Dear Mr. President,

Bill T/ 14686 (hereinafter referred to as “Bill”) aims at amending the national higher education act (Act CCIV of 2011 on National Higher Education, “HEA”) was accepted by the Parliament on 4 April, 2017. In the history of higher education legislation this Bill was adopted at an unprecedented speed and if it enters into force, it would make it impossible for Central European University (hereinafter: “CEU”) to continue to operate in Hungary

The CEU/Közép-európai Egyetem is considered as one of the best universities operating in Europe considering its programs. For example, in 2017 CEU is ranked at 42 by Quacquarelli Symonds (QS) among world’s universities with political studies, being the only Hungarian university in that ranking. CEU brings thousands of foreign students to Hungary and makes it possible for Hungarians to obtain an American degree without ever leaving Hungary. CEU/Közép-európai Egyetem employs 600 employees from 130 countries and currently teaches 1,440 students from 108 countries.

CEU/Közép-európai Egyetem has paid more than HUF 5.9 billion in 2015 in taxes and it has spent HUF 3.5 billion in 2015 in Hungary. If the Bill enters into force the university considered to be of great reputation in Hungary may cease to operate, and, therefore, 823 jobs will be threatened, close to HUF 6 billion/year will be lost in taxes and the CEU will not spend in Hungary HUF 3 billion annually¹. Several hundred additional Hungarian students will leave Hungary every year, and the process of ‘Brain drain’ will be further strengthened.

In the followings we set out the current status of the CEU, the effect of the Bill on the activities of the CEU and will describe why the Bill is contrary to Fundamental Law of Hungary.

1. The Central European University: Current Legal Status

CEU is an international and independent graduate university, in operation since 1991, authorized and accredited to grant degrees both in the US and in Hungary.

CEU holds an absolute charter from the New York State Education Department. In the United States, CEU is accredited and continuously monitored regarding its Hungarian operation by the Middle States Commission on Higher Education that accredited higher education institutions such as Princeton University, Columbia University, Johns Hopkins University, Cornell University, University of Pennsylvania or the New York University. The Middle States Commission on Higher Education continuously supervises the operation of the CEU and conducts an overall review of the conditions for accreditation every four years. The last investigation that was monitoring the CEU’s Hungarian operation and which was conducted by the Middle States Commission on Higher Education ended with a report dated on 31 July, 2014, in which the supervisor authority made the following final conclusion: *The report relating to the periodic supervision of the CEU shows an example of an institution, which takes seriously the recommendations of the Middle States, especially in the implementation of the strategic plan, in the planning and harmonization of the budget and in the promotion of the systematic evaluation.*

¹ Exclusive of the amounts paid as salaries
The report of the CEU is well-organized, well-documented and comprehensive answer to the questions of the authority. In addition, CEU also takes seriously its future, future planning, admission and financial well-being, and CEU is working very hard on being the best CEU ever. We hope, that the current state and the development will continue under the strategy planning period and thereafter.’ The next supervision will start with a self-checking in winter, 2017, and this will be followed by a comprehensive on-site evaluation in 2018. The next final conclusion is expected to be prepared in 2019. The requirements of the Middle States – which are far more stringent than the Hungarian requirements – are set forth in the so called Accreditation standards and requirements document. This very detailed document can be found on the following link: http://www.msche.org/publications/RevisedStandardsFINAL.pdf. The conditions of the accreditation of the Middle States were described by the Hungarian Education Authority in its 2017 annual report as follows: ‘the requirements of the Middle States Commission on Higher Education are very serious conditions, which the CEU has previously fulfilled and in the future CEU has to fulfil in order to be an accredited higher education institution in the US.” Thus, the CEU and CEU’s programs operate under the continuously and serious supervision and quality control of the accreditation authorities of the United States of America, which is recognized by the Hungarian authorities. CEU meets with the abovementioned requirements, and conditions of the US control are ‘very serious’.

The CEU and CEU’s courses of study are verified and recognized in a federal level by the United States of America, since CEU was added in the federal student loan program. Thus, bodies of the United States of America pay the tuition fee of those US citizens, who enrolled in the CEU. Only serious educational institutions are allowed to join by the federal state to the American federal student loan program.

