



This document has been provided by the International Center for Not-for-Profit Law (ICNL).

ICNL is the leading source for information on the legal environment for civil society and public participation. Since 1992, ICNL has served as a resource to civil society leaders, government officials, and the donor community in over 90 countries.

Visit ICNL's **Online Library** at
<http://www.icnl.org/knowledge/library/index.php>
for further resources and research from countries all over the world.

Disclaimers

Content. The information provided herein is for general informational and educational purposes only. It is not intended and should not be construed to constitute legal advice. The information contained herein may not be applicable in all situations and may not, after the date of its presentation, even reflect the most current authority. Nothing contained herein should be relied or acted upon without the benefit of legal advice based upon the particular facts and circumstances presented, and nothing herein should be construed otherwise.

Translations. Translations by ICNL of any materials into other languages are intended solely as a convenience. Translation accuracy is not guaranteed nor implied. If any questions arise related to the accuracy of a translation, please refer to the original language official version of the document. Any discrepancies or differences created in the translation are not binding and have no legal effect for compliance or enforcement purposes.

Warranty and Limitation of Liability. Although ICNL uses reasonable efforts to include accurate and up-to-date information herein, ICNL makes no warranties or representations of any kind as to its accuracy, currency or completeness. You agree that access to and use of this document and the content thereof is at your own risk. ICNL disclaims all warranties of any kind, express or implied. Neither ICNL nor any party involved in creating, producing or delivering this document shall be liable for any damages whatsoever arising out of access to, use of or inability to use this document, or any errors or omissions in the content thereof.

STRATEGY PAPER OF THE GOVERNMENT OF HUNGARY ON CIVIL SOCIETY 22, October 2002.

(This is an unofficial working translation commissioned by the Nonprofit Information and Training Centre (NIOK) Foundation)

INTRODUCTION

The Principle of Civil Society

The government of the democratic coalition and the national centre adheres to the idea of civil society without aiming to monopolise it. The government wishes to serve and not dominate, which may only be achieved with the active participation of the people and in partnership with the organisations that make up civil society. Civil society serves as one of the pillars of the government's activity.

The government is committed to the idea of civil society both on principle and in practice. It is firmly resolved to lead the nation on the path of European social development as a means by which civil liberties, civil association and self-organisation can be fully expressed. The government is proud that the liberal thinkers of the reform period and, later, the key figures of the modern Hungarian social sciences always promoted this path, and wishes to take over the mantle of István Széchenyi, Lajos Kossuth, József Eötvös, István Hajnal, Ferenc Erdei, István Bibó and Jenő Szűts.

Civil Society in Hungary

The emergence of Hungarian civil society rests upon a series of significant historic antecedents. The rupture between 1948–1989 did not result in the disappearance of this tradition. The regime change brought about the rebirth and strengthening of Hungarian civil society. However, the rhythm of civil society development should not depend on election cycles: the importance of civil society lies primarily in its independence from the government in power. The government of the democratic coalition and the national centre shall strive to enlarge and strengthen civil society, which is a solid basis for democratic social organisation.

Democracy and national solidarity do not exist without social dialogue, a well-functioning system of interest representation and strong civil society. The Hungary of tomorrow shall only be able to provide security and welfare for its

inhabitants if their interests and aspirations are represented in an organised form, and public life is based on cooperation and solidarity. The Hungarian non-profit sector embodies human values, such as independence, individual initiative, pluralism and solidarity.

The operation of non-profit organisations can be assisted by a government policy that recognises the importance of institutionalised oversight of governmental and local power by non-governmental organisations, sharing the delivery of services among the public sector, businesses and non-profit organisations and cooperation among the three sectors. In addition, the government shall respect the independence of non-governmental organisations, increase the resources available to them, providing support regardless of political views.

The period since the regime change has been insufficient for civil society to develop adequately. Therefore, while preserving what has been achieved up until now, as well as maintaining and strengthening existing structures, the Government aims to support the further development of civil society. Obviously, the Government does not wish to intervene directly or be paternalistic. The government expects citizens to build and further develop civil society for themselves and their fellow citizens. Only in this way may Hungary belong to all.

