



**Member of Parliament**

Document number: T/6222.

Date of submission: 2023-11-21 21:35

Parlex ID: 6YOBMG1U0001

Addressed to László Kövér, Speaker of the National Assembly

Subject: **Submission of a draft law**

Submitted by **Máté Kocsis (Fidesz)**

Title of the bill: **on the defence of national sovereignty**

Pursuant to Article 6(1) of the Fundamental Law, I wish to submit the attached bill on the "**Defence of National Sovereignty**".

Articles 1 to 20 and Article 22 are considered to be cardinal pursuant to Article R(4) of the Fundamental Law. Article 24 is considered to be cardinal pursuant to Article 46(6) of the Fundamental Law

Article 28 is a cardinal provision under Article 43(4) of the Fundamental Law.

Pursuant to Article 5(7) of the Fundamental Law, Article 31 shall be a provision of the Rules of Procedure to be adopted by a two-thirds majority of the votes of the Members of Parliament present.

Paragraphs (1) to (5) of Article 33 are considered to be cardinal pursuant to Article XXIX(3), Article 2(1) and Article 35(1) of the Fundamental Law.

Paragraphs (6) and (7) of Article 33 are considered to be cardinal pursuant to Article 35(1) of the Fundamental Law.

Article 38(1) is in breach of Articles 12(5), 4(2) and (5), 25(8), Article 26(1) and (2) and Article R(4).

Act .... of 2023  
**on the Defence of National Sovereignty**

Hungary's sovereignty is increasingly under attack. For years now, there have been attempts to exert influence - in many cases known to the public - by foreign organisations and individuals seeking to assert their own interests in Hungary, in opposition to Hungarian interests and rules.

The 2022 parliamentary election campaign has already been influenced by direct foreign funding, as confirmed by the national security investigation that revealed the support of the united left-wing opposition. Among several other cases, the prime ministerial candidate of the united opposition itself has said that millions of US dollars were transferred to them from the United States of America during the election campaign.

Hungarian law currently prohibits parties from accepting foreign funding, but in spring 2022 the united opposition circumvented this rule by using funds from abroad through NGOs and companies engaged in political activities. To prevent similar cases, it is also necessary to tighten the current regulation.

Hungary's sovereignty is damaged - and it also poses a major national security risk - if political power is in the hands of individuals and organisations that are dependent on any foreign power, organisation or person.

In order to ensure democratic debate, transparency in public and social decision-making processes, disclosure of foreign interference attempts and the prevention of such attempts, an independent body should be set up to investigate them, and the use of foreign funds in the context of elections should be punishable under criminal law.

In view of the above, and in order to counter attempts to interfere with Hungary's sovereignty, the National Assembly hereby enacts the following Act:

## **1. Status of the Office for the Defence of Sovereignty**

### **1. §**

(1) The Office for the Defence of Sovereignty (hereinafter referred to as the "Office") is an autonomous state administration body established under Article R(4) of the Fundamental Law to protect constitutional identity, which operates in accordance with the provisions of this Act, and which carries out analytical, evaluative, proposing and investigative activities.

(2) The Office shall be independent in the performance of its duties, subject only to the law, not subject to instructions from any other person or body, and shall carry out its tasks separately from those of other bodies and free from any influence by any other institution, body, political party, association, society, legal person or natural person. The Office's tasks may be prescribed only by law.

(3) The seat of the Office is Budapest.

(4) The Office is a central budgetary body with the status of a Chapter managing authority. The Office's budget is a separate chapter in the structure of the central budget.

(5) The Office shall draw up its own budget proposal and its report on the implementation of its budget, which shall be submitted by the Government to Parliament as part of the bill on the central budget and its implementation, without any changes.

(6) The budget of the Office shall be set at a level such that the sum of the appropriations for other operating expenditure and the appropriations for administrative expenditure is not less than the sum of the appropriations for the same items entered in the central budget for the preceding year, excluding the amount of the budget support requested for a specific one-off investment.

(7) The Office's budget for the year in question may be reduced only with the agreement of the Office.

(8) Additional tasks may be assigned to the Office by law only if the financial resources necessary for the performance of those tasks are provided at the same time.

## 2. Tasks of the Office for the Defence of Sovereignty

### 2. §

In the context of the Office's analytical, evaluative and proposing activities

- a) develops and applies a sovereign risk assessment methodology,
- b) analyses the exercise of national sovereignty by evaluating information and data obtained from the entities under investigation, from state and local government bodies and from other entities or persons concerned by the case,
- c) develops proposals and makes recommendations for measures to protect Hungary's sovereignty,
- d) produces an annual national sovereignty report,
- e) conducts and finances research to improve the social, economic, cultural, institutional and legal conditions for the exercise of national sovereignty.

### 3. §

In the context of the Office's investigative function

- a) detect and investigate activities carried out in the interests of another State or, regardless of its legal status, of a foreign body or organisation or natural person
  - (aa) advocacy activities, excluding activities carried out by diplomatic missions, diplomatic missions and consular posts and professional representative organisations,
  - ab) information manipulation and disinformation activities,
  - (ac) activities aimed at influencing democratic debate and the decision-making processes of the State and society, including, in relation to persons exercising public authority, activities influencing the decision-making process of persons exercising public authority, if they could harm or threaten the sovereignty of Hungary;
- b) identify and investigate organisations whose activities using foreign funding may influence the outcome of elections;
- c) identify and investigate organisations that use foreign funding to influence the will of voters, or support such activities.