CEU NY received its license to operate in Hungary from the Ministry of Culture and Education based on Ministerial resolution No. 5563/94, dated January 5, 1995. This operational license was modified based on the Ministerial resolution No. 2123-8/2005, issued on April 18, 2005.

In 2004 the Hungarian Prime Minister signed an agreement with the Governor of the State of New York (“Declaration”). The Declaration confirms the parties’ joint agreement to support CEU’s goal of achieving Hungarian accreditation, while at the same time maintaining its status as an accredited American university. Following the Declaration in 2004, Hungary promulgated a special law on the establishment of Közép-európai Egyetem (“KEE”) as a Hungarian university (Act LXI of 2004 on State Recognition of Közép-európai Egyetem). Since then the Higher Education and Science Committee and the Hungarian Accreditation Committee (“MAB”) have accredited first KEE as an institution and also ten graduate and doctoral programs of the CEU in Hungary as programs of the Hungarian university KEE. While the university thus has a dual legal identity, as KEE and CEU, it is one university, with only one campus, one academic staff and one computer network etc. This dual legal identity enables CEU-KEE to comply with Hungarian and US legal norms. In compliance with Hungarian law it has a university senate and a rector, the latter appointed by the President of Hungary.

Students enrolled in programs of CEU and Közép-európai Egyetem – in contrary to what has been communicated in the press – do not receive automatically two degrees, while they study only in one program. Students enrolled in the programs of CEU receive only an American diploma, while those enrolled at the programs of KEE receive only a Hungarian diploma.
Section 94 of Hungary’s National Higher Education Law regulates KEE and entitles it to seek Hungarian accreditation of certain of its academic programs. Section 104 (7) contains certain regulations relevant for private universities, including KEE, such as exemption under the general educational organization of universities, criteria for the rector and his appointment, work permit for non- EU nationals academic staff and the degree requirements for appointment of academic staff.

CEU operates in Hungary as a foreign higher education institution based on a separate license from the Hungarian Education Authority under Section 76 and 77 (4) of the HEA. These provisions entitle us to deliver those programs which for technical reasons - different curriculum or a different length of the course - could not be easily accredited in Hungary.

2. The effects of the Bill on CEU

The Bill would make it impossible for CEU-KEE to continue to function in Hungary.

1. CEU, the American university chartered in the US, could only continue in Hungary if there was a binding international agreement supporting its operation as a foreign university in Hungary. Compared to the original wording of the Bill, the Legislative Committee went even further in tailoring the legislation to be even more discriminative when it stated that if a foreign university is accredited in a federal state, then an agreement shall be made both with the federal state and the member state and they allowed six months to do this. This provision obviously fails to ensure adequate time for preparation and sets an impossible condition.

2. Numerous university accredited in the United States of America (the list – by way of example - of these universities is attached to our present letter as Annex 1.) is solely conducting educational activities in foreign countries, but the territory of the United States of America. This kind of foreign organization of the excellent American education ensures in numerous countries around the world that local students receive U.S. system education which was accredited in the U.S. without the necessary of resettlement to the United States (the method and the professors are brought to them). This system is known by the Hungarian educational authorities for decades – such universities as shown in the Annex have been operating worldwide since 1980- and since 1994 they exactly know that the home of CEU is Budapest and the United States of America does not provide any courses. In the interest of CEU continuing its Budapest operation, the planned modification would require that CEU started courses in State of New York practically within 6 months (if in this period the Government of Hungary concludes international contracts in this subject). Specifying an obligation for CEU, like this one, there is no interpretable educational advantage for Hungary or for the Hungarian student, however it would force CEU to spend ten millions of dollars for the development of the already developed and saturated educational infrastructure of the United States of America. Such obligation according to the above, from the Hungarian standpoint, completely unnecessary and with such deadline cannot be met and in the reality and in its merits it means the ban of the university’s educational activity. This provision does not provide sufficient preparation time.

