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# Contributions of Hungarian CSOs to the European Commission's Rule of Law Report

The contributions included in the present document on the rule of law in Hungary were submitted to the European Commission in the framework of the targeted stakeholder consultations the European Commission launched in relation to its 2025 Annual Rule of Law Report. The document follows the structure and applies the headings and questions of the European Commission's [stakeholder consultation survey](#) and the [additional stakeholder consultation survey](#) on the single market dimension.

The present document is an edited compilation of the contributions of the following Hungarian civil society organisations (CSOs):

- Amnesty International Hungary | [www.amnesty.hu](http://www.amnesty.hu) | [office@amnesty.hu](mailto:office@amnesty.hu)
- Hungarian Civil Liberties Union | [www.tasz.hu](http://www.tasz.hu) | [tasz@tasz.hu](mailto:tasz@tasz.hu)
- Hungarian Helsinki Committee | [www.helsinki.hu](http://www.helsinki.hu) | [helsinki@helsinki.hu](mailto:helsinki@helsinki.hu)
- K-Monitor | [www.k-monitor.hu](http://www.k-monitor.hu) | [info@k-monitor.hu](mailto:info@k-monitor.hu)
- Mertek Media Monitor | [www.mertek.eu](http://www.mertek.eu) | [info@mertek.eu](mailto:info@mertek.eu)
- Ökotárs – Hungarian Environmental Partnership Foundation | [www.okotars.hu](http://www.okotars.hu) | [info@okotars.hu](mailto:info@okotars.hu)
- Political Capital | [www.politicalcapital.hu](http://www.politicalcapital.hu) | [info@politicalcapital.hu](mailto:info@politicalcapital.hu)
- Transparency International Hungary | [www.transparency.hu](http://www.transparency.hu) | [info@transparency.hu](mailto:info@transparency.hu)

The contributing organisations submitted their contributions separately, therefore, some individual submissions may at certain points diverge from this compilation.

The above civil society organisations bear responsibility solely for the content of those chapters where they are indicated as authors.

For further information regarding the issues covered, please contact the respective organisations indicated as authors at the beginning of each chapter.

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## I. JUSTICE SYSTEM

### 1. Information on measures taken to follow-up on the recommendations received in the 2024 Report regarding the justice system

Until the cut-off date of the present contribution (19 January 2025) no steps have been taken by the Hungarian government and the Parliament to address the recommendations formulated by the European Commission with respect to the independence of the judiciary in the 2024 Rule of Law Report – Country Chapter on the rule of law situation in Hungary (hereafter: 2024 Rule of Law Report).<sup>1</sup> In 2024, two omnibus acts were passed to modify the cardinal acts governing the legal status of judges and the organisation of the judiciary<sup>2</sup> and even a 14<sup>th</sup> Amendment to the Fundamental Law was adopted on 17 December 2024 affecting constitutional provisions applicable to judges. Nevertheless, none of the amendments included legislative measures aimed at improving the transparency of case allocation systems in lower instance courts in line with the European case allocation standards or tackled the systemic deficiencies related to judicial remunerations. As from 1 January 2025, the system of remunerations at the Kúria (the supreme court of Hungary) was remarkably changed. The remuneration of Kúria judges became linked to the remuneration of the Kúria President, securing a disproportionately high salary to Kúria judges, severing the Kúria from all other courts with respect to judicial remunerations. Besides distorting the system of remunerations, the core method of establishing judicial remunerations remains the same. Although there was a one-off 15% increase of the judicial salary base in December 2024,<sup>3</sup> falling far from the required level of adjustment, no structural measures have been taken to safeguard the increase of the remuneration of judges, prosecutors, and judicial and prosecutorial staff in line with European standards on remuneration for the justice system as recommended by the 2024 Rule of Law Report.

### A. Independence

#### 2. Appointment and selection of judges, prosecutors and court presidents

<sup>1</sup> European Commission, *2024 Rule of Law Report – Country Chapter on the rule of law situation in Hungary*, [https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6\\_en?filename=40\\_1\\_58071\\_coun\\_chap\\_hungary\\_en.pdf](https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6_en?filename=40_1_58071_coun_chap_hungary_en.pdf), p. 2.

<sup>2</sup> Act XVII of 2024 on the Amendment of Laws related to Justice Matters (for an analysis of the modifications, see: Hungarian Helsinki Committee – Transparency International Hungary, *A Sauron's Eye in the Hungarian Justice System*, 31 May 2024, [https://helsinki.hu/wp-content/uploads/2024/05/A\\_Saurons\\_eye\\_in\\_the\\_Hungarian\\_Justice\\_System\\_20240531.pdf](https://helsinki.hu/wp-content/uploads/2024/05/A_Saurons_eye_in_the_Hungarian_Justice_System_20240531.pdf)) and Act LXXIV of 2024 on the Foundation for Hungary's 2025 Central Budget.

