

**SUMMARY
OF THE LEGAL ANALYSIS OF THE
AMENDMENTS TO HUNGARY'S ACT ON NATIONAL HIGHER EDUCATION**

Bill T/ 14686 (hereinafter referred to as "Bill") which aims at amending the national higher education act (Act CCIV of 2011 on National Higher Education, "HEA") was accepted by the Hungarian Parliament on April 4, 2017. CEU is challenging the constitutionality of the amendment to the HEA on the following grounds:

1. Violates the rules of the legislative process

- The Parliament adopted the law without consultation. The organizations entitled to express their opinion (e.g. the Hungarian Academy of Sciences and the Hungarian Rectors' Conference) on the Bill were not addressed in advance, no social impact assessment was made, there was no social consultation and the Bill was presented to Parliament under an exceptional procedure, which meant that no more than 24 hours passed between the starting time of the Parliamentary debate of the Bill and its adoption.

2. Violates the freedom of academic research, studies and education

- The Basic Law of Hungary holds multiple provisions for the protection of the freedom of academic activities: the freedom of scientific research, learning and teaching to the highest level of knowledge; the right to higher education; and, the autonomy of higher education institutions.
- While the Hungarian Parliament authorizes organizational rules for higher education institutions, these are to be uniformly applicable, respect the freedom of research education and any restrictions should only be enacted to serve the purpose of protecting another basic right or constitutional value. The law cannot give a discretionary right to the Government or to the Minister related to the existence or Hungarian operation of higher education institutions.

3. Contradicts rights by now requiring a binding international agreement

- The new Bill proposes that 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 a foreign higher education institution, and thus, exclude unilaterally the Hungarian operation of a foreign higher education institution. Therefore, the Hungarian Government may also decide to close an existing institution. According to the above, this is clearly contradictory to the Basic Law.

4. Targets, disproportionately, foreign higher education institutions by requiring foreign institutions to provide higher education programs in their country of origin

- The Bill disproportionately limits the freedom of academic life and teaching as well as the right to education, by requiring foreign higher education institutions to provide higher education programs in their country of origin. 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, there is no aspect of quality assurance that justifies the examination by Hungary of whether the higher education institution provides this same program in its country of origin.

- Further, it is particularly disproportionate to require this of higher education institutions accredited in the United States, whose accreditation process provides sufficient guarantee for the quality of the programs. In particular, Central European University was accredited by the same organization that accredited, among others, Columbia University.

5. Discriminates by targeting the current structure of cooperation between CEU's US entity (Central European University) and its Hungarian university (Közép-európai Egyetem)

- Under the previous HEA, it was possible for foreign higher education institutions that have a seat in an OECD country to operate programs (recognized by the foreign state) in Hungary by having an agreement with a Hungarian higher education institution and entrusting the Hungarian institution to organize part of its programs. With the modified Bill, this will no longer be possible for non-EU member OECD countries. This limits the academic freedom and teaching disproportionately and in a discriminative manner.
- Furthermore, the modification is also discriminative, since it has no other purpose than to make it impossible for Közép-európai Egyetem to take over programs of Central European University.

6. Breaks non-discrimination guarantee by requiring CEU to change its name

- The Bill requires that two institutions cannot have the same or similar names. 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.

7. Provides insufficient time to prepare for compliance with its new provisions

- The law does not ensure sufficient time for higher education institutions to comply with the newly adopted provisions. It is requiring a binding international agreement to be completed within six months of the publication of the law and less than nine months to register programs in the foreign higher education institution's country of origin.