 10 of the Convention. In the matter of *Bayev and Others v. Russia*, the ECtHR had occasion to rule on a case arising from Russia's “anti-gay propaganda law,” which is startlingly similar in scope to Hungary's legislation. The Court found that Russia's stated aim of curbing the promotion of homosexuality could not be justified under the enumerated legitimate aims—including public health and morals—articulated in Article 10 § 2 of the Convention.<sup>239</sup> Similarly, Hungary's public justification for the law has ranged from the “right to protect its ‘culture, national identity and the family values rooted in them’” to a generalized desire to safeguard the morals of minors.<sup>240</sup> It is important to note that “family values” are not one of the enumerated legitimate aims in Article 10 § 2 and the Hungarian authorities would be hard-pressed to demonstrate how a law limiting the depiction of LGBTQ+ relationships to minors advances the protection of their morals. The “anti-LGBTQ+ law” can also be seen to violate Article 19 of the ICCPR and

Article 15 of the ICESCR, the latter of which establishes the right of minors to take part in cultural life.<sup>241</sup>

Actions taken pursuant to this law also appear to be a violation of a requirement under Article 10 § 2 of the Convention, which states that interferences into freedom of expression be proportionate to the aim pursued. The recent fine against the bookshop chain *Líra Könyv* for failing to place a warning label on “Wonderland is for Everyone,” cited above, is precisely the sort of disproportionate interference into free expression that Article 10 of the Convention is meant to guard against.

In July 2021, the European Commission commenced a legal action against Hungary for its discriminatory law, issuing a Letter of Formal Notice and subsequently publishing a Reasoned Opinion in December 2021. At the time of writing, the Hungarian government has responded to the EU’s notice within the requisite 2-month period, but if the Commission finds the response to be inadequate, they may refer the case to the CJEU.

### (3) Hungary’s Existing Defamation Law

Criminal prosecutions made under the cloak of protecting reputational rights constitute a disproportionate interference with creative expression. While the ECtHR has not found criminal defamation statutes to be violative of Article 10 of the Convention *per se*, it has generally found criminal defamation prosecutions to be a disproportionate interference with freedom of expression, particularly where custodial sentences or exorbitant fines were imposed.<sup>242</sup> In Hungary, criminal defamation statutes have been used to sanction a wide variety of expressions. In one case, journalist Péter Uj was convicted of criminal defamation after he penned a satirical article, mocking the quality of a state-produced Hungarian wine.<sup>243</sup> The judgment was upheld by the Hungarian Supreme Court.<sup>244</sup> However, the ECtHR found that the “publication in question constituted a satirical denouncement” of the corporation and the restriction on Mr. Uj’s right to free expression was wholly disproportionate to the stated aim of protecting a state corporation’s reputational rights.<sup>245</sup> More recently, in June 2018, the mayor of Ajka, a city located in the center of Hungary, instituted criminal defamation proceedings against a satirist who wrote a critical article about him.<sup>246</sup> While many of these cases do not reach an advanced stage of litigation, even their moderate use is sufficient to chill acts of creative expression. The

CCPR has also made clear that defamation laws should be crafted with care to ensure that they do not serve, in practice, to stifle freedom of expression.

### (4) Hungary’s Proposed NGO Law

As previously mentioned, the CJEU recently found Hungary’s “Lex NGO” to be in breach of EU law. While the Hungarian Parliament has introduced a replacement bill, the draft legislation raises several concerns. First, the new law mandates Hungary’s State Audit Office to issue reports on the finances of NGOs which “influence the public” and have budgets exceeding roughly 55,000 Euros.<sup>247</sup> As such, the law appears to effectively empower the overtly ideological FIDESZ party to interfere in the functioning of NGOs expressing any political view.<sup>248</sup> Second, the law is discriminatory in that it exempts religious, sports and national minority non-profits from its regulations.<sup>249</sup> Given FIDESZ’s prior efforts to control the non-profit sector, it is feared that the proposed legislation will provide a renewed impetus to interfere with the functioning of NGOs; consequently, the employment of this law should be monitored by advocacy and human rights groups.