I. THE CHARACTERISTICS OF HUNGARIAN CIVIL SOCIETY

In societies built on a market economy and democratic values the three sectors – the business sector, the public sector (central and local government) and the non-profit sector – generally emerge. This has also become an accepted paradigm in Hungary, and sharing tasks and developing cooperation among the three sectors is underway. However, besides the achievements, this process also displays signs of contingency, lack of regulation (or in some cases over-regulation) and uncertainty.

There is a certain lack of clarity: civil society is broader than the total number of formally constituted non-governmental organisations. It also includes informal communities and individual initiatives. International non-profit literature defines the exact criteria of non-governmental, non-profit organisations as including institutionalisation, inner organisational structure, independence from government, own representation, local governance, prohibition of profit distribution, and finally, voluntarism. Religious or political organisations are not considered classical non-governmental organisations and are not included in the above definition. The same criteria are used in Hungarian literature on non-governmental organisations.

In Hungary about 60,000 non-governmental organisations, fulfilling the criteria mentioned above, have been registered at courts in accordance with the regulations in force. According to the Central Statistical Office, the number of

organisations currently operating is approximately 47,000 showing that after the regime change the sector has been characterised primarily by quantitative development, with the largest boost in the first half of the 1990s.

This large civil community has provided an increasingly distinctive framework for social self-organisation. As a result, clear signs of autonomy, voluntarism, independent activity and charitable giving have emerged. Hence tens of thousands of citizens have the opportunity to fulfil their potential.

Public services are beginning to be delivered on a multi-sectoral basis. Non-governmental organisations can offer alternatives or additional options mainly in the field of education, culture, health and social care. Non-profit organisations have proved to be creative and have great empathy working with marginalised groups.

Over the past ten years the Hungarian non-profit sector has evolved. It is extremely diverse. It includes the following:

- service providing non-profit organisations;
- organisations, clubs and groupings carrying out independent activities;
- organisations involved in interest representation and protection;
- fundraising and grant-making organisations;
- alliances and umbrella organisations.

Besides the positive tendencies presented above, the sector is struggling with several tensions:

- The sector is composed of a wide range of different structures. The largest part of the sector includes organisations such as private foundations, associations, and social organisations, most of which are economically weak and fragile. Public foundations, public bodies and public benefit companies constitute only 5.4% of the sector, yet they had 40% of the total revenues in 2000, Budapest-based organisations received 63% of the revenues. A narrow circle of professional organisations has formed, whose main revenues are from state budget allocations and are closely linked to central government or a local government.
- The 2001–2002 Hungarian budget law provides – in 47 articles – nearly 150 billion HUF for non-governmental organisations without any consistent operating principles or transparency. Because of limited access to information, a large number of organisations do not even know about the availability of these funds. Information on the use of these funds is also lacking.
- In 2000 government allocations constituted 28.4% of the total revenues of the non-profit sector (in 2002 this figure will probably amount to 30%).

Although this shows an increase compared to previous years, it is still lower than in EU member states (where it amounts to 40-60%). Clearly, the Hungarian non-profit sector is under-funded by central and local governments, and the distribution of government allocations is unbalanced.

- Over the past four years the principle of “state dominance” has played a role in government relations with the non-profit sector, which has contributed to division, a lack of solidarity and paternalistic expectations within the sector. As a result, a sense of political dependence in the non-profit sector has grown.
- Current rules mean that an organisation with an income of 100,000 HUF and one with an income of 100 million HUF have almost the same record keeping, data provision and tax reporting obligations. The time has come for new organisational management regulations to be introduced that distinguish between different types of organisations.
- The sector is divided, and dominated by rivalry rather than collaboration. No solid representative models have been established, and efforts are scarce in this respect. A number of umbrella organisations exist, some of which try to present themselves as being the only legitimate representatives of civil society.

