



**Roberto Carlini**  
**Director**  
**Education, Audiovisual and Culture Executive Agency**  
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Avenue du Bourget, 1  
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September 20th, 2020

**Subject: New funding policy of Hungarian National Agency of Erasmus+ program disregards CJEU judgment on ‘foreign agents act’**

Dear Director Carlini,

It is with profound concern that we write to you about a case where the funding policy of a National Agency of an EU program goes against the decision of the Court of Justice of the EU (CJEU). Our organization, Az emberség erejével – Cum Virtute Humanitatis Alapítvány, is based in Pécs, Hungary, and has been one of many civil society organizations that have been denied EU funding precisely due to our insistence to observe EU law and authority of CJEU.

As you can maybe recall, in 2017, the Hungarian Parliament enacted Law No LXXVI of 2017 on the Transparency of Organisations which Receive Support from Abroad, a sweeping regulation that imposes obligations of registration, declaration and publication on certain categories of civil society organisations directly or indirectly receiving support from abroad exceeding a certain threshold and which provide for the possibility of applying penalties to organisations that do not comply with those obligations. This law did not spare those organizations either which received funds from EU sources, requiring such organizations to register upon receipt of a certain threshold of EU funding as “foreign agents”. On June 18th, 2020, however, in Case C-78/18, the CJEU found that by enacting the aforementioned regulations, Hungary has introduced discriminatory and unjustified restrictions on foreign donations to civil society organisations, in breach of its obligations under Article 63 TFEU and Articles 7, 8 and 12 of the Charter of Fundamental Rights of the European Union.

However, while the CJEU has already ruled on the unlawfulness of said regulation, this means that the Parliament has to take steps to repeal the legislation that violates EU law, Tempus Közalapítvány - Hungarian National Agency of the Erasmus+ Program - installed a new measure in their funding process which is an obligatory statement about the registration as Organisations which Receive Support from Abroad.

On 3rd May 2020, our organization submitted an application for grants under the “Erasmus+” application scheme. Tempus Közalapítvány, a foundation registered in Hungary, is responsible for the management and distribution of these grants. We were dismayed to receive an e-mail from Tempus Közalapítvány on 24th August 2020, which not only happily informed us that our application, upon evaluation, reached the grant eligibility threshold, but also requested us to declare that we fully comply with the provisions of Law No LXXVI of 2017 on the Transparency of Organisations which receive Support from Abroad, warning us that such declaration was a necessary condition for receiving the grant we applied for.



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In response to this request, our organization respectfully informed Tempus Közalapítvány on 25th August 2020 that the legal provisions concerned had already been found to be in violation of EU law, and as such, are inapplicable in the Member States; and hence, that our organization refused to submit the declaration requested unlawfully. Tempus Közalapítvány responded, on 27th August 2020, that their Board of Trustees had decided on August 24th, 2020, "that only organizations operating lawfully, observing domestic law could receive funding", and as Law No LXXVI of 2017 is "still in effect", a declaration regarding compliance with it may be lawfully required. On 31st August 2020, the results of the application were announced, and our organization was denied funding.

We have also been informed that organizations which had applied for the same funds but whose application had received less favorable evaluation were not asked to provide evidence of or commitment to register as foreign agents in compliance with Law No LXXVI of 2017. This further testifies to the fact that we were asked for such evidence or commitment at a stage in the application process where our application already received favorable evaluation, and the grant would have been awarded, had it not been for our consistent refusal to commit to a stigmatizing national regulation which has already been found unlawful by the CJEU.

We respectfully ask you to investigate the case above, to ensure that the rule of law and the primacy of EU law are upheld in Member States, including the management and distribution of EU funds within the Member States.

Thank you for your consideration.

Sincerely yours,

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