
Weaponizing Sovereignty: Hungary's Protection of National Sovereignty Act and the Erosion of Fundamental Rights

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ABSTRACT

The Hungarian Prime Minister submitted Act LXXXVIII of 2023 on the Protection of National Sovereignty to fight unwarranted political intervention by foreigners or specialized organizations. The major task is to “protect the constitutional identity,” as outlined in Article R (4) of the Fundamental Law, by implementing proposals, investigations, analyses, and assessments in accordance with the law. This article uses normative legal research methodology to examine Hungary’s approach to sovereignty protection and its interpretation under international law. The analysis shows that the SPO (Sovereignty Protection Office) has extensive authority, including the ability to conduct investigations and determine whether organizations receive foreign funds, which serves as a reference for identifying whether individuals or organizations act as instruments of undermining Hungarian Sovereignty. This article also found that the lack of a clear definition of the SPO’s objectives is significant. While EU law and the Court of Justice of the European Union (CJEU) recognize the protection of Member States’ national identities, this concept does not give state bodies complete authority to violate fundamental rights and EU law.

Keyword: Hungary, Sovereignty Protection, Sovereignty Protection Office, EU Law.

A. INTRODUCTION

In 2001, the International Commission on Intervention and State Sovereignty (ICISS) explained sovereignty as responsibility and accountability of state to its population and its international community for ensuring the protection of its citizens (ICISS, 2001). The United Nations World Summit in 2005 endorsed this concept, stating in Paragraph 138 that ‘each State

has the responsibility to protect its populations from genocide, war crime against humanity.. the international community through the UN, also has the responsibility to use appropriate means to protect populations should national authorities fail do so' (United Nations, 2005). Meanwhile, in International stage, sovereignty refers to the protection of territory, the recognition within countries, and their legal independence. However, as the relationship with other countries evolves, the meaning and the implementation of the concept of sovereignty are also changing. And the best example of this evolution is the European Union.

In International communities, there are common understanding that by joining a supranational organization, a country would lose a significant part of its sovereignty by transferring their competences to the organization (Goldner Lang, 2024). Therefore, Hungary became a member of the European Union on May 1, 2024, and is widely expected to knowingly and voluntary give their significant part of its sovereignty rights to the Union. However, this does not mean the EU has the right to its member states. The sovereignty of state representative (elected by citizens in local elections), and the sovereignty for the member state is integrated into shared sovereignty within the EU, achieved through the ratification of a treaty (Salihu, 2023). It creates common responsibilities among the member state. The notion of sovereignty itself has been criticised for years. For example, sovereignty is seen as narrow, ethnocentric way to think about the relations of human beings and limited communities against the world (Koskenniemi, 2011); seeing also the need to 'bury' in for its role in politics and law as obsolete, confused, and pernicious (Herzog, 2020). However, within the EU itself, where the idea of common sovereignty is intended to raise the quality of member states, the conflict over sovereignty between the union and member states intensified. In study by Lehoczki in 2024 liking the fight for state sovereignty increase by as populist leaders have been elected in several member state in EU (Lehoczki, 2024).

One of the country is Hungary, where the idea of common responsibility or the Treaty being rejected (Example: Hungary reject common policy regarding sharing burden asylum seekers in 2025) to creation of Act LXXXVIII of 2023 on the Protection of National Sovereignty.

On November 21, 2023, Hungarian Prime Minister Viktor Orban, leader of the Fidesz Party, presented a bill to parliament titled Act LXXXVIII of 2023 on the Protection of National Sovereignty, to defend what he called undue political interference by foreigners or specific groups (Reuters Staff, 2023). Later in December, the Hungarian parliament passed the proposed bill, which establishes a new office for the protection of sovereignty with sweeping powers to examine Hungarians involved in public life (Bayer, 2024).

The measure, which establishes an Office for the Defence of Sovereignty led by someone with close ties to the Fidesz party, will allow the office to request information on persons and organisations from Hungary's intelligence agencies without court review (Bayer, 2024). It is also said that the Hungarian government will have the authority to examine individuals and organisations suspected of violating the country's sovereignty, and if proven guilty, they might face up to three years in prison (Liboreiro, 2024). The draft law, which will focus on the Office for the Defence of Sovereignty, will collect information on individuals or groups receiving foreign funding and deemed to have the ability to influence political debate and the electoral process in the country, with Hungary's secret services forced to assist the authorities (Liboreiro, 2024).