## Violations of Academic Freedom

There are several recent actions noted above that infringe on academic freedom, particularly as it relates to arts education, namely (1) the Hungarian Parliament’s legal transfer of ownership of the state-run SZFE to a private foundation; (2) the stripping of SZFE’s right to decide on budgetary, organizational, and personnel issues; and (3) the most recent legislation transferring all control of all public arts education institutions to private foundations, with oversight boards appointed by FIDESZ.<sup>250</sup> The CCPR, EU and Council of Europe all view academic freedom within the framework of freedom of expression, as set forth in Article 19 ICCPR, Article 10 ECHR and Article 11 CFR respectively. As of yet, there have not been specific reports of artists or institutions being limited in their rights to freedom of speech or creative expression. However, given FIDESZ’s newly gained control over these institutions and their overt intentions to transform the arts and cultural sector, any

changes to arts pedagogy should be monitored.

Article 10 § 3 of Hungary's Constitution offers more specific protections on academic freedom and in pertinent part reads "all institutions of higher education shall be autonomous in terms of the contents and methodology of research and teaching."<sup>251</sup>

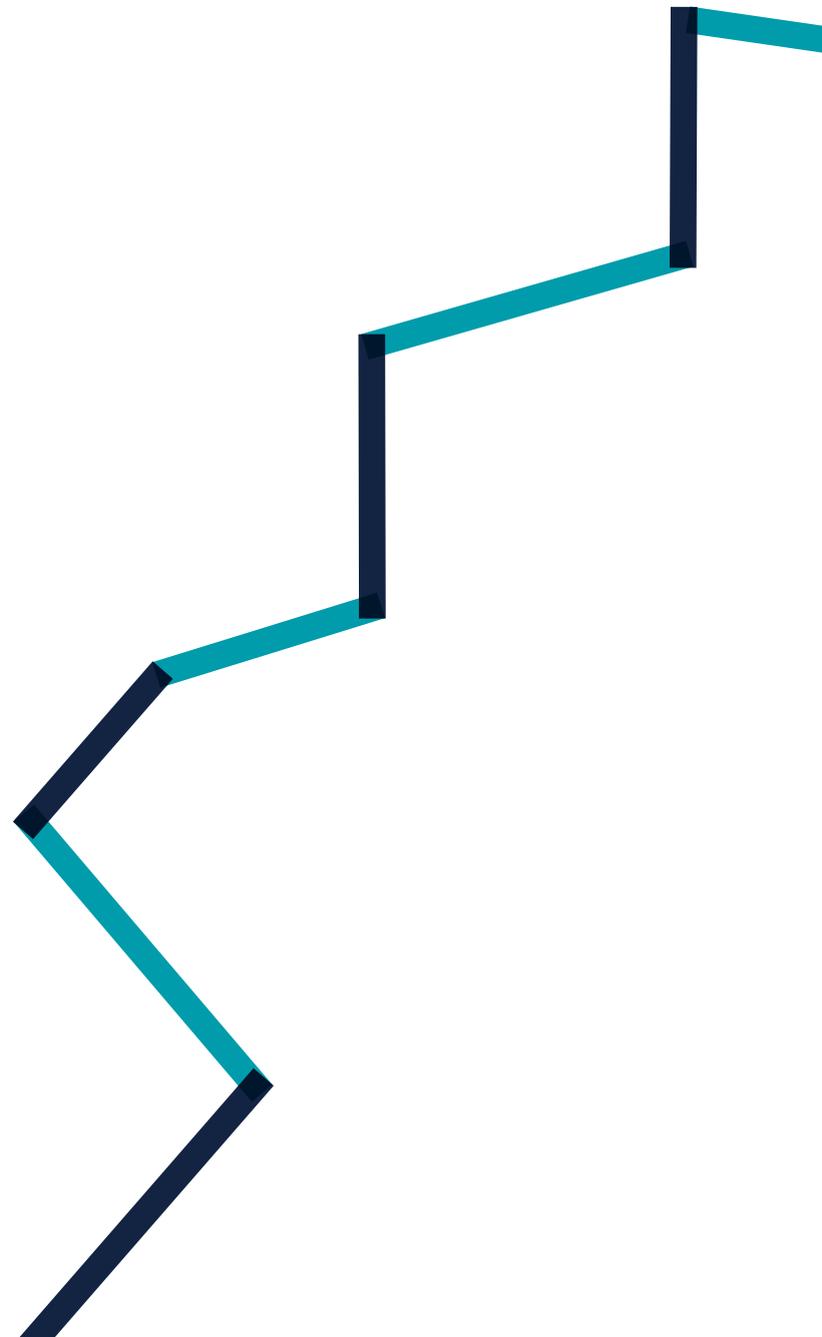
Thus, FIDESZ's centralization of budgetary, organizational, and personnel control of arts institutions could be seen to violate Hungary's own constitutional protections on academic freedom.