3. KEE, the Hungarian university, could no longer deliver the programs of the American university as it is allowed to do under Section 77 (4) of the HEA, as Hungarian universities could only deliver programs of European universities and not of countries from the OECD. Based on this current Section 77 (4) of the HEA, CEU operates in Hungary through the Hungarian University and the Hungarian University issues the CEU’s (U.S.) diplomas on behalf of CEU. The proposed new Section 77 (4) does not include universities
of the OECD countries (such as the United States of America) anymore to provide university programs in Hungary. With this the world's most acknowledged education systems – the American system's educational programs would not be taught in Hungary, only if the Government of Hungary wants it. Consequently CEU would not be able to offer U.S. academic programs through KEE in Hungary, unless the Government of Hungary expressly consent this.

4. The Bill forbids CEU to continue its Hungarian operation in its current form and under its current name “Central European University” unless the Hungarian university “Közép-európai Egyetem” changes its name. In other words, this would require the two legal entities – which are jointly delivering programs – either to change the names they have used for decades or to discontinue operation in Hungary.

5. According to the current Section 104 (7), the professors who are other-than the European Union citizens employed by the KEE, getting work permit was not mandatory for being employed by KEE. According to the draft, the employees employed by higher educational institute with the Hungarian Foundation maintainer would not exempt from the acquiurement of the work permit. Currently in Hungary there are only two institutes with a Hungarian foundation maintainer: the CEU and the Andrássy University. Since the employees of the Andrássy University are mostly EU citizens, by contrast a significant proportion of the professors of CEU are American or Canadian, this requirement in a discriminative manner, specifically directed against the CEU.

3. The law making procedure and more provisions of this Bill is contradictory to the Fundamental Law of Hungary

The method of passage of this Bill is breaching the Article B) paragraph 1) of the Fundamental Law of Hungary, since the whole Bill is anti-Fundamental Law of Hungary. Furthermore the Section 1, 2 and 7 of the Bill are contradictory to Section X paragraph (1) of Fundamental Law of Hungary where it is ensured that the freedom of scientific research and teaching, and Section XV paragraph (2) where the prohibition of discrimination is guaranteed, and Section 4 of the Bill is contradictory of Article B) paragraph (1) of the Fundamental Law of Hungary.

1. According to Article B) paragraph (1) Hungary is an independent, democratic state. According to the normative practice of the Constitutional Court, breaching the rules of decision-making which is a part of the rule of law is possible to result in public law invalidity. In the legislative procedure the main goal of the procedural rules is to allow the substantive discussion over draft bills. Without the theoretical possibility of the substantive discussion the Hungarian Parliament cannot perform its democratic function.

The function of the rules of decision-making which guarantees the substantive discussion was signified and validated by the Constitutional Court. In the Resolution of the Constitutional Court no. 63/2003. (XII. 15.) for example the Constitutional Court nullified the examined bill because bill sent back by the president to the Parliament for consideration could not be substantively discussed by the parliamentarians. (ABH 2003, 679, 685-689.) In a similar spirit the Constitutional Court ascertained in Resolution 164/2011. (XII. 20.) that in the previous Parliament’s Rules of Procedure “the restriction for coherence interference of the possibility of submission an amendment proposal before the final vote is a significant rule in the view of the reasonability of the law making procedure because without – or in case of disregarding – it, the draftz bill in the latest phase of the procedure of lawmaking a conceptual, comprehensive is possible to be amended, which practice can result in the avoidance of the guarantees
of the considered and quality law-making procedure which are part of the law-making process and its previous phases.” (ABH 2011, 440, 457, and next page)

The Bill was passed by the Parliament in the exceptional procedure based on Section 61 paragraph (1) of the Parliament’s Rules of Procedure. This meant that the draft bill submitted to the Parliament on March 28, 2017 was passed by the Parliament on April 4, 2017 that between the commencement of the discussion on the draft bill and the passage elapsed less than 24 hours. Yet all of these were taken place as the bodies who are entitled to express their opinion on the draft of Bill – the Hungarian Academy for Sciences and the Hungarian Rector’s Conference – could not express their opinion before the submission. There were neither prior consultations, neither substantive discussion on the draft bill by the Parliament.