As we can see from the discussion above, the Hungarian government was granted significant power by the resulting sovereignty law policy. Sovereignty meaning. Sovereignty in EU Nevertheless, the policy makes no mention of the boundaries of the government's authority to carry out its directives. This is what gives the Hungarian people and journalists—especially independent

journalists—cause for great anxiety, since they can be unfairly singled out for persecution for defying the government of Viktor Orban's political doctrine.

The European Union has also criticised Hungary, stating time and time again that the country's policies are a setback for democracy in Hungary and that the EU intends to send Hungary a formal notice letter about its legal infractions (Bayer, 2024). The EU Commission declared in a statement obtained by The Guardian that it “considers that the Hungarian law violates several provisions of primary and secondary law” (Bayer, 2024). The statement went on to say that Hungary's sovereignty law policy violates a number of other EU regulations, such as the rights of EU citizens to vote, the protection of their personal information, the freedom of association, the right to an effective remedy, and the right to a fair trial (Bayer, 2024).

Along with the EU, a number of civil society organisations have issued warnings that the sovereignty law could target anyone receiving foreign funding, including from the EU, including journalists and advocacy groups, due to its ambiguous wording, unclear due process procedures, and the new authority's broad powers, which include access to intelligence data (Stevis-Gridneff & Pronczuk, 2024). One of the chairs of the Helsinki Committee, a human rights watchdog in Hungary, Marta Pardavi, stated that the investigation's results might lead to a process with the McCarthy Committee, a Cold War-era organisation established by US senator Joseph McCarthy to look into claims that communists had destroyed innocent people's lives (Stevis-Gridneff & Pronczuk, 2024). The proposal to establish an Office for the Defence of Sovereignty in Hungary, which would have broad powers to investigate any organisation or individual suspected of serving foreign interests or threatening national sovereignty, was then met with criticism from Dunja Mijatović, the Commissioner for Human Rights at the Council of Europe, who stated that it would seriously jeopardise human rights and should be dropped (Moravec & Folk, 2023). Then, in an

open letter signed by a number of prominent organisations that promote media freedom, it was stated that even though the law makes no mention of the media or media activities, it could easily be applied to media organisations and individual journalists on the grounds that any media outlet that receives foreign funding could be charged with undermining Hungarian sovereignty by disseminating "disinformation" and engaging in activities meant to sway democracy and the electorate in Hungary (Lakmusz, 2023).

Even though Hungary is a member state of the European Union who ratified several treaty such as human rights, The Hungarian government is continuing to implement the policy that has become a sovereignty law in Hungary despite numerous criticisms from Hungarian society, journalist organisations, human rights organisations, and the EU, claiming that the submission of an open letter violates their regulations. Declared that this law will shield Hungary from EU meddling in its economic sovereignty and from gender ideology imposed on the country, Mate Kocsis, the parliamentary leader of the ruling Fidesz party, represented the country (Steviss-Gridneff & Pronczuk, 2024).

There are multiple studies on the relationship between national sovereignty and state membership of supranational organisations, including the EU, which has its own sovereignty within a complex structure. Much of the existing literature focuses upon the status of sovereignty in the EU and within the EU, whether in a specific era of EU regionalisation (El Taki, 2024; Bickerton et al, 2022). The couple topic also starts to explore the increase in 'rights ideology', such as the focus of party politics and sovereignty, on the increase in radical and populist political actors (Muller, 2016; Borriello & Brack, 2019; Vachudova, 2021), and how the populist sovereignties and international cooperation are integral (Lecoczki, 2024). In line with that, the rise of populist and 'far right' political actors that become the leaders of the country, the article's interest lies in

exploring this notion, especially with the notion that the treaty in which they are members of this organisation is seen as a threat and the impact of this notion has the possibility to violate international law and human rights.

Previously governed by communism, Hungary joined the European Union on May 1, 2004. But Hungary's relationship with the EU itself deteriorated after the 2010 national legislative elections, which saw Viktor Orban elected prime minister and his party, the Fidesz Party, take control of the government. Arguments over sovereignty law policies were not the only things that caused disagreements. For example, Hungary rejected the EU's border-sharing plan in response to the refugee crisis, closing its borders and enacting laws that criminalised both those who entered the country without authorisation and those who assisted them (Traynor, 2015). As a result, the EU brought legal action against Hungary before the CJEU. A law allowing the government to rule the country without parliamentary oversight was implemented in Hungary during the coronavirus pandemic (Siad, CNN, & Reuters, 2022), and the country also held a referendum in April on a bill that would have banned educational materials and programs for children that promote homosexuality and gender reassignment. Because Hungary is a member of the EU and the bill violates the rights of minority groups, particularly LGBTIQ people, the EU filed a lawsuit against Hungary (Siad & Kottasová, 2022).