The desire to develop the non-profit sector, the experience gained so far, society’s need for deeper democratisation and wish for public good, as well as the change in the political environment provide Hungarian non-governmental organisations with an opportunity to develop qualitatively over the coming years. An essential prerequisite is a conscious government civil strategy which is both tolerant and self-limiting.

II. THE PRINCIPLES OF THE GOVERNMENT’S CIVIL STRATEGY

The key sentence regarding the principle of the Government's Civil Strategy is formulated in the Government Programme (Chapter II, paragraph A, title of point 4) as follows: "The state views an autonomous civil society as its partner". On this basis, the government:

- recognises and acknowledges the importance of non-governmental organisations in contributing to a more deeply rooted democracy and as a means of giving full expression to individual and civil liberties;
- respects the independence of non-governmental organisations, accepts as essential the oversight function played by civil society;

- wishes to eradicate the political dependence of non-governmental organisations;
- in the context of European Union accession, views non-governmental organisations as having an important role in the integration process of cultures, peoples and individuals;
- considers non-governmental organisations' activities as indispensable to enhancing voluntarism, independent action, self-help and social solidarity in Hungary as well as in promoting daily diversity;
- views non-governmental organisations and the representatives legitimised by these organisations as essential players in social dialogue and interest conciliation;
- in the spirit of open legislation, wishes to ensure the possibility of civil organisations' participation in legislative and consultation process;
- guarantees a legal framework for the operation of non-governmental organisations;
- contributes to non-governmental organisations' activities and assists them in securing the financial resources necessary for their operation;
- is ready – in accordance with the principle of sector neutrality – to build on non-governmental organisations' role in delivering public services and to increase the sharing of tasks in areas such as health care, education, social care, culture, environment protection, etc.;
- wishes to build on non-governmental organisations' participation in creating a knowledge-based society and information society;
- wishes to establish the legal conditions for non-governmental organisations' involvement in regional and local development processes;
- wishes to build on non-governmental organisations' efforts in the consumer protection field;
- is ready to establish an equal partnership with the representatives delegated and legitimised by the non-profit sector;
- expects all governmental bodies to identify with the above listed principles and trusts that the government's approach and provisions shall serve as an example for local governments.

III. THE ELEMENTS OF THE GOVERNMENT'S CIVIL STRATEGY

1. The government wishes to make laws and regulations governing the operation and management of non-profit organisations transparent, consistent and less complex. To this end, the government shall present the necessary legislative proposals to Parliament.

- Amending the laws regulating the creation and operation of non-profit organisations (the Act of Association and the Civil Code) in line with changed circumstances.
- Considering a separate law on foundations either within the ongoing reform of the Civil Code or another closely related framework.
- Analysing and reviewing the past five years' experience of implementing the 1997 Act No. CLVI on public benefit organisations.
- Specifying the rules of devolving public tasks to public benefit organisations formulated in the Act on Public Finances and government ordinances.
- Reviewing the 1% law (1996 Act No. CXXVI) . The following aspects require special consideration:
 - making the circle of beneficiaries “more civil” (currently it includes funds, budgetary institutions and other organisations);
 - creating a new framework so that the 1% of citizens' tax liability not directly donated to a non-profit organisation still serves the sector's interests.
- Differentiating between different types of organisations based on the size of organisations' income in the laws governing the organisational operation and management. Nearly half (48.5%) of all Hungarian non-profit organisations have a yearly income below 500,000 HUF. According to the Accounting Act, other organisations with an income below 50 million HUF may still choose single-entry bookkeeping.