## Violations of the Social and Economic Rights of Artists and the Right to Take Part in Cultural Life

Through creating bureaucratic state structures and foundations that lack transparency, FIDESZ has been able to suppress pluralistic artistic expression and exercise control over artistic production in a manner that violates the social and economic rights of artists, as well as the individual right to take part in a robust cultural life. Most directly, the discriminatory funding schemes resulting from the Orbán government's consolidated control over Hungary's arts institutions contravenes their binding obligations under Article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 15 § 2 provides that the "steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture."<sup>252</sup> The positive obligations contained in Article 15 of the ICESCR must also be read in conjunction with Article 2, which stipulates that covenant rights must be guaranteed "without discrimination of any kind as to... political or other opinions."<sup>253</sup>

In creating an artistic environment that favors a singular, nationalist, and party-approved perspective, Hungary is violating its treaty obligations under the ICESCR. In overseeing opportunities which are ostensibly open to all but discriminatory in practice including, funding, awards, and appointments to

arts and cultural institutions, FIDESZ has failed to discharge its obligations under the ICESCR. While state parties to the ICESCR are not obliged to immediately guarantee all covenant rights but rather to "take steps" towards their progressive realization, Hungary cannot rely on this provision to defend its existing discriminatory practices vis-à-vis the arts.<sup>254</sup> The Committee on Social and Economic Rights (CESCR) has noted that non-discrimination in the guarantee of covenant rights is an immediate obligation for state parties.<sup>255</sup> Instead of taking steps towards the realization of this obligation, Hungary seems to be stepping away from a non-discriminatory, pluralistic cultural life.



The image features a large, dark blue, stylized number '35' centered on a teal background. The number is composed of thick, rounded strokes. Overlaid on the number are two white rectangular boxes with dark blue borders. The first box, positioned on the left side of the '3', contains the word 'Policy' in a bold, dark blue, sans-serif font. The second box, positioned horizontally across the middle of the '5', contains the word 'recommendations' in a bold, dark blue, sans-serif font.

**Policy**

**recommendations**

# Policy Recommendations

Freedom of artistic expression is an indispensable democratic value that allows creative, uninhibited and pluralistic cultural scenes and industries to thrive and create equally diverse and curious audiences. However, Hungary's recent restrictions on artistic freedom have fractured creative communities, frayed at artists' rights, and limited the public's access to robust and diverse cultural productions. It is the positive obligation of regnant political and cultural institutions, legislators, as well as the general leadership of the cultural scene, to realize a sustainable environment for artists to freely exercise their creative rights and endeavours.