The EU believes Hungary has broken numerous international laws, particularly those written in the EU, of which Hungary is a member, and these are the main points of contention in the disagreement between Hungary and the EU. Hungary, meantime, feels that the EU is meddling too much in domestic affairs, interfering with the establishment of the Hungarian government, and endangering Hungary's national sovereignty. While the EU views Hungary's law on sovereignty as a violation of EU norms, Hungary views it as a means of gaining their own sovereignty and

being free from EU involvement. This has piqued an interest in researching Hungary's "sovereignty law" policy, whether it breaches the laws outlined in EU regulations, and how this policy is interpreted in light of international law. This article's will describe the structure and application of Hungary's "National Sovereignty Law" policy as well as how the policy is interpreted in light of international law and the applicable laws that apply to EU members.

B. RESULT AND DISCUSSION

1. Protection of National Sovereignty Act

The Sovereignty Protection Office (SPO) was established on February 1, 2024, in accordance with Act LXXXVIII of 2023 on the Protection of National Sovereignty. Tamás Láncki, who was nominated by the Hungarian Prime Minister and appointed by the Hungarian President for a six-year term, will serve as the office's president (ECPMF, 2023). The primary responsibility of the SPO is to "protect the constitutional identity," which is derived from Article R(4) of the Fundamental Law and is implemented through the implementation of proposal, investigation, analysis, and evaluation actions in compliance with the provisions of this Law (Hungary on the Defence of National Sovereignty, 2023). The SPO prepares its own budget proposal and budget implementation report to the DPR as part of the draft law on the central budget and its execution without amendments (5), this law goes on to emphasise further in Article 1 that the SPO must be independent and only subject to the law (Hungary on the Defence of National Sovereignty, 2023).

Then, in carrying out its responsibilities as outlined in Article 3, it lists the following factors as grounds for a SPO investigation: The following circumstances warrant the conduct of investigations: representative activities of interest, which do not include activities within diplomatic missions, foreign missions, or professional interest representation organisations; the

existence of activities aimed at manipulating and disseminating false information; the existence of activities intended to influence democratic discourse and state and social decision-making processes, including those influencing decision-making by individuals carrying out the responsibilities of state public authorities; and the pursuit of these activities in the interests of other nations, regardless of their legal status (Venice Commission, 2024). Subsequently, investigations are conducted on groups whose operations are supported by foreign funding and which have the potential to sway election outcomes, as well as groups that conduct or facilitate operations with the intention of swaying public opinion through the use of foreign funding (Venice Commission, 2024).

It is clear from the preceding explanation of Article 3 that parties suspected of receiving foreign funds, particularly political actors, will be the subject of ongoing investigations. All foreign funding used for party election campaigns will be criminalised in Hungary, according to the law's submission, which also states that the SPO's primary responsibility is to map and report perceived threats to Hungary's national sovereignty and identify organisations or individuals suspected of serving evil foreign interests (Venice Commission, 2024). According to Article 8, the SPO itself is also authorised to conduct investigations and may request records, financial statements, or other information from any entity that conducts business in Hungary, including associations of journalists, media outlets, and civil society organisations, as well as from any employees or other individuals connected to the entity under investigation (Venice Commission, 2024). Subsequently, under specific circumstances, the SPO president may request in Article 12 that the Parliamentary National Security Committee hear testimony from the head of the organisation under investigation and examine the SPO report (Venice Commission, 2024).

Apart from governing the functions and authority of the SPO, the Act also added a new article, 350/A, titled "Illegal influence of the will of voters" to the Criminal Code. This article stipulates that candidates and specific representatives of nominating organisations found guilty under this Act may face a maximum sentence of three years in prison (Venice Commission, 2024). In accordance with this Act, the Basic Law's 12th Amendment was also approved by Parliament, providing the SPO with a constitutional foundation upon which to guard Hungary's unique identity (Venice Commission, 2024). In order to protect the security and sovereignty of the Hungarian state, the SPO is therefore empowered to carry out enquiries and investigations into parties who are thought to have violated the law.

2. Protection of National Sovereignty Act in International Laws

The concept of sovereignty is theoretically separated into four categories: Westphalian sovereignty, which refers to political organisations based on the exclusion of outside actors from the authority structure in a particular territory; Domestic sovereignty, which refers to the formal organisation of political authority within a country and the capacity of public authorities to exercise effective control within the borders of their own political territory; and International legal sovereignty, which refers to practices related to mutual recognition between territorial entities that have formal legal independence (Kurniaty, et.al, 2022). The power of governmental authorities to control the movement of capital, ideas, products, people, pollution, and information beyond their nation's borders is referred to as sovereignty (Krasner, 1999). The description given above could need to be revised in light of recent socio-political changes, such as how European integration responds to historical geopolitical and technical obstacles by moving towards the concepts of autonomy and sovereignty (Krasner, 1999).