### 4. §

The Office works to promote transparency in social decision-making processes and cooperates with all public authorities to promote the protection of national sovereignty.

### 5. §

The Office may conclude agreements with other public bodies and non-public bodies in order to provide the information necessary for the performance of its tasks. Such agreements may be concluded only subject to the requirements relating to the protection of personal, classified and other data.

### 6. §

(1) In the context of its tasks under Article 3, the Office shall investigate individual cases and publish on its website the results of its case-by-case investigations, including the facts found during the investigations, the findings and the conclusions based thereon.

(2) The Office shall prepare an annual national sovereignty report in the context of its tasks under Article 3, which shall include:

- a) legislation affecting national sovereignty and the effectiveness of its application, problems of implementation and enforcement, and analysis of legislative and administrative practice,
- b) the definition of risk indicators,
- c) recommendations to the competent bodies,

- d) an assessment of how the competent bodies have taken into account previous reports and recommendations,
  - e) a summary of the Office's activities and operations in the previous year.
- (3) The annual national sovereignty report for the previous calendar year shall be made publicly available on the website of the Office by 30 June each year.
- (4) The Office sends the annual sovereignty report to the Parliamentary Standing Committee on National Security and the Government for information.
- (5) Within three months of the publication of the Annual Report on National Sovereignty, the Government will respond to the Office with a response setting out how it will address the findings of the Annual Report on National Sovereignty.
- (6) The report of the Office made public pursuant to paragraphs 1 and 3 shall not contain any personal data, classified information, secrets protected by law or professional secrecy, except personal data which are in the public interest.
- (7) No appeal shall lie against a report of the Office made public pursuant to paragraphs 1 and 3.
- (8) Prior to the publication of the report referred to in paragraphs 1 and 3, the Office shall communicate its findings to the organisations whose activities, on the basis of the examination carried out, justify their inclusion in the public report of the Office. The investigated organisation may comment on the Office's findings within fifteen days. The Office shall respond to the observations by reply in writing within thirty days of receipt. The Office shall state the reasons for not accepting the observations not taken into consideration.

### **3. Investigation procedure of the Office for the Defence of Sovereignty**

#### **7. §**

- (1) In connection with the investigation under Section 3, the Office may request information and data from the organisation it is investigating, as specified in Section 8.
- (2) In the course of its investigations, the Office may request information and data from any state or local government body concerned in the given case, as well as from any other organisation or person concerned in the given case, as specified in Article 8.
- (3) The body under investigation and the requested state or local government body, organisation or person (hereinafter jointly referred to as "the party obliged to cooperate") shall comply with the Office's request within the time limit specified by the Office. The time limit shall not be less than fifteen days from the date of the request.
- (4) If the person liable to cooperate fails to comply or is late in complying with the obligation to cooperate without good reason, the Office shall record this fact during its examination and shall highlight it in its annual report.
- (5) The requested state or local government body may not charge a fee for fulfilling the request.

#### **8. §**

- (1) In the course of its examination procedure under this Chapter, the Office shall, as an act of

evidence, as defined by law,

- a) have access to, make copies of, and inspect or request copies of all data in the possession of the investigated entity and the state or local government body concerned in the case in question that may be relevant to the case under investigation, including documents stored on an electronic medium,
- b) may request written and oral information from the investigated organisation, from any member of the investigated organisation's staff or from the state or local government body concerned,
- c) may request written or oral information from any organisation or person that may be related to the case under investigation, and may also request a copy of any data or documents, including documents stored on an electronic medium, that may be related to the case under investigation.

(2) The investigative procedure of the Office under this Chapter shall not constitute an administrative procedure, and no administrative action may be brought in relation to its activities under this Chapter.

#### 9. §

(1) Paragraphs (1) and (3) of Article 27 of Act CXI of 2011 on the Commissioner for Fundamental Rights (hereinafter referred to as the "Act on the Protection of Fundamental Rights") shall apply mutatis mutandis to the activities of the Office pursuant to Articles 7 to 8.

(2) In the course of its activities pursuant to Articles 7 to 8, the Office may not inspect documents pursuant to paragraphs (1) to (6) of Article 23 of the Act on Administrative Procedure, and may obtain access to data classified as classified data by applying paragraph (2) of Article 27 of the Act on Administrative Procedure.

(3) If the disclosure of classified information is necessary for the performance of the tasks of the Office, the President of the Office may request the declassification of the classified information from the classifier. The classifier may declassify classified information in accordance with the Act on the Protection of Classified Information, provided that the declassification does not jeopardise the performance of his or her duties.

#### 10. §

(1) The acts of examination provided for in Articles 7 to 8 may be carried out on behalf of the Office by the President of the Office, by the Deputy President of the Office acting under the authority of the President of the Office or by an employee of the Office.

(2) The following may not take part in the examination of the Office pursuant to Article 3

- a) who has been an officer or member of the audited entity or a person who has been employed by or has had an employment relationship with the audited entity during the three calendar years preceding the audit or during the period covered by the audit,
- b) who has been in a regular or continuous employment or self-employment relationship with the audited organisation during the three calendar years preceding the start of the audit or during the period covered by the audit,
- c) who is engaged in any other permitted activity in the inspected organization or who has engaged in such activity during the period covered by the inspection,
- d) a relative of the head of the organisation under investigation within the meaning of the Civil Code.