2. The government wishes to increase considerably the amount of funds available to the non-profit organisations. The necessary legislative proposals shall be presented to Parliament with the aim of increasing the proportion of budgetary funds to 40% of the non-profit sector's total revenues, which is the lowest level in EU member states, by the end of the government's current term in office. In addition, the government shall ensure that public money is accessible, and allocated and used openly as follows:

- Besides making budgetary funding sources accessible, the amount of normative support should be increased, and decisions based on individual considerations decreased. These objectives are based on the principle of sector neutrality in the delivery of public services.
- Devolving public tasks to non-profit organisations has to be accompanied with the provision of necessary resources.
- An itemised review of the different types of subsidies formulated in the Budget Law is required and easy-to-follow operating principles established.
- Foundations created by the government (through budgetary endowment) are to become public foundations to be eligible for further funding.
- The government shall introduce legislative proposals regarding the creation of a National Civil Fund. The Fund shall be financed from the 1% of citizens' personal income tax not donated directly to non-profit organisations as well as other revenues. Non-profit sector representatives shall constitute the majority of the committee responsible for allocating support grants from the National Civil Fund.
- Supporting the operation of small organisations benefiting mainly small communities is recognised as a special problem. Such organisations lack the capacity or know-how to undertake delegated government tasks yet, play a very useful role in civil life. Such organisations have no real chance of securing funding for their programmes via applications. The National Civil Fund (and similar local funds) shall offer a solution to this problem as well.
- The possibility of non-profit organisations with an income resulting from entrepreneurial activity becoming exempt from paying corporation tax on the rate of income re-directed to their core activity needs consideration.

3. Non-profit organisations shall participate in and actively contribute to decision-making in strategic questions affecting Hungary's future. Hungary's accession to the European Union is a question of utmost importance in the current government's term in office. The country's accession also implies the integration of the Hungarian non-profit sector, through which every citizen and non-governmental organisation can adjust to European dimensions. The non-profit sector has a major role to play in the success of the referendum and in informing the population about European Union issues. The most important aspects in this area include the following:

- the impact on the Hungarian economy of European Union policy integration;

- free movement of goods, services, persons and capital from the point of view of the non-profit sector;
- networking with international development and charity organisations, diverse European Union funds accessible by non-profit organisations;
- government assistance provided to NGOs to access European Union funding sources effectively;
- incorporating European Union principles and adopting these into Hungarian laws and regulations;
- matching national interests with wider European interests.

Ensuring the non-profit sector's independence, making funding sources and support grants for non-profit organisations transparent, and the professional delivery of services by NGOs are all important European Union requirements. The government wishes to validate these norms through legislation and collaboration with the non-profit sector.

4. A single record keeping system is needed for the non-profit organisations benefiting from budgetary grants. This may provide a possible way to eliminate parallel funding and develop a co-financing system as well as keeping track of its evolution. A long-term goal of the government is to make record keeping of public dues easier and to reduce the bureaucracy involved in obtaining funding eligibility certificates.

5. Individual donations and voluntarism are important resources in the non-profit sector. According to the current Act on Personal Income Tax, individuals can deduce 30% of their donations from their tax, but only for donations of a maximum value of 50,000 HUF to public benefit organisations, and a maximum of 100,000 HUF to prominently public benefit organisations, figures which do not encourage giving. Individuals do not receive any benefits from donating or volunteering. The government's strategic goal is to increase the contribution of individuals to non-profit organisations's resources, hence the following need to be considered:

- allowing individuals who offer donations to non-profit organisations to make tax deductions in proportion to the amount of their donations;
- promoting wider public recognition of voluntary work.

6. The government's civil strategy seeks to provide non-profit organisations with the possibility of involvement in elaborating laws and regulations establishing the framework for the sector and serving the interests of the sector. This is an important element of the strategy. Active communication, collaboration

mechanisms and communication channels need to be established at both governmental and ministerial levels. The diverse, often contradictory and opposing views characteristic of the sector will require tolerant and sensitive handling on the side of government. Equally, government representatives and governmental bodies need to adopt an understanding attitude towards non-governmental representatives often inexperienced in public administration. Non-profit issues will be incorporated into public administration examinations and training programmes to help facilitate better understanding by government officials on these questions.

7. Non-profit organisations are present – albeit in varying degrees – in all areas of life (education, culture, health and social care, environment protection, public safety, sports, regional development, customer protection, human rights, etc.). In addition to laws affecting the sector, they are naturally connected to the whole legislative process. The role of non-profit organisations in the context of the planned Lobby Act and Interest Representation Act shall be discussed in a separate chapter.