Here are some other literary analyses that demonstrate the four distinct and frequently used interpretations of the term "sovereignty" (See: Bodin, 1966; Fowler & Bunck, 1996; Krasner, 1999; Krasner, 2001; McIlwain, 1933; Verellen, 2011):

- a. The institution of public authority within the State and the degree of operational control exercised by people in positions of power are referred to as domestic sovereignty.
- b. The power of public authorities to regulate travel across state borders is known as interdependent sovereignty.
- c. The concept of statehood as it relates to international law is known as international legal sovereignty.
- d. The term "Westphalian sovereignty" describes the ban on outside actors interfering with a nation's internal authority structures.

One of the tenets of the foundation of international law is "sovereignty," which has significant implications when considering "traditional society's struggle for recognition" and how it affects international law (Shrinkhal, 2021). However, indigenous peoples continue to be the subject of international law, and the primary driving force behind their politics is their fight for sovereign autonomy (Barker, 2005) and The extent of sovereign authority based on classical international law is purposefully restricted to "civilised" governments (Shrinkhal, 2019, see also: (Singh, 2008).

Hungary is a party to several international human rights treaties, such as the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) (Committee of Ministers, Council of Europe, 2003) and the 1966 International Covenant on Civil and Political Rights (ICCPR) (Convention for the Protection of Human Rights and Fundamental Freedoms, 1950), in addition to being a member of the European Union. Then, according to Article Q of the

Constitution, Hungary "must ensure that Hungarian laws are in accordance with International Law in order to comply with obligations under International Law" (Committee of Ministers, Council of Europe, 2007). One common and highly useful application of sovereignty is as a state protector. Sovereignty itself often takes precedence over claims to rights. State sovereignty is, nevertheless, a significant and potent tool of international human rights law (Committee of Ministers, Council of Europe, 2007).

Significant questions concerning Hungary's compliance as a member of the European Union with EU laws and international law are brought up by the Law on the Protection of National Sovereignty's implementation. As previously mentioned, this law establishes the Sovereignty Protection Office (SPO), which is tasked with conducting in-depth enquiries into foreign political funding and activities. The broad authority of the SPO poses a danger not just to international law but also to EU rules and regulations, and it may even infringe upon fundamental rights like the freedom of expression, association, and privacy.

In reaction, the Hungarian National Assembly implemented a strategy of "national sovereignty protection" without any parliamentary scrutiny or public consultation, according to a resolution passed by the European Parliament on January 18, 2024 (Venice Commission, 2024). The European Union (EU) holds the opinion that Hungary's decision directly contravenes the principles outlined in Article 2 of the Treaty on European Union (TEU), which include respecting human rights, including those of members of minority groups, as well as human dignity, freedom, democracy, equality, and the rule of law (Treaty on European Union (TEU), 1992). Furthermore, as previously said, Hungary does not explicitly define what constitutes a violation of the law in the context of the sovereignty preservation law, giving the SPO wide latitude in determining whether an activity qualifies as a violation or not. Furthermore, the fundamental tenets of EU law

mandate that the rule of law be unambiguous and explicit; yet, individuals who are subject to the law may also anticipate how the law will be applied, particularly if it may have unfavourable effects (*C.I., C.O., K.A., L.N., S.P. v Statul Român, Case C-107/23 Ppu [Lin] (I)*, 2023).

Article 2 TEU prohibits breaking the law's values and regulations, however this Hungarian law is also thought to be capable of breaking other EU legislation, of which Hungary is a member. The four fundamental freedoms of the internal market—Articles 36, 45, 49, 52, and 54 TFEU, Articles 56, 52, and 54 TFEU, and Articles 63 and 65 TFEU—are not adhered to by Act LXXXVIII in the Protection of National Sovereignty (Schuler, 2024). Investigating any activity pertaining to the public interest in Hungary that has linkages to other EU members or businesses run by a nation or business founded in another member state is under the jurisdiction of SPO activities (Schuler, 2024). This covers the importing and using of raw materials for production, labour from member nations, economic assistance from other nations or businesses looking to do business in Hungary, and financial contributions from other nations or EU members (Schuler, 2024). Operations include working with foreign parties, such as other EU members, including Hungary. Because of the SPO's extensive jurisdiction, it is also feasible to investigate parties that are either directly or indirectly involved in the operations. This may be interpreted as an attempt to obstruct the exercise of basic rights and to discriminate against and meddle unfairly with the internal market (*Case C-78/18 Commission v Hungary*, 2020).