#### 11. §

If the Office establishes facts or circumstances which may give rise to the initiation or conduct of infringement proceedings, criminal proceedings, administrative proceedings or other proceedings, it shall inform the body entitled to conduct such proceedings to that effect.

#### 12. §

The President of the Office may initiate the Standing Committee on National Security of the National Assembly to discuss the report pursuant to paragraph (1) of Article 6 and to hear the head of the investigated organisation if

- a) the inspected organisation fails to provide information within the time limit specified in paragraph (3) of Article 7, or
- b) otherwise justified by the nature and gravity of the case.

#### 13. §

(1) The Research Institute of the Office for the Defence of Sovereignty (hereinafter referred to as the Research Institute) is an autonomous organisational unit of the Office that supports the Office's activities and carries out independent scientific work. The Head and the members of the Research Institute shall be civil servants and employees of the Office.

(2) The work of the Institute is supervised by the President of the Office.

(3) The tasks of the Research Institute:

- a) support the functioning of the Office by carrying out research and analysis tasks,
- b) publication of professional publications,
- c) organising professional conferences,
- d) other tasks assigned to the Research Institute by the President of the Office.

(4) The Institute may also engage external experts on a contract basis.

### **4. Organisation of the Office for the Defence of Sovereignty**

#### 14. §

(1) The President of the Office is appointed for a term of six years by the President of the Republic on a proposal from the Prime Minister. The President of the Office shall, after his appointment, take an oath or solemn oath before the President of the Republic, in the form prescribed by the Act on the Oaths and Oaths of Certain Public Officials.

(2) The President of the Office may be appointed by a Hungarian citizen with no criminal record who is eligible for election to Parliament, has completed higher education and has not been identified as a national security risk in the course of a national security audit under the Act on National Security Services.

(3) The office of President of the Office shall be incompatible with any other public or municipal office or mandate.

(4) The President of the Office may not engage in any other gainful occupation, except for scientific, teaching, artistic, editorial, intellectual and protected intellectual activities and foster care activities (hereinafter together referred to as "exercisable activities"), nor accept remuneration for any other activities, except for exercisable activities.

- (5) The President of the Office may not be a director of a company, a member of its supervisory board or a member of a company who is required to make a personal contribution.
- (6) The President of the Office may not hold any ownership interest in a non-transparent organisation within the meaning of the National Property Act.
- (7) The President of the Office may not be a member or an official of a party or party foundation.
- (8) The President of the Office may not engage in party political activity or in public office on behalf of or in the interests of a political party.

## **15. §**

- (1) The President of the Office shall make a declaration of assets within thirty days of his appointment. The rules on the declaration of assets and liabilities of Members of Parliament shall apply *mutatis mutandis* to the declaration of assets and liabilities, subject to the derogations provided for in this Act.
- (2) In the event of failure to submit a declaration of assets and liabilities, the President of the Office shall not be entitled to hold office or to receive any remuneration until such declaration has been submitted.
- (3) A full public copy of the declaration of assets and liabilities of the President of the Office shall be published on the website of the Office without delay. The statement of assets and liabilities shall not be removed from the website for a period of one year after the termination of the term of office of the President of the Office.
- (4) Proceedings concerning the declaration of assets of the President of the Office may be initiated by any person against the Prime Minister by submitting a statement of facts concerning the specific content of the declaration of assets, specifying the part and content of the declaration of assets that are the subject of the proceedings. If the initiative does not comply with the requirements of this paragraph, is manifestly unfounded, or if the resubmitted initiative does not contain any new statement of facts or information, the Prime Minister shall reject the initiative without proceeding. The Prime Minister shall verify the accuracy of the information contained in the declaration of assets.
- (5) In the course of the procedure relating to the declaration of assets and liabilities, the President of the Office shall, at the request of the Prime Minister, provide the Prime Minister without delay and in writing with the information proving the income and economic interests indicated in the declaration of assets and liabilities. The Prime Minister shall inform the President of the Republic of the verification results by sending the data. Only the Prime Minister and the President of the Republic shall have access to the data.

## **16. §**

- (1) The mandate of the President of the Office shall be terminated:
  - a) at the end of his or her term of office,
  - b) by resigning,
  - c) with his death,
  - d) a conflict of interest,
  - e) failure to meet the conditions for appointment or failure to comply with the rules on the declaration of assets.

- (2) The President of the Office may resign at any time by written declaration addressed to the President of the Republic through the Prime Minister. The term of office of the President of the Office shall end on the day following that on which the resignation is communicated, or, failing that, on the day following the day on which the resignation is communicated. No declaration of acceptance shall be required for the resignation to be valid.
- (3) If the President of the Office does not remove his conflict of interest within thirty days of his appointment, or if a conflict of interest arises against him in the exercise of his duties, the President of the Republic shall decide on the question of the declaration of conflict of interest on a proposal from the Prime Minister.
- (4) The absence of the necessary conditions for appointing the President of the Office shall be established by the President of the Republic on a proposal from the Prime Minister. The President of the Republic shall, on the proposal of the Prime Minister, declare a breach of the rules on the declaration of assets if the President of the Office deliberately misrepresents material facts or data in his declaration of assets.
- (5) The Prime Minister shall send his proposal under paragraphs 3 and 4 simultaneously to the President of the Republic and the President of the Office.
- (6) The decisions and measures of the President of the Republic taken in the course of his/her activities as provided for in paragraphs (3) and (4) and paragraph (1) of Article 14 shall not require countersignature.
- (7) In the event of termination of office within the meaning of paragraph 1(a), the President of the Office shall be entitled to severance pay equal to twice his monthly salary at the time of termination.