In itself, the possibility for the exceptional procedure ensured in Section 61 of the Parliament Rules of Procedure does not raise constitutional obstacles. However, after this possibility restricts or excludes the possibility of substantive discussion which is central in a democratic state, without a reasonable cause this procedure shall not happen. In this case, in the proposal dated on April 3, 2017, the deputy Prime Minister corroborated the exceptional procedure solely as “the urgent passage of the draft bill is justified by the governmental interest”, without defining the nature of the governmental interest. This does not mean anything other than the enactment of the exceptional procedure happened without any kind of cause which made the substantive discussion essentially impossible. According to our point of view this wide application of Section 61 paragraph (1) the Parliament’s Rule of Procedure in contrary to the requirement of the democratic rule of law, which at least requires that differing from the provisions of Parliament’s Rule of Procedure ensuring the substantive discussion is solely possible based on appropriate cause and solely in the most necessary extent.

The Bill is not in line with the provisions of Act CXXX of 2010 on Law-Making (hereinafter as “LMA”) and of the requirements of Act CXXXI of 2010 on social participation in the preparation of legislation (hereinafter as the “PPA”), since according to our information, an impact assessment was not made, and the Bill was not preceded by social consultation. Section 17 of the LMA determines an impact assessment to be prepared in case of a Bill. According to section 19 (2) of the LMA “the one responsible to prepare the legislation shall make sure that the draft of the legislation is available for information and comments as determined in the PPA.”. Section 5 (1) of the PPA provides that “the draft law and its reasoning shall be submitted for social reconciliation (hereinafter together as the “Draft”).” There was no social reconciliation in relation to the Bill. The affected parties, including the universities, the professional organizations, the Hungarian Academy for Sciences, the Hungarian Accreditation Agency (MAB), the Rector’s Conference did not have any information about the Bill and they are submitting their opinions about the draft legislation prepared in full secrecy only in these days. The latter in the statement published on April 3, 2017 noted that “The Hungarian Rector’s Conference heard from the media about the submission of the draft bill which’s aim is to amend the act on higher education. We ascertain regretting that the person who submitted the drift did not provide for the HRC to express its opinion in this matter.”

2. The Rector’s Conference, connected to the drafted bill itself and to the interest of the Hungarian higher education, also added to their statement that “The presidency of the HRC perceives with concerns that negative judgement regarding the country is taking such measures which is possible effect negatively for the international relations of the Hungarian higher education. Since this communication mostly based on partial information, the leaders of the education politics are asked to do everything to compensate these negative tendencies.”
Section X (1) of the Fundamental Law of Hungary provides „Hungary shall protect the freedom of scientific research and artistic expression, as well as the freedom of learning and - within the framework defined by law - teaching so as to attain the highest level of knowledge possible.” Section XI (1) of the Fundamental Law of Hungary guarantees the right to education which is ensured by Hungary “through the dissemination of and by providing general access to, community culture, by providing free and compulsory primary schooling, free and universally accessible secondary education, and higher education made available to all on the basis of their ability, as well as by providing financial support as laid down in an act of Parliament to those receiving education”, according to Section XI (2) of the Fundamental Law of Hungary.

It is not mere chance that the Fundamental Law of Hungary ensures a specific protection to these rights. According to the Constitutional Court, „in all such cases when, in the course of history, the state has set political, ideological, religious or other limitations on the freedom of science, it has become the barrier of the development of the whole society. It is a truth based on historical experiences that freedom of science is the fundamental guarantee of progress and it is also linked to individual autonomy. A free search for scientific theses, findings and truths and the free flow of the scientific ideas and views is, therefore, the basic condition for the development of humanity and one of the guarantees of free unfolding of the individual.” [Resolution of the Constitutional Court No. 34/1994. (VI. 24.), ABH 1994, 177, 182.]