The possibility to conduct investigations against people and organisations engaged in rule-breaking is stated in Section 3 of Protection of National Sovereignty; however, this is not in line with the standards and laws outlined in the EU. Article 11 (1) and (2) is one of them; it ensures that public debate can take place in all areas of EU action and allows for regular communication between EU institutions and civil society, where participation in these activities can be looked into

in accordance with Section 3 regulations. Also covered are European Elections, Article 14(3) TEU, which governs democracy within the framework of free and fair elections that reflect the freedom of choice made by EU citizens, and Article 11(4), 24 and 227 TFEU, which guarantee EU citizens the ability to contact EU institutions (Schuler, 2024). Furthermore, given the disparity between the ruling and opposition parties, the stigmatisation of candidates, and the growing mistrust of the electoral process, there exists the potential for a breach of Article 10(2) TEU (Schuler, 2024).

The Hungarian judicial system, particularly the actions of its judges, is another EU law that might be broken as a result of the SPO's operations and authority. The relevant statutes are Article 19 TEU and Article 267, which provide Hungarian judges the authority to ask the Court of Justice of the European Union (CJEU) for a preliminary ruling (Schuler, 2024). The SPO has the power to look into specific judges and the content of preliminary rulings through Act LXXXVIII, the Protection of National Sovereignty, and can interpret such actions as endangering national sovereignty (Schuler, 2024). They can develop national law rules whose implementation cannot be questioned without running the risk of being viewed as compromising national sovereignty, according to the authority granted to the SPO, which is entrusted with producing an annual report that highlights regulations that may damage national sovereignty (Schuler, 2024). With this jurisdiction, the SPO can question and probe judges who seek a preliminary ruling from the CJEU. Furthermore, invoking national sovereignty protection, the SPO has the ability to fully prevent courts from asking a preliminary ruling from the CJEU, as well as obstruct the ongoing trial. Therefore the authority held by SPO clearly violating the right of citizen that written in Article 19 TEU that protect the effectiveness of legal protection and Article 267 that can question the EU law itself, with the massive authority own by SPO, it would distrust the running court because questioning the policy outcome is not welcome. Article 267 TFEU state the important of 'the

independence of national courts and tribunals is important to have proper judicial cooperation system, therefore the power 'looking into' the judges already compromise the judicial process, and would difficult to these judge requesting preliminary ruling.

The SPO's broad powers may also violate the rights to privacy and family life, personal data protection, freedom of expression and information, and freedom of assembly and association guaranteed by Articles 7, 8, 11, and 12 of the European Union's Charter of Fundamental Rights (the Statute and Funding of European Political Parties and European Political Foundations, 2014). This includes the privileges of the legal profession, such as lawyers, in Article 7, the duty of political parties at the EU level to express the interests of EU citizens in Article 12 (2), and the privileges and immunities applicable to members of the European Parliament under the Protocol of 8 April 1965, by which they have the right not to be subjected to any form of investigation, detention, or legal process in connection with opinions expressed in the exercise of their duties (the Statute and Funding of European Political Parties and European Political Foundations, 2014). As previously stated, the SPO has the right to conduct extensive investigations, including the collection of critical data on institutions or persons deemed to pose a threat to national sovereignty, as well as parties with whom they are associated.

Articles 18 and 19 of the European Union's Charter of Fundamental Rights, which govern legal assistance to foreigners in exercising their right to asylum and protection from refoulement (Charter of Fundamental Rights of the European Union, 2012), are violated by interpreting this activity as being in the foreigner's best interests. This includes the possibility of infringing specific terms of the amended Asylum Procedures Directive (See: Directive 2013/32/EU on Common Procedures for Granting and Withdrawing International Protection, 2013), the Return Directive (See: Directive 2008/115/EC on Common Standards and Procedures in Member States for

Returning Illegally Staying Third-County Nationals, 2008), and the EBCG Regulation (See: Regulation (EU) 2019/1896 on the European Border and Coast Guard and Repealing Regulation No. 1052/2013 , 2019). This is also consistent with Article 48 of the European Union's Charter of Fundamental Rights, which governs the presumption of innocence and the right to a defence. Violations can occur if SPO information provided by a person during an investigation is used to initiate legal proceedings by another authority (See: Directive (EU) 2016/343 on Certain Aspects of the Presumption on Innocence and of the Right to Be Present at the Trial in Criminal Proceedings, 2016). Furthermore, the SPO provides no process protections throughout its investigation, and the material gathered might be used in other official legal proceedings (See: Directive (EU) 2016/343 on Certain Aspects of the Presumption on Innocence and of the Right to Be Present at the Trial in Criminal Proceedings, 2016). The SPO's broad powers will have a significant impact on the status of asylum seekers in Hungary, as they will have the authority to interpret their activities as foreign interests and not only criminalise asylum seekers' activities, but information obtained during investigations will be used as a trigger for other investigations and distributed to other individuals.