#### **17. §**

- (1) The two Vice-Presidents of the Office are appointed by the President for a term of six years.
- (2) The Vice-President shall fulfil the conditions for appointment as President of the Office laid down in Article 14(2) and (7).
- (3) The provisions of § 14 shall apply *mutatis mutandis* to the conflict of interest of the Vice-Chairman.
- (4) The obligation of the Deputy President to make a declaration of assets and the procedure relating to his declaration of assets shall be governed by the provisions of Article 15, except that the President of the Office shall act in place of the Prime Minister in the procedure relating to his declaration of assets, and the President of the Republic need not be informed of the results of the audit.
- (5) The term of office of the Vice-President of the Office shall end
  - a) at the end of his or her term of office,
  - b) by resigning,
  - c) with his death,
  - d) a finding that the conditions for appointment are not met,
  - e) a conflict of interest,
  - f) by releasing,
  - g) by removing him from office.
- (6) The Vice-President of the Office may resign at any time by written declaration addressed to the President of the Office. The term of office of the Vice-President of the Office shall end on the



date specified in the resignation following its notification or, failing this, on the date of notification of the resignation. No declaration of acceptance shall be required for the resignation to be valid.

(7) If the Deputy President of the Office does not remove the conflict of interest within thirty days of his appointment or if a conflict of interest arises in the performance of his duties, the President of the Office shall decide on the conflict of interest.

(8) The President of the Office shall remove the Vice-President of the Office from office if, for reasons beyond his control, the Vice-President of the Office is unable to carry out the duties arising from his office for a period of more than ninety days.

(9) The President of the Office may dismiss the Vice-President of the Office.

(10) The President of the Office shall remove a Vice-President of the Office from office if, for reasons attributable to him, the Vice-President of the Office fails to fulfil the duties arising from his mandate for a period of more than ninety days or intentionally misrepresents material facts or particulars in his declaration.

(11) The absence of the necessary conditions for the appointment of a Vice-President of the Office shall be established by the President of the Office.

(12) In the event of termination of his duties within the meaning of paragraph 4(a), the Deputy President of the Office shall be entitled to severance pay equal to twice his monthly salary at the time of termination.

## **18. §**

(1) The President of the Office

- a) runs the Office,
- b) determine the arrangements for his/her replacement if he/she is prevented from attending,
- c) adopt the Office's rules of organisation and operation,
- d) lays down the technical rules and methods for investigations conducted by the Office,
- e) represent the Office before other bodies.

(2) If the President is prevented from exercising his powers, the Deputy President of the Office shall replace him and shall perform the duties assigned to him by the President and laid down in the Rules of Procedure. If the office of President is vacant, the Vice President shall exercise the powers of the President.

## **19. §**

(1) The monthly salary of the President of the Office shall be 80% of the monthly salary pursuant to Article 149 (1) of Act CXXXIX of 2013 on the Magyar Nemzeti Bank.

(2) The monthly salary of the Deputy President of the Office shall be 60% of the monthly salary pursuant to Article 149 (2) of Act CXXXIX of 2013 on the Magyar Nemzeti Bank.

(3) The President of the Office shall receive the same allowances as the Minister, and the Deputy President shall receive the same allowances as the Secretary of State for Public Administration.

(4) The President of the Office and the Vice-President of the Office shall be entitled to twenty working days and fifteen working days respectively of additional executive leave in each calendar

year.

(5) The President and the Deputy President of the Office shall be considered to be insured persons employed in the public service for the purposes of entitlement to social security benefits.

(6) The term of office of the President and the Deputy President of the Office shall be deemed to be a period of public service in a public administration.

## **20. §**

(1) The provisions of Act No CVII of 2019 on bodies with special status and the status of their employees (hereinafter referred to as the "Act on the status of bodies with special status and the status of their employees") shall apply to the legal relations of the President and the Deputy President of the Office and the employees of the Office, subject to the derogations provided for in this Act.

(2) Civil servants and employees of the Office may not hold office in a political party or party foundation, may not stand as candidates in parliamentary, European Parliament or local government elections, may not engage in party political activity, and may not take public part in the name of or on behalf of a political party.

(3) The President of the Office shall exercise the powers of the employer in respect of persons employed by the Office.

(4) The President of the Office shall exercise the powers of employer over the Deputy President.

(5) The President of the Office may delegate the power to issue documents to the Deputy President in the Rules of Procedure or, in the case of documents not containing measures, to a civil servant of the Office occupying a management post.

## **5. Final provisions**

### **21. §**

This Act shall enter into force on the day following its publication.

### **22. §**

(1) The President of the Office will be proposed by the Prime Minister for the first time by 1 January 2024.

(2) The President of the Office is appointed by the President of the Republic for the first time until 1 February 2024.

### **23. §**

(1) Articles 1 to 20 and Article 22 are considered to be cardinal under Article R(4) of the Fundamental Law.