The guarantees of the Section X and XI of the Fundamental Law of Hungary are not limited to the higher educational institutions with Hungarian seat. Section XI paragraph (1) ensures Hungarian citizens with the right to education, however, the institutional guarantees resulting from the Section X and XI paragraph (2) of the Fundamental Law of Hungary refer to all of the higher educational institutions operating in Hungary. It is just not possible, because – as the Constitutional Court put it – “in a broader sense, the freedom of science, in general, is linked to the freedom of expression.” [Res. of the Const. Court No. 34/1994. (VI. 24.), ABH 1994, 177, 182.], and as such, deserves special protection.

According to the Constitutional Court’s practice, „the freedom of science, scientific knowledge and scientific learning, although not unrestrictable, but still such a freedom, that should allow only those restrictions, the aim of which is to protect and enforce fundamental rights or which have been designed to ensure the unconditional dominance of an abstract constitutional value (e.g. confidentiality based on law).” [Res. of the Constitutional Court No. 34/1994. (VI. 24.), ABH 1994, 177, 182-183.]. According to the Constitutional Court, the right to education ensures the establishment and operation of higher education institutions, while on the basis of the freedom of science in the broad sense, the state should provide solutions regulated in law that duly ensure scientific activity that is free from outside influence, free, and professional [Res. of the Constitutional Court No. 41/2005. (X. 27.), ABH 2005, 459, 473]. „Therefore, the basic guarantee for freely exercising scientific, educational and research activities is establishing higher education institutions with self-governance and autonomy.” [Res. of the Constitutional Court No. 41/2005. (X. 27.), ABH 2005, 459, 474].

The independence of higher education institutions is also ensured by the second sentence of paragraph 3 of Section X of the Fundamental Law of Hungary, as follows: „As regards the contents and methods of research and teaching, institutions of higher education shall have sovereignty, whereas their organizational structure shall be governed by an act of Parliament.” This provision of the Fundamental Law of Hungary recognizes the scientific and educational autonomy of higher education institutions and
authorizes the Hungarian Parliament to determine uniformly applicable organizational rules that respect
the freedom of research and education. These organizational rules may even limit scientific and
educational autonomy, however, such limitation may only serve the purpose of protecting another basic
right or constitutional value – most importantly, to protect the rights and interests of students – and
cannot be disproportionate.

The Fundamental Law of Hungary guarantees not only the establishment of independent higher
education institutions, but also excludes the possibility of abolishing higher education institutions
discretionally or undermining their operation. It is not compatible with the freedom to scientific life and
teaching as well as with the freedom to education if the existence or operation of a higher education
institution depends on the discretionary decision of the maintainer [Resolution of Constitutional Court
No. 41/2005. (X. 27.), ABH 2005, 459, 483]. It is possible, of course, that a law regulates the conditions
of operation of higher education institutions, however, it cannot give a discretionary right to
the Government or to the Minister related to the existence or Hungarian operation of higher education
institutions.

It is just not possible, because – as the Constitutional Court put it – “in a broader sense, the freedom of
science, in general, is linked to the freedom of expression.” [Res. of the Const. Court No. 34/1994. (VI.
24.), ABH 1994, 177, 182.], and as such, deserves special protection.

3. Point a) of Section 76 (1) of the HEA determined by Section 2 of the Bill, together with Section 77 (2)
determined by Section 3 of the Bill leads to a result where higher education institutions having a seat
outside the territory of states of the European Economic Area can operate in Hungary depending on the
discretionally decision of the Hungarian Government. Based on the cited provisions, in order to operate,
it is necessary for higher education institutions to conclude an international agreement with a theoretical
support of their Hungarian operation; according to Section 5 (1) and (2) of Act L of 20
05 on the
procedures related to international agreements, the prime minister gives authorization to conclude an
international agreement on the basis of the proposal of the minister and the minister for foreign affairs,
while authorization to determine the final wording of the international agreement shall be given by the
Government – in exceptional cases, between the two sessions of the Government, by the prime minister.
Therefore, the Government may, at its own discretion, without any legal or substantive limitations,
decide not to enter into an international agreement on the Hungarian operation of the foreign higher
education institution, and thus, exclude unilaterally the Hungarian operation of a foreign higher
education institution. To this end, the Government does not need to refer to the protection of any right
or constitutional value, moreover, it does not need to justify the proportionality of the measure or the
lack of any such measure. According to the above, this is clearly contradictory to Sections X and XI of the
Fundamental Law of Hungary.