SPOs with broad authority, including the ability to conduct investigations and access individual or institutional data, as well as their staff, who are considered to have violated the contents of Act LXXXVIII in the Protection of National Sovereignty, not only allow violations of individual human rights as described above, but also fail to comply with data access protection. Articles 7-9 of the Law give SPOs very broad and unlimited authority to collect, access, investigate, and handle all personal data relating to acts that are deemed damaging to the security of state sovereignty, as outlined in Article 3 (ECPMF, 2023). This can be construed to mean that the SPO has the authority and freedom to request personal information from individuals or

organisations under investigation, including private individuals or organisations, administrative bodies, and other public entities. This data access authority is bolstered by the SPO's authority to establish direct data links with other organisations under Article 5 in the absence of any corresponding agreements that protect personal data (ECPMF, 2023). This regulation not only violates the right to personal data privacy, but the information gathered may be used to criminalise specific individuals or groups.

According to Article 2(2) of the General Data Protection Regulation (GDPR), there are two exceptions to the general rules for processing data by member state public bodies: this regulation does not apply to the processing of personal data (a) in activities that are outside the scope of EU law, and (d) carried out by competent authorities for the purpose of preventing, investigating, detecting, or prosecuting criminal offences (See: General Data Protection Regulation (GDPR), 2016); *Criminal proceedings against Bodil Lindqvist*, 2003; *Case C-272/19 VQ v Land Hessen*, 2020). However, SPO has no connection to criminal procedures or the tasks of law enforcement agencies related to public security (Amnesty International & Hungarian Helsinki Committee, 2024); therefore, SPO cannot be regarded part of the 'authority' whose investigations lead to authorised operations (Amnesty International & Hungarian Helsinki Committee, 2024). As a result, SPO cannot do data processing or investigations for public agencies.

The collection, processing, and inquiry are not fully defined, so that the SPO can carry out these tasks without difficulty. The present constraints merely stipulate that the publication of the SPO report is not permitted to include personal data other than that which is public in nature and for the public benefit, as specified in Section 6(6) (ECPMF, 2023). However, this provision only applies to publication as one sort of data processing, which is still not protected from undue interference with privacy because the SPO has the right to use the data for other reasons, and there

is no prohibition on including data analysis findings in the report (ECPMF, 2023). This is backed by Section 11 of the Law, which specifies that personal information acquired may be utilised in any procedure by any other authority (ECPMF, 2023). According to the report submitted by Amnesty International in collaboration with the Hungarian Helsinki Committee, the SPO has the authority to transfer all data obtained from various sources by initiating processes from administrative authorities such as tax supervision or other processes, such as disciplinary processes from public or private employers, including disciplinary processes against judges or public prosecutors (Amnesty International & Hungarian Helsinki Committee, 2024). This clearly contravenes data protection requirements on public bodies as it allows the combination of personal data collected for different purposes without providing the purpose for which the data was combined and collected.

Hungarians clearly understand the laws and principles of the EU, in which they are the only member country, not only to protect themselves from the EU, but also to maintain the EU's status as a union and the extent to which the EU can intervene to protect its fundamental rights. Despite the fact that the EU has had a strong mandate in place for several years and has policies in place to protect domestic law and democracy, it has yet to provide significant benefits to the EU (Dawson & Muir, 2013). The Venice Commission, as an advisory body to the Council of Europe, issued numerous conclusions on how rule LXXXVIII in the Protection of National Sovereignty is: To be valid, regulations must meet three criteria: legality, legitimacy, and necessity or proportionality. The Venice Commission questioned the regulation's constitutionality because of its complexity and ambiguous terminology, such as 'actions aimed at influencing or seeking to influence the will of voters' (Venice Commission, 2024). The restrictions on foreign fundraising for political parties and election campaigns are largely consistent with international best practices

and standards, and the ECtHR permits nations to specify which sources of foreign funding are acceptable to political parties (Venice Commission, 2024). Despite this, the Venice Commission and the OSCE/ODIHR Joint Guidelines stipulate that contributions from foreign sources to political parties may be forbidden by local law in order to prevent undue influence from foreign interests (Venice Commission, 2024).