(2) Article 24 is a cardinal provision under Article 46(6) of the Fundamental Law

- (3) Article 28 is a cardinal provision under Article 43(4) of the Fundamental Law.
- (4) Pursuant to Article 5(7) of the Fundamental Law, Section 31 shall be a provision of the Rules of Procedure to be adopted by a two-thirds majority of the votes of the Members of Parliament present.
- (5) Paragraphs (1) to (5) of Article 33 of Articles XXIX(3), 2(1) and Article 35(1) is considered to be cardinal.
- (6) Paragraphs (6) and (7) of Article 33 are considered to be cardinal pursuant to Article 35(1) of the Fundamental Law.
- (7) Section 38(1) of Articles 12(5), 4(2) and (5), 25. Article 26(1) and (2) and Article R(4) are considered to be cardinal.

#### **24. §**

The following paragraph 2a shall be added to Section 8/A of Act CXXV of 1995 on National Security Services:

"(2a) The National Information Centre shall, in the course of its tasks related to the fulfilment of requests for information, provide information to the Office for the Defence of Sovereignty by using the information available or currently generated in connection with requests for information, in order to facilitate the performance of its tasks under the Act on the Defence of National Sovereignty."

#### **25. §**

The following paragraph (7b) shall be added to Section 4 of Act CXXVI of 1996 on the use of a specific part of personal income tax according to the taxpayer's instructions:

"(7b) The tax authority shall also delete the organisation from the register if the organisation, according to the finding of the State Audit Office of Hungary, has violated the provisions of paragraph (4) of Article 307/D of the Act on Electoral Procedure."

#### **26. §**

The following paragraph (3a) shall be added to Article 13 of Act CLV of 2009 on the Protection of Classified Data:

"(3a) In the performance of their duties as defined by law, the President and the Deputy President of the Office for the defence of sovereignty shall be entitled to use classified information falling within their functions and powers without a personal security clearance or a declaration of confidentiality."

#### **27. §**

On central state administration bodies and the status of members of the Government and State Secretaries of Act XLIII of 2010 No.1 (4) the following point g) shall be added:

*(Autonomous public administration)*

"g) the Office for the Defence of Sovereignty."

### 28. §

The following paragraph (14) shall be added to Section 5 of Act LXVI of 2011 on the State Audit Office of Hungary:

"(14) The State Audit Office of Hungary shall perform audit tasks as defined in the Act on Electoral Procedure."

### 29. §

The following paragraph (5) shall be added to Article 49 of Act CLXXV of 2011 on the Right of Association, Public Benefit Status and the Functioning and Support of Non-Governmental Organisations:

"(5) On the basis of a motion of the State Audit Office, the court shall examine whether the public benefit organisation has violated the provisions of Article 307/D (4) of the Act on Electoral Procedure. If the public benefit organisation has violated this requirement - ascertainable from the data - the court shall decide on the termination of the public benefit status and shall delete the relevant data from the register."

### 30. §

Point 11 of Section 1 of Article 1 of Act CXCV of 2011 on Public Finances shall be replaced by the following:

*(For the purposes of this Act)*

"11. *Budgetary body under the direction or supervision of the Government: the budgetary bodies belonging to the central subsystem of public finances, with the exception of the Parliament, the Presidency of the Republic, the Constitutional Court, the Office of the Commissioner for Fundamental Rights, the State Audit Office, the Courts of Audit, the Public Prosecutor's Office, the Office of Economic Competition, the Hungarian Academy of Sciences, the Hungarian Academy of Arts, the Hungarian Research Network, the Integrity Authority, the Directorate-General for Auditing European Subsidies and the Office for the Defence of Sovereignty,*"

### 31. §

The following point 24 shall be added to paragraph (1) of Article 44/A of Act XXXVI of 2012 on Parliament:

*(The Speaker)*

"24. the President and Deputy President of the Office for the Defence of Sovereignty"  
*[shall be issued with an identity card (hereinafter referred to as the "public official's identity card") to certify that he/she holds a public office.]*

### 32. §

(1) The following paragraph (5) shall be added to Article 52 of Act C of 2012 on the Criminal

Code:

"(5) The perpetrator of the offence of illegal influence on the electorate shall be prohibited from being a responsible person in any civil organisation and from holding a leading position in a political party. In cases of particular merit, the mandatory application of the disqualification may be waived."

(2) The following chapter shall be added to Act C of 2012 on the Criminal Code:  
"Unlawful influencing of the will of voters § 350/A

A member, responsible person or executive officer of a nominating organisation under the Act on Electoral Procedure, as well as a candidate under the Act on Electoral Procedure, who uses prohibited foreign funds or, in order to circumvent this prohibition, uses a financial advantage derived from an agreement disguising the origin of the prohibited foreign funds, shall be punished by a criminal offence punishable by imprisonment for up to three years."

(3) Paragraph (1) of Article 459 of Act C of 2012 on the Criminal Code shall be replaced by the following 37. and point 38 is added:

*(For the purposes of this Act)*

"37. prohibited foreign funds: funds from abroad, the acceptance or use of which is prohibited by the Act on the Operation and Management of Political Parties or the Act on Electoral Procedure.

38. responsible person: responsible person as defined in the Act on Non-Governmental Organisations."

### 33. §

(1) The following point 16 shall be added to paragraph (1) of Article 3 of Act XXXVI of 2013 on Electoral Procedure:

*(For the purposes of this Act)*

"16. *foreign funds*: a financial contribution from another State, a foreign natural or legal person or an organisation without legal personality."