According to Section 115 paragraph (7) determined by Section 4 of the Bill the deadlines in the law are
independent from whether the state of the accreditation is a – according to the text of the law – federal
state or not. So the legislator entrusting the Education Authority which belongs to the Ministry of Human
Capacities, with the decision making about a foreign state, federal state or not, or in the foreign state
who is constitutionally entitled to conclude an international convention on the educational matter. In
our point of view the the legislator’s method is solicitous and the Hungarian Education Authority does
not have the appropriate qualification and ability.

In the context of Section X and XI of the Fundamental Law of Hungary it is especially solicitous that
according to the text of the newly established Section 76 paragraph (1) point a) of HEA refers to such
international conventions which legally cannot be concluded. First, according to the general rule of the
standard text an international agreement concluded by the Government of Hungary and the
Government of the state of the seat foreign higher educational institution is necessary for the operation
of the foreign educational institution. Although, the based on the already cited Act L of 2005, the
Government is not entitled to acknowledge a binding force of an international convention which affects
law-making subject. However, according to the practice of the Constitutional Court, the ruling on the
existence and operation of higher educational institutions must be ruled by law.

Even more obvious the contradictory of the Fundamental Law of Hungary with regard to higher
educational institutions which’s seat in those states which the following provisions of the newly
established Section 76 paragraph (1) point a) of the HEA applies: “In case of federal state, if the central
government is not entitled for the acknowledgement of binding force of the international convention,
preliminary agreement concluded by its central government” which is the basis of the international
convention necessary for the Hungarian operation. This provision contains an impossible condition. If
the federal state does not have the authority for concluding an international convention on this matter,
then it is not even entitled to conclude a preliminary agreement in the same matter. Ergo in a case like
this, based on the Bill, it is impossible to fulfill the criterias of the Hungarian operation.

4. Point b) of Section 76 (1) of the HEA determined by Section 2 of the Bill disproportionately limits the
freedom of academic life and teaching as well as the right to education, by requiring from foreign higher
education institutions to actually provide higher education programs in their country of origin. It may
not be considered as of particular concern in itself for the legislator to determine quality assurance rules
related to the Hungarian operation of foreign higher education institutions for the protection of the
students’ rights and interests. However, for quality assurance, it is sufficient that the foreign higher
education institution fully complies with the accreditation rules of its country of origin, as required by
Point c) of Section 76 (1) of the HEA determined by Section 2 of the Bill and currently by Section 76 (1)
of the HEA. If the competent authorities of the country of origin consider, according to their own rules,
the program provided on the territory of Hungary as a state recognized program, no aspect of quality
assurance justifies to examine, whether the higher education institution provides this same program in
its country of origin.

It is particularly anomalous and disproportionately to apply without distinction Point b) of Section 76 (1)
of the HEA determined by Section 2 of the Bill in case of higher education institutions established in the
United States. In particular, Central European University was accredited by the same organization that
accredited – as we explicated above –, among others, Columbia University and Princeton University.
This accreditation provides sufficient guarantee for the quality of the programs, and therefore, Point b)
of Section 76 (1) of the HEA determined by Section 2 of the Bill unnecessarily and disproportionately
limits CEU’s right to operation ensured by the Fundamental Law of Hungary.

5. The modification of Section 77 (4) of the HEA proposed by Section 7 of the Bill also limits the academic
freedom and teaching and the right for education disproportionately and in a discriminative manner.
According to this provision, the possibility of the so-called “license-programs” will be terminated for
higher education institutions having their seat in an OECD member state. In case of these programs, the
foreign higher education institution offers its programs recognized by the foreign state on the basis of
an agreement with a Hungarian higher education institution without having a Hungarian establishment,
by entrusting the Hungarian institution to organize part of its programs (licensing).
This modification is also not justified by quality assurance. No information supports that higher education shall be of lower level in OECD member states – such as e.g. the United States – than in the EU member states, for e.g. Romania or Bulgaria. Therefore, this modification also puts a disproportionate limit to the freedom of academic life, teaching and the right for education.