The Venice Commission also stated that national constitutional authorities have genuine concerns about foreign money or other forms of influence, which should be handled through political debate and, if necessary, legislation (Venice Commission, 2024). However, with this Law, it is very possible that there will no longer be open political debate and that the power of the party that controls the government will increase. As for assistance from other countries, even for NGOs or organisations, and any individual who has a connection with 'foreign funding' will be very vulnerable to accusations of 'threatening the continuity of the protection of national sovereignty.' Furthermore, in accordance with this Law, the Hungarian Parliament passed the 12th Amendment to the Basic Law (Hungarian Constitution), which included Article R(4), which requires every state authority to defend Hungary's constitutional identity and Christian culture (Venice Commission, 2024). This provision further strengthens the Law and the authority of the SPO. The independence in carrying out the activities of the SPO is also questionable, which although written in the Law, the funding of the SPO from Parliament is written in Section 1(5) which raises the question of how independent this institution is and with such great authority, the SPO can become one of the government's tools to suppress the voice of the opposition in Hungary. Even with this notions, Hungary also have responsibility to their already agree treaty as member state with their involvement in policy making at the EU, and also their responsibility as country that sign and ratified international treaties, convention and comply to international law. Simultaneously, the

EU's response to the deviation of the Hungarian rule of law with the SPO will be completely irrelevant without consideration of the Hungarian Basic Law, where even though Fidesz adjusts direction with the SPO, the constitutional regime of 2011 makes the Hungarian government continue to violate the basic principles of the rule of law (Barret, 2024). As a result, the SPO will continue to raise concerns about the (i)legitimacy of Hungary's Basic Law (Barret, 2024).

3. Issues presented by the Protection of National Sovereignty Act

In practice, Hungary under the leadership of Viktor Orbán since 2012, is a prototype example of left-wing and right-wing populism (Aytaç & Öniş, 2014; see also: (Enyedi, 2015). As previously stated, the Hungarian government is attempting to disassociate itself from EU ideals and politics. The passage of this law is also one means for the Hungarian government to enhance its position in the country by prohibiting any form of funding from outside Hungary. Depending on the scenario, the Fidesz party, which controls the Hungarian government, claims that foreign financial interests are behind a variety of challenges to Hungary, such as illegal immigration, non-governmental organisations, and opposition parties (Perfeito da Silva, 2021). However, many international players are concerned that this law may be used to exploit the human rights of Hungarian residents and foreign nationals with ties to Hungary, particularly asylum seekers.

The Council of Europe Commissioner for Human Rights stated in a statement that the establishment of the SPO in Hungary, which has broad powers to investigate organisations or individuals suspected of serving foreign interests or threatening national sovereignty, poses a significant threat to human rights and must be abandoned (Council of Europe, 2023). It is also stated that the president, who is appointed by the President of the Republic based on the Prime Minister's proposal, has unrestricted authority to request sensitive data and personal information from anyone, without supervision or legal repercussions in the event of a SPO violation (Council

of Europe, 2023). Sections 2 and 3 of the Hungarian Protection of National Sovereignty Law specify the SPO's duties and authorities, but the scope of its performance is unclear in the regulation, allowing it to be interpreted as anything according to the SPO's wishes and interests. The law is not only ambiguous, but it is also not subject to interpretation. For example, phrases like 'manipulation', 'disinformation', 'influencing democratic discourse', 'state interests', or 'foreign organisations' might be interpreted broadly and arbitrarily (Amnesty International & Hungarian Helsinki Committee, 2024). Thus, in Hungary, all legitimate activity involving the public interest is subject to the SPO's supervision, competence, and guardianship, whether it involves people, civil society organisations, or media outlets (Amnesty International & Hungarian Helsinki Committee, 2024).

In Amnesty International's further explanation regarding the relevance of EU law, such activities include things like: any kind of action carried out 'in the interests' of the EU; participation in EU-funded public programs; importing goods from another EU member state, for example books about the EU; employing nationals from another Member State for companies or businesses domiciled in Hungary, Hungarian nationals seeking employment in companies or businesses domiciled in another member state (another country or any international organization; use of services from another member state or vice versa; offering services by a Hungarian-domiciled provider to another member state or a partner domiciled in another member state; using funds originating from another member state to support activities deemed to fall within the SPO investigation (Amnesty International & Hungarian Helsinki Committee, 2024). These activities not only subject individuals, groups, or organisations to scrutiny, but they also undermine relations between EU member states and with the EU itself.