(2) Point b) of Paragraph (3) of Article 33 of Act XXXVI of 2013 on Electoral Procedure shall be replaced by the following provision:

*(The regional election committee, the parliamentary single mandate constituency election committee and the local election committee)*

"b) the mandate of its delegated member until the results of all elections related to nominations and list establishment that may be taken into account as the legal basis for the mandate to the given election committee pursuant to paragraphs (1) to (3) of Article 28 and paragraph (2) of Article 333 become final"

*(hold.)*

(3) Paragraph (5) of Article 33 of Act XXXVI of 2013 on Electoral Procedure shall be replaced by the following provision:

"(5) The mandate of the delegated member of the ballot counting committee shall last until the

results of all elections - related to nominations and list-making that may be taken into account as the legal basis for the mandate to the given ballot counting committee pursuant to paragraph (4) of Article 28 - become final."

(4) The following paragraphs (1a)-(1c) shall be added to Article 124 of Act XXXVI of 2013 on Electoral Procedure:

"(1a) When declaring a candidate, a candidate shall declare that he or she meets the requirement for candidates set out in paragraph (1b) and that he or she will not use foreign funds or any property derived therefrom in connection with the election in question for the purpose of influencing or attempting to influence the will of the electorate. The election committee shall register the candidate who has made this declaration.

(1b) A person applying to be registered as a candidate or a person registered as a candidate may not use foreign funds or any property derived therefrom for the purpose of influencing or attempting to influence the will of the electorate in relation to a given election. The provisions of this paragraph shall be subject to audit by the State Audit Office.

(1c) If, after the registration of the candidate, the State Audit Office of Hungary finds that the candidate has violated the provisions of paragraph (1b), the candidate shall pay twice the amount of the subsidy to the account specified by the State Audit Office of Hungary."

(5) Point c) of paragraph (1) of Article 129 of Act XXXVI of 2013 on Electoral Procedure shall be replaced by the following provision:

*(The notification of the list must contain the name, personal identification number - or, in the absence of such number, the number of the official identity card of each candidate on the list, his/her address and a declaration that he/she is)*

"(c) does not use foreign funds or any property derived therefrom for the purpose of influencing or attempting to influence the will of the electorate in relation to the election in question."

(6) Chapter 138/C of Act XXXVI of 2013 on Electoral Procedure shall be replaced by the following provision:

"138/C. Notification of the nominating organisation

§ 307/D

(1) The nominating organisation is registered by the regional election committee or the National Election Committee with which the nominating organisation has been registered.

(2) In by-elections, the election committee responsible for registering candidates or lists shall register the nominating organisation.

(3) When registering an association, the association must declare that it complies with the

the requirement imposed on associations in paragraph (4), and that it will not use foreign funds and aid from a domestic legal person or unincorporated organisation, anonymous donations or assets derived therefrom in connection with the election in question for the purpose of influencing or attempting to influence the will of the electorate. The election committee shall register as a nominating organisation the association which has made this declaration.

(4) An association applying for registration as a nominating organisation or a registered association may not use foreign support or support from a domestic legal person, organisation without legal personality, anonymous donation or any asset derived from such donation or donation in relation to the given election for the purpose of carrying out activities aimed at influencing or attempting to influence the will of voters. The provisions of this paragraph shall be audited by the State Audit Office.

(5) If, after the registration of the association as a nominating organisation, the State Audit Office finds that the association has violated the provisions of paragraph (4), the association shall pay twice the amount of the subsidy to the account specified by the State Audit Office.

(6) If the association violates the provisions of paragraph (4), the State Audit Office of Hungary shall inform the tax authority or, in the case of an association with public benefit status, the court registering the association of this fact.

(7) When registering a national minority organisation, the organisation must declare that the organisation meets the requirements of the Act on the Rights of National Minorities."

(7) Paragraph (3) of Article 307/I of Act XXXVI of 2013 on Electoral Procedure shall be replaced by the following provision:

"(3) The provisions of paragraphs (1) and (2) of Article 307/F and Article 307/H shall also apply to candidates on the list."

#### 34. §

Paragraph (4) of Article 338 of Act XXXVI of 2013 on Electoral Procedure shall cease to have effect.

#### 35. §

The following point (p) shall be added to paragraph (14) of Article 131 of Act CL of 2017 on the Rules of Taxation:

*(The tax authority will provide information on tax titles on request or on request for data)*

"p) the Office for the defence of sovereignty, if the information is necessary for the performance of its duties as defined by law."

#### 36. §

CVII of 2019 on special status bodies and the status of their employees.

the following point r) shall be added to paragraph (1) of Article 2 of the Act:

*(For the purposes of this Act, a body with special status is:)*

"r) Sovereignty Defence Office."

### 37. §

In Article 98(1) of Act CVII of 2019 on Special Status Bodies and the Status of their Employees, the words "Directorate General" shall be replaced by the words "Directorate General, Office for the Defence of Sovereignty".

### 38. §

(1) Paragraph (6a) of Article 5 of Act XXVII of 2022 on the Control of the Use of European Union Budgetary Resources shall be replaced by the following provision:

"(6a) In carrying out its functions, the Authority shall.

- a) the president of the republic,
- b) the Member of Parliament, the Nationality Speaker and the Speaker of the National Assembly,
- c) the judge,
- d) senior political leaders holding a mandate as a Member of Parliament, and
- e) President and Deputy President of the Office for the Defence of Sovereignty

in relation to his/her declaration of assets, he/she shall be entitled to initiate the procedure relating to the declaration of assets in accordance with the rules applicable to the categories of persons set out in points (a) to (e). The Authority shall be informed of the outcome of the declaration of assets procedure."