Furthermore, the modification is also obviously discriminative, since it has no other purpose than to make it impossible for Közép-európai Egyetem to take over programs of Central European University in the form of license-education, which it will not be able to provide on the basis of the new Section 76 of the HEA.

6. Section 9 (2a) and (2b) of the HEA determined by Section 1 of the Bill infringe non-discrimination guaranteed by Section XV (2) of the Fundamental Law of Hungary. The only goal of these provisions is to make the parallel operation of the Hungary-based Közép-európai Egyetem and the New York-based Central European University impossible. Obviously, it is a discriminatory provision tailored to specific institutions which therefore, breaches Section XV (2) of the Fundamental Law of Hungary.

7. Section 4 of the Bill is contrary to Article B of the Fundamental Law of Hungary, since it does not provide sufficient time for the involved higher educational institutions to prepare. Pursuant to sub-section 1, section 4 of the Bill, the requirements set forth in the newly established (2a) and (2b) subsections of section 9 and (a) (1) sub-section of section 76 of the Nftv.- with the exception of the conclusion of preliminary agreement with the government in case of federative states - have to be fulfilled by the foreign higher educational institutions who has operation license on 1 September, 2017 until January 1, 2018. That means that in case if non-federative states the international contract could be concluded within 8 months, and within the same deadline should the educational activity appropriate to Hungary start at the foreign seat pursuant to point b, sub-section 1, section 76 of Nftv.

In case of states which are called federative by the Bill, the deadline for concluding an international contract is even shorter. In such case the preliminary agreement should be concluded within six months from publication of the Bill. That would be impossible even if the way to conclude such agreement would be legally feasible.

It creates further legal uncertainty that terms of conditions must be fulfilled until 1 January, 2018 pursuant to sub-section 1, Section 4 of the Bill, and the Education Authority withdraws the operating license after this. However, according to the Bill, foreign educational institution is not allowed to admit any students to its first grade of training of 1 January 2018, even before the decision of the Educational Authority. Thus, in case the higher educational institution at its own view would meet with the requirements and thus it would admit new students after January 1, 2018, this would be retroactively unlawful on the basis of the contrary decision of the Educational Authority to withdraw the license. The rule of law decision would be if following the withdrawal of the operating license the possibility to admit new students would cease to exist. Compared to this, sub-section 1, section 4 of the Bill prejudices, and thus it causes legal uncertainty which is contrary to Section 1, Article B of the Fundamental Law of Hungary.
Dear Mr. President,

Having regard to academic autonomy of all Hungarian higher education institutions, the constitutional concerns raised by the Bill are so serious that they can be only resolved in the Constitutional Court’s procedures. Thus, on the basis of the above, we kindly ask you to send the Bill to the Constitutional Court pursuant to Section 4 Article 6 of the Fundamental Law of Hungary in order to examine whether the Bill is in accordance with the Fundamental Law of Hungary on the basis of point a, Section 2 Article 24 of the Fundamental Law of Hungary.

Budapest, April 4, 2017

Yours faithfully,

____________________

Michael Ignatieff
Rector
Central European University
Annex 1

American universities with no campus in their country of origin

<table>
<thead>
<tr>
<th>Name of the university</th>
<th>Place of education</th>
<th>Date of accreditation</th>
<th>Az egyetem neve</th>
<th>Az oktatás helye</th>
<th>Az akkreditáció ideje</th>
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<td>The American University in Cairo</td>
<td>New Cairo, Egypt</td>
<td>1982</td>
<td>The American University in Cairo</td>
<td>Kairó, Egyiptom</td>
<td>1982</td>
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<td>Sharjah, United Arab Emirates</td>
<td>2004</td>
<td>American University of Sharjah</td>
<td>Sharjah, Egyesült Arab Emírségekek</td>
<td>2004</td>
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<td>Tortola, British Virgin Islands</td>
<td>2015</td>
<td>H. Lavity Stoutt Community College</td>
<td>Tortola, Brit Virgin Szigetek</td>
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<td>2013</td>
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<td>2015</td>
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