The following legal and policy recommendations reflect on FIDESZ's recent acts of creative suppression, take into account the structural interdependencies of the Hungarian cultural scene, and are designed to assist stakeholders in the field, working to repair Hungary's arts and cultural sector.

## Recommendations to the Hungarian Government, Parliament and Related Institutions:

1. Affirm Hungary's commitment to fostering an **enabling environment** for vibrant, diverse, independent and critical arts and media sectors.
2. Ensure that the **rights of all artists and arts organizations are promoted, respected and protected**. Artists should be free from intimidation and threats and any violations should be investigated independently.
3. Ensure that **legislation and state practices are in compliance with Hungary's international and regional obligations**, in particular the CFR and the ECHR. This should include, but not be limited to, repealing the "anti-LGBTQ+ law."<sup>256</sup>
4. Institute legislative and policy changes to **ensure independent management** of arts, cultural and academic institutions. This should include, but not be limited to:
  - a. Ensure that **cultural institutions and universities are independent bodies** and separated from FIDESZ-controlled foundations;



## Recommendations to the European Institutions, Council of Europe, United Nations and Other National and Regional Bodies:

1. Maintain pressure on Hungary to bring the **Constitution and other legislation and practice into compliance with its international and regional obligations**, in particular the CFR and the ECHR.
2. **Stand-up for artists and arts organizations** through political support, public statements, solidarity and other action.
  - a. Continue to **raise attention in the European and other parliaments** including through monitoring missions, reports and resolutions; and
  - b. **Provide ongoing platforms and possibilities for exchange** between Hungarian arts organizations and their peers and counterparts internationally and across the region; offer further support for cross-sectoral exchange and collaborations—for example with journalists, NGOs and lawyers.
3. **Investigate Hungary's use of EU and other funding** and ensure that its use complies with EU law and international and regional human rights standards. Where there are structural deficiencies in the respect for the rule of law, enable the full use of EU instruments including the new EU Rule of Law conditionality mechanism and provisions included in other funding regulations. Ensure similar monitoring and action regarding the use of other international and regional funds.
4. Make available **funding for independent arts, academic and cultural organizations**, in particular, organizations working with and led by under-represented communities, minorities and disadvantaged groups.
  - a. Guarantee that scholarships, fellowships and exchange programs are available to artists and academics at risk.

5. **Provide funding for legal and advocacy organizations** to monitor artistic freedom and, where necessary, engage in international and regional advocacy and strategic litigation.
6. Periodically **review and take swift legal action** where legislative and policy reforms violate the rights of arts and cultural organizations. Specific steps should include, but not be limited to:
  - a. Continuing to utilize the Infringement Procedure to call into question the Hungarian Media Council's rejection of Klubrádió's application, including referral to the CJEU;
  - b. Continuing to employ the Infringement Procedure in relation to Hungary's anti-LGBTQ+ law and its incompatibility with EU media and discrimination law, including referral to the CJEU;<sup>257</sup>
  - c. Pursuing all other relevant legal action, including cases before the ECtHR, supported by amicus interventions; and
  - d. **Maintaining vigilance to ensure there are no undue restrictions on foreign funding** of organizations working in the arts and cultural field, despite the repeal of the 2017 law on the foreign funding of NGOs.
7. Recognizing the impact of violations against arts and cultural organizations on the overall respect for the rule of law, the European Council should **make concrete recommendations to Hungary under the ongoing Article 7 proceedings** and follow up with a timely assessment of implementation. This should include recommendations on the independence of media, arts and academic institutions.<sup>258</sup>
8. Hold Hungary to account to **implement the recommendations** in their recently conducted Universal Periodic Review (2021) and encourage Hungary to take action on the **concluding observations** from the Committee on the Rights of the Child (2020), Committee on the Elimination of Discrimination (2019) and Human Rights Committee (2018).<sup>259</sup>