(2) The following point (d) shall be added to paragraph (2) of Article 77/A of Act XXVII of 2022 on the Control of the Use of European Union Budgetary Resources:

*[Paragraph 5(6a)]*

"d) point (e) of Article R(4) of the Fundamental Law"

*(considered to be a cornerstone.)*

### General justification

The National Security Committee of the National Assembly has recently initiated the disclosure of the National Information Centre's reports related to foreign influence on the 2022 Hungarian parliamentary elections. These documents, which are now available to everyone, clearly record from which countries and from which foreign organisations foreign funding has been received by Hungary. These were clearly used by the foreign donors to gain political influence and to influence the will of the Hungarian electorate, which not only amounts to political corruption, but also violates and endangers Hungary's sovereignty.

In the European Union, too, there is a growing emphasis on tackling foreign interference and on taking steps to counter the influence of undisguised foreign influence to safeguard free and fair elections. The European Parliament established the European Parliament's *Special Committee on foreign interference in all democratic processes in the European Union, including disinformation* (INGE), inter alia with this aim. INGE's report of April 2023 also calls on Member States to recognise that foreign interference, including disinformation, poses a national and cross-border security threat. The report also warns that such foreign interference is not only aimed at influencing electoral processes, but also at undermining democratic processes. But it is not only the European Parliament that has drawn attention to these phenomena and the importance of common action against them: the Commission of the European Union has also initiated consultation processes



between Member States to promote democratic accountability and free and fair elections by proposing more transparent measures to promote the activities of interest representatives and to influence public and social decision-making. In addition, in several EU Member States there are public organisations and authorities that aim to detect attempts by foreign countries to influence and disinform, and to enforce the requirement of transparency in the democratic debate and in the influence of political decisions.

Transparency is the basis for activities carried out in the interest of another state, foreign body or organisation, and if these activities go beyond the limits provided by the law, they must be subject to effective and strict action by the competent authorities.

Taking all these considerations into account, it is appropriate to create an organisation whose primary task is to make the various electoral and social decision-making processes transparent and to identify the actors involved in influencing them and the will of the electorate. The Office for the Defence of Sovereignty (hereinafter referred to as the "Office"), which is to be established by the proposal, is an independent body established under Article R(4) of the Fundamental Law to protect constitutional identity, which will detect and investigate cases of advocacy, disinformation, and the use of state and foreign powers in the interests of other states, foreign bodies and organisations.

Activities aimed at influencing social decision-making processes, if they may infringe or threaten the sovereignty of Hungary, and organisations whose foreign-funded activities are aimed at influencing or supporting elections or the will of voters.

The Office publishes ad hoc and annual reports on these bodies and their activities, informing the body under investigation, has wide-ranging powers of investigation in relation to the activities under investigation and, if it finds facts or circumstances which may give rise to the initiation or conduct of infringement proceedings, criminal proceedings or other official proceedings, it informs the body entitled to conduct such proceedings, so that it can contribute to the proceedings and activities of other authorities by means of the information at its disposal. In addition, the Office, through its research institute, analyses the measures taken by other countries to defend sovereignty, compares legislation, organises conferences and makes recommendations to the Government.

In addition to creating the Office, the existing rules on financing candidates and nominating organisations should be amended to prevent and prevent foreign influence. To this end, a new offence of illegal influence on the electorate will be introduced into the Criminal Code, and the use of support from abroad for the purpose of influencing or attempting to influence the electorate will be prohibited.

Pursuant to Section 18 (3) of Act CXXX of 2010 on Legislation and Section 20 (2) a) of Decree 5/2019 (13.III.) of the Minister of Justice on the publication of the Hungarian Official Gazette and on the indication of the publication of the legislative acts, this explanatory memorandum will be published in the Explanatory Memorandum of the Hungarian Official Gazette.

### **Detailed justification**

#### **1. §, 27. §, 30. §**

Rules guaranteeing the operational and budgetary independence of the Office.

## 2. §

In the context of its analytical, evaluative and propositional activities, the Office develops its own methodology, analyses the implementation of national sovereignty, develops proposals, produces an annual national sovereignty report and conducts research.

## 3. §, 6. §

The Office will map and investigate the foreign body of another state, regardless of its legal status, advocacy activities carried out on behalf of an organisation or natural person, but this does not include activities carried out by diplomatic missions and consular posts or by professional representative organisations. The Office also identifies and investigates activities aimed at manipulating information and disinformation, and activities aimed at influencing democratic debate and public and social decision-making processes. The Office shall be responsible for mapping organisations that use foreign funding to influence the will of voters and for identifying organisations whose activities using foreign funding may influence the outcome of elections.

In carrying out these tasks, the Office also investigates individual cases and publishes the results of these investigations and the facts, findings and conclusions of its annual activities in the form of a report on its website.

## 4-5. §

In the interests of transparency, the Office shall cooperate with all public bodies in order to promote the protection of national sovereignty and may conclude agreements with public bodies and non-public bodies in order to provide the information necessary for the performance of its tasks.

## 7-9. §, 24. §, 26. §, 35. §

The Office has wide powers of investigation in relation to the organisations investigated, state and local government bodies and other organisations and persons involved in the case. The bodies, entities and persons contacted must comply with the Office's requests by supplying information or data within the time limits set by the Office. In the course of its investigations, the Office may also obtain access to data which, with the exception of the data covered by the Act, are classified as sensitive data and tax secrets. If the requested body, organisation or person fails to comply with its obligation to provide information or data, the Office shall record the fact during the investigation and shall highlight it in its annual report.