Another potential issue is the reduction of press freedom. In response to this law, domestic media freedom groups registered in Hungary may be subject to it, while international media freedom organisations functioning in Hungary may be stigmatised in SPO reports (ECPMF, 2023). The media is one of the primary targets for enforcing this regulation. The media, particularly those who criticise the Orban administration and the Fidesz party, or who cover news that the government dislikes, are regarded as part of foreign power or media purchased by the United States or the European Union to criticise the government and undermine Hungary's sovereignty (ECPMF, 2023). This explain above in sub chapter before, these issues would definitely be violating article 11 of the EU Charter, where people have freedom and protection in conducting public debate. Also this violation automatically violating the Article 2 TEU where stated that the member state prohibit breaking the law's value and regulation. When the SPO is operational and the law on sovereignty protection is implemented, it will pose a threat to independent media and non-governmental organisations, as well as put pressure on institutions receiving foreign funding, even if the funding is legal under the law.

The purpose of the SPO will not only be a stumbling block in press freedom, where connections with other countries, while legal in the eyes of the law, will be disrupted by the implementation of this law, as explained in the previous chapter. Another issue that may develop during the law's implementation is that no individual or organisation is immune to invasive surveillance, which can be used not just in business, city government, or unions, but also in churches, which the SPO may investigate (Hungarian Civil Liberties Union, 2023). The sovereignty protection law also targets civil society and the existence of open civil space in a broad sense, and with regulations that imply that there are foreign interests behind every critical position and authority, these regulations seek to intimidate, obstruct, and silence parties actively engaged

in public life (Schuler, 2024). Then there's the fact that Tamás Láncki, the SPO president, was nominated by the Prime Minister and appointed by President Orbán himself, both of whom are from the same party that now controls Hungary's government, raising concerns about the body's independence and the risk of political abuse of power (Schuler, 2024). The SPO's broad powers allow them to conduct investigations, supervise, and evaluate if persons or organisations receiving foreign financing are committing acts that threaten state sovereignty. Furthermore, no government entity or independent organisation (presumably subject to sovereignty protection legislation) oversees the law's application and the SPO's performance.

C. CONCLUSION

This article discusses the concept of state sovereignty as a member of a supranational organization and its implementation under international law, examining whether Hungary's 'protection of the constitutional identity' practices are consistent with international law or violated it. This article found that, in an effort to protect its sovereignty, Hungary, which declared a sovereignty crisis, enacted a protection law establishing the Sovereignty Protection Office to ensure its implementation. According to the concept of sovereignty, the state has a responsibility and accountability to its populations to ensure protection, and the international community also has a responsibility to use appropriate means to protect populations when state authorities fail to do so. The novelty of this research is its analytical approach to the meaning of state sovereignty as a member of supranational organizations and violations of international law. Also, sovereignty law contravenes several EU regulations, including those concerning citizens' voting rights, personal data protection, freedom of association, the right to an effective remedy, and the right to fair trial.

Under the regulation, Act LXXXVIII of 2023, the SPO has very broad authority, including the right to conduct investigations and to decide whether an organization receives funds from

abroad, which is used as a benchmark to determine whether the individual or organization is a tool to disrupt Hungarian sovereignty. With such broad powers, the SPO's aims in carrying out its tasks cannot be determined as well. In effect, this implies the SPO has the right to establish its own borders. The lack of a clear definition of the SPO's objectives is significant because, while EU law and the Court of Justice of the European Union (CJEU) recognize the protection of Member States' national identities, this concept cannot grant state bodies complete authority to violate fundamental rights and EU law. For example, as described in the results and discussion, Hungary violated Article 2 TEU, which requires respect for human rights, dignity, freedom, equality, and the rule of law. Furthermore, the Sovereignty Policy Law, which gives the SPO broad authority, violates individuals' and organizations' privacy rights by granting them access to all data on those suspected of violating the law, limiting press freedom, the possibility of using data to investigations. The concept of sovereignty, the state has responsibility and accountability to its populations for ensuring the protections. However, through these studies, we found that the Act LXXXVIII of 2023 for 'protection of the constitutional identity' not only violates the laws, but instead of protections, the state creates regulations that compromise the freedom and protection of the Hungarian populations.

D. RECOMMENDATION

The Hungary is not only violating international law but also undermining the realization of its citizens' rights. This article highlights the critical role of checks and balances in policymaking, as policies can be readily employed to suppress dissenting parties. Accordingly, future research should investigate the capacity of organizations such as the European Union, non-governmental

organizations, and media entities to exercise their rights and fulfill obligations related to freedom of expression and association following the implementation of this policy. Additionally, further studies should examine the strategies employed by groups accused of violating Hungary's sovereignty protection policies in seeking justice through both domestic and European Union courts, as well as through extrajudicial means.

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