**Safeguard media plurality**

**Implement independent**

**hiring processes**

**Ensure the availability**

**of subsidies/grants for**

**arts institutions**

**Stand-up for artists**

**and arts organizations**

# Conclusion

In this report, we have attempted to summarize key changes in Hungarian governance under FIDESZ that undermine or otherwise threaten the rights of the artist and the greater artistic community in Hungary. We outlined key legislative and constitutional changes that effectively embedded FIDESZ's oversight and influence in the operations of the arts and cultural sector. We highlighted how FIDESZ has embedded its presence in the sector through centralized control of arts and cultural institutions whilst simultaneously eroding the professional autonomies of these establishments. We also emphasized how efforts made by FIDESZ to undermine media autonomy have created a cultural echo chamber from which the voices of anti-regime artists are excluded.

AFI shares the concerns expressed by our interviewees regarding the sup-

pression of artistic expression in Hungary under FIDESZ. AFI supports the artists and artistic resistance movements highlighted herein. We stand by their calls to democratize the arts and cultural sector, to respect diverse narratives in the arts, and to foster societal values of inclusivity. In solidarity with them, and with the larger artistic community in Hungary, we call on the Hungarian government to take immediate action to safeguard and promote the right to free creative expression for all artists and cultural producers, regardless of their political beliefs, religion, race, sexual orientation or minority status.

Finally, this report has exposed violations of Hungary's commitments to international and EU human rights instruments. Rooted in this knowledge, we have published a list of key, actionable recommendations for the Hungarian government to remedy said violations and to revitalize the democratic processes that facilitate national arts and cultural production.

# Note of Thanks

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AFI would like to thank everyone that supported this report, most notably, the anonymous artists and cultural producers that spoke with us during the course of our research. Their contributions helped illuminate both the tangible and intangible impacts of artistic suppression on the Hungarian artistic community.

AFI would also like to thank the following individuals and institutions whose assistance helped mold our research into a first-of-its-kind human rights report: Elizabeth Grady, Kerstin McCourt, Emese Pásztor, Sarah Leah Whitson, Matthew Covey, Simon Dove, Philippe Dam, AFI's board of directors and advisory board members, the Hungarian Civil Liberties Union, Columbia Global Freedom of Expression, the Harriman Institute at Columbia University, and the UC Berkeley School of Law.

Finally, AFI would like to extend a special thanks to Drs. Dinesh and Savita Khosla and the SDK Foundation for Human Dignity who generously provided the funding for this report.

# Footnotes

- 1 The party was founded in 1988 under the name *Alliance of Young Democrats*. The party adopted its current name, Hungarian Civic Alliance, in 2003.
- 2 Anita Komuves, "To Viktor, the Spoils: How Orbán's Hungary Launched a Culture War from Within," *The Calvert Journal*, September 5, 2018. Accessed: December 1, 2021. <https://www.calvertjournal.com/articles/show/10626/orban-hungary-culture-war-budapest>
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- 4 John Shattuck, "Viktor Orbán's Rise and the Power of Nationalist Politics," *Pacific Standard*, Jan 14, 2019. Accessed: October 8, 2021. <https://psmag.com/social-justice/orbans-rise-to-power-is-a-product-of-nationalism>
- 5 A significant member of the majority coalition includes the Christian Democratic People's Party (KDNP).
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- 7 Ibid.
- 8 "Wrong Direction on Rights: Assessing the Impact of Hungary's New Constitution & Laws." Human Rights Watch, May 16, 2013. Accessed: October 8, 2021. <https://www.hrw.org/report/2013/05/16/wrong-direction-rights/assessing-impact-hungarys-new-constitution-and-laws>
- 9 Komuves, "To Viktor, the Spoils."
- 10 Gábor Halami, "Populism, Authoritarianism and Constitutionalism," *German Law Journal*, 20:03 (2019): 296 – 313.
- 11 Fundamental Law of Hungary, Accessed: January 14, 2022. <https://www.refworld.org/docid/53df98964.html>
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