8. In 2000 62,500 people were employed in the Hungarian non-profit sector, and the number of volunteers exceeded 400,000. The number of both employees and volunteers will further increase in the future, partly as a result of the conscious devolution of public tasks. Thus the sector may become a new player in job creation.

Developing human resources is also a requirement in the non-profit sector. Within the framework of accredited programmes and training programmes included in the National Training List higher education and vocational training on civil society and non-profit issues is possible and necessary. It would be expedient to broaden scholarship and foreign study trip opportunities for future graduates interested in the non-profit sector. However, establishing independent non-profit departments in educational institutes should not be a strategic goal.

9. As substantial and versatile users of the government's information technology systems, non-profit organisations may be strong partners of the government in its effort to establish an information society. Telehouses and Non-profit Service Centres constitute the most important information base for the local communities, and as such could establish and maintain the interactive exchange of information and electronic administration. Public cultural institutions as well as the information technology bases operating as enterprises may be used for this activity. A strategic goal and a key interest of the government is to provide such organisations with the means to become competent as well as to contribute to creating fair conditions in this area.

10. With NGO service centres now operating in county seats, the government considers that the creation of an NGO Service Centre for Budapest Region is

both opportune and essential. The government is ready to provide financial support, while respecting the principle of autonomy.

11. For the sound evaluation of social trends, including developments within the non-profit sector, the government requires statistical data and research. In addition to general trends within the sector, it is particularly important to encourage and support specific research that analyses the impact of public service delivery by NGOs, the consequences of accession to the European Union, voluntarism, and democratisation of the Hungarian society, focusing on the non-profit sector's role and involvement.

12. Partnership between the government and the non-profit sector supposes the existence of a legitimate civil partner representing the sector. A basic strategic goal of the government is to provide the necessary support for the autonomous formation of such a representative body. Earlier unsuccessful attempts and the ardent ongoing debates in this direction require significant tact and restraint. Nevertheless, neither the unsolved question of representation nor an exceedingly protracted debate to resolve this question serve the sector's interests. This civil representative body shall:

- take part in framing sectoral laws and regulations;
- delegate representatives to act as the civil side of the National Civil Fund;
- be consulted on the chapters of yearly budget laws regarding the non-profit sector;
- elaborate an Ethical Code for the non-profit sector and monitor how it is respected.

13. The government and the future civil representative body shall study the need and legal framework for establishing a civil public body. This public body shall:

- keep records on non-profit organisations;
- publish a newspaper for the sector;
- bring together non-profit experts;
- provide services for non-profit organisations (information, legal and financial consulting, training, etc.).

14. The body responsible for and co-ordinator of establishing a single governmental civil strategy shall be the NGO Relations Department of the Information Technology and Public Relations Office within the Prime Minister's

Office. It shall also carry out the secretarial activities for the Interministerial Committee for Civil Coordination. The NGO Relations Department shall maintain permanent contact with organisational units in ministries responsible for NGO relations. It shall also represent the government at the meetings with the actors of the non-profit sector and at non-profit events.

IV. SCHEDULE OF PUBLIC AND INTERNAL CONSULTATIONS ON THE GOVERNMENT'S CIVIL STRATEGY

- Prime Minister Péter Medgyessy's speech on the Government's Civil Strategy in the Parliament
- 26 September, 2002
- Session of the Interministerial Committee for Civil Coordination
- 14 October, 2002
- Consultative forums with non-profit organisations and experts
- 25 October–15 November, 2002
- Session of the Interministerial Committee for Civil Coordination
- Until 20 November, 2002
- Debate on the strategy at the meeting of administrative state secretaries
- Until 30 November, 2002
- Presentation of the Civil Strategy to the Government
- 6 December, 2002

V. WITH A VIEW TO ACHIEVING THE GOALS EXPRESSED IN THIS STRATEGY PAPER, THE GOVERNMENT ON THE BASIS OF PARTNERSHIP IS READY TO AGREE A COMPACT WITH CIVIL SOCIETY

Budapest, 22 October, 2002