In addition, the National Information Centre supports the activities of the Office for the Defence of Sovereignty by providing intelligence support.

## 10. §

No person who may have any interest in the organisation under investigation may take part in investigations conducted by the Office.

## 11. §

Where the Office finds or becomes aware of facts or circumstances which may give rise to the

initiation or pursuit of infringement proceedings, criminal proceedings or other official proceedings, it shall the place of the procedure, it shall inform the body entitled to conduct the procedure to that end.

**12. §**

In justified cases, the President of the Office may request that the Parliamentary Standing Committee on National Security discuss the report and hear the head of the audited organisation.

**13. §**

The Office will set up a research institute to carry out independent scientific work, analyse the measures taken by other countries to protect sovereignty, carry out comparative law work and organise conferences.

**14-17. §, 31. §**

These provisions shall lay down the rules governing the appointment, conflicts of interest, declaration of interests, termination of office and termination of office of the President and the Deputy President of the Office.

**18. §**

These provisions lay down the duties of the President of the Office and the rules governing his replacement.

**19. §**

Rules on the remuneration and allowances of the President and the Vice-President of the Office.

**20. §, 36-37. §**

According to the proposal, the provisions of Act CVII of 2019 on special statute bodies and the status of their employees shall apply to the legal status of the employees of the Office, with the derogations provided for in this Act.

**21. §**

Enacting provision.

**22. §**

Transitional provisions concerning the first appointment of the President of the Office.

**23. §**

Severability clause.

**25. §, 28-29. §, 32-34. §**

Under the proposal, organisations standing as nominating organisations in local elections may not use foreign funding, funding from domestic legal entities, organisations without legal personality, anonymous donations or assets derived from such donations in relation to the election in question, as is the case with the rules in force on the funding of political parties. Furthermore, candidates standing for election as members of Parliament, local government representatives and mayors, as well as candidates for election to the European Parliament, may not use foreign funding to influence or attempt to influence the will of voters.

Article 25 adds the cases in which the tax authority is required to remove the beneficiary entity from the register of those entitled to the 1% VAT donation, i.e. if the NGO breaches the funding rules set out in this proposal, the tax authority will be obliged to take action.

Article 28 establishes new duties and powers for the State Audit Office to audit the provisions of this proposal.

Pursuant to Article 29, the court shall examine, on the basis of a motion of the State Audit Office, whether the public benefit organisation has violated the funding rules under this proposal. If the public benefit NGO has violated these rules, the court shall decide on the termination of the public benefit status.

Article 32 creates a new offence in respect of nominating organisations and candidates. A member, responsible person or executive officer of a nominating organisation, as well as a candidate who, by using funds from abroad, obviously violates the rules on party financing or the newly introduced rules on the financing of associations or candidates, is punishable by a criminal offence with imprisonment of up to three years and is also subject to a mandatory disqualification from holding a profession. The proposal also makes it clear that in the case of deliberate circumvention of the rules on the prohibition of foreign funding, the actual user of the financial advantage thus granted will be the candidate or nominating organisation, so that the criminal liability of the member, responsible person or senior official of the candidate or nominating organisation as the user of the illegal financial advantage can be established. By making the agreement to circumvent an element of the offence, the other party to the agreement disguising the origin of the assets is acting as a participant in the criminal act - the use - which is punishable in the same way as the perpetrator under the general rules of criminal law (Btk. The proposal also defines the concept of prohibited foreign funds under criminal law.

Pursuant to Act XXXIII of 1989 on the Operation and Financial Management of Political Parties, a political party may not accept financial contributions from other states, foreign organisations - irrespective of their legal status - and non-Hungarian natural persons, as well as from domestic legal persons and organisations without legal personality. Pursuant to the amendment of Act XXXVI of 2013 on Electoral Procedure, nominating organisations standing in municipal elections may not use such contributions in relation to the given election in the future. The provisions both laws provide similarly, i.e. in such a case the party or association must pay twice the amount of the prohibited subsidy. However, only the use of foreign funds was considered by the legislator to be of such a serious nature from the point of view of national sovereignty that it was accompanied by a criminal penalty.

Pursuant to Article 33, an association intending to run in local government elections shall declare when registering as a nominating organisation that it will not use prohibited foreign funds, aid from

domestic legal persons, organisations without legal personality, anonymous donations or assets derived from such donations for the purpose of influencing the will of voters. The electoral commission shall register as a candidate organisation the association which has made this declaration. Individual candidates (individual and list) must declare that they will not use foreign funds or assets derived therefrom to influence or attempt to influence the will of the electorate in relation to the election in question.

These requirements are verified by the State Audit Office for the given election, either retrospectively, if the prohibited funds were used before the registration, or after the election, if the prohibited funds are paid after the election. In the event that an association or candidate violates these provisions, it must pay the State twice the amount used.

With regard to elections to be held simultaneously, the § also regulates the term of office of the mandated members of each election committee and ballot counting committee. According to the proposal, the term of office of the members of nominating organisations or candidates delegated to each election committee and ballot-counting committee in connection with a given election shall last until the results of all elections which may be taken into account as the legal basis for the nomination or election to the given election committee have become final.

### 38. §

The Integrity Authority also has the power to initiate asset declaration proceedings against the President and Deputy President of the Office for the Defence of Sovereignty.