<sup>3</sup> See in more detail under Question I.12. below.

In December 2024, the Parliament passed the 14<sup>th</sup> Amendment to the Fundamental Law and Act LXXIV of 2024 on the Foundation for Hungary's 2025 Central Budget (hereafter: Omnibus Act) that modified the cardinal laws affecting core rules of appointment and selection of judges. The amendments were adopted shortly after the conclusion of the so-called "Agreement" signed on 22 November 2024 between the three highest judicial administration bodies [the Kúria President, the President of the National Office for the Judiciary (NOJ) and the President of the National Judicial Council (NJC)] and the Ministry of Justice.<sup>4</sup> The circumstances of the conclusion and the content of the notorious "Agreement" immediately incited an unprecedented public protest among Hungarian judges and judicial staff<sup>5</sup> particularly for linking the long overdue salary raise of judges and judicial staff to the adoption of undefined overall structural judicial reforms capable of further undermining judicial independence. Despite the clear and persisting objection of Hungarian judicial associations,<sup>6</sup> representative bodies<sup>7</sup> and judicial bodies as well as individual judges and judicial staff,<sup>8</sup> the Hungarian government started implementing the reforms outlined in the "Agreement".

Both the 14th Amendment to the Fundamental Law and the Omnibus Act were passed in the Parliament within a couple of days,<sup>9</sup> in the framework of an extraordinary parliamentary session opened for the "earliest possible" adoption of the modifications.<sup>10</sup> Despite an explicit request by the NJC<sup>11</sup> and judicial associations,<sup>12</sup> the modifications were adopted disregarding

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<sup>4</sup> Hungarian Helsinki Committee, *Black Friday at Hungarian Courts – Sweeping public protest of Hungarian judges against a political deal undermining judicial independence*, 6 December 2024, [https://helsinki.hu/en/wp-content/uploads/sites/2/2024/12/HHC\\_Black\\_Friday\\_Hungarian\\_judiciary\\_2024.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2024/12/HHC_Black_Friday_Hungarian_judiciary_2024.pdf)

<sup>5</sup> Hungarian Helsinki Committee, *Judges' salary is a public matter, and not an issue of personal finances*, 3 December 2024,

<https://helsinki.hu/en/judges-salary-is-a-public-matter-and-not-an-issue-of-personal-finances/>

<sup>6</sup> See: <https://mabie.hu/berjavaslat/a-mabie-koezlemenye-az-obt-obh-kuria-igazsaguegyi-miniszterium-koezoetti-megallapodas-megkoeteserol> and <https://resiudicata.hu/kozlemenya-birosagokat-erinto-megallapodasrol/>.

<sup>7</sup> Several public statements were released on behalf of local judicial self-governing bodies, see:

<https://mabie.hu/images/LEVELEK%202024/1126/Zalaegerszegi%20Torvenyszek%20Biroi%20Tanacs%20nyilatkozat.pdf>,

<https://mabie.hu/images/LEVELEK%202024/1203/A%20Szegedi%20Torvenyszek%20Biroi%20Tanacs%20tagjainak%20velemenye%20-%20JAVITOTT.docx.pdf>,

<https://mabie.hu/images/LEVELEK%202024/1207/A%20Pecsi%20Torvenyszek%20Biroi%20Tanacs%20alulirott%20tagjainak%20nyilatkozata.pdf>,

<https://mabie.hu/images/LEVELEK%202024/1212/Kaposvari%20Torvenysezk%20Biroi%20Tanacs%20nyilatkozata%202024.12.11-ei%20verzio.pdf>.

<sup>8</sup> See the public statements of individual judges and judicial staff at the website of the Hungarian Association of Judges (Magyar Bírói Egyesület, MABIE): <https://mabie.hu/berjavaslat/felhivas-velemenynyilvanitasra-csatlakozo-nyilatkozatok-megkueldesere?highlight=WyJmZWxoXHUwMGVkdIx1MDBiXMiXQ==> and at the website of Res Iudicata Association of Judges: <https://resiudicata.hu/kozlemenya-birosagokat-erinto-megallapodasrol/>.

<sup>9</sup> The modifications appeared in the law-making process as a last-minute amendment proposal of the Legislative Committee on 12 December 2024 (a Thursday) at the end of the day and were adopted on 17 December 2024 (the next Tuesday). See: <https://tinyurl.com/3bmtdac8> and <https://tinyurl.com/56vmt95z>.

<sup>10</sup> See the letter of 9 December 2024 requesting the extraordinary parliamentary session at <https://www.parlament.hu/documents/d/guest/rendkivuli-ules-december-16-es-20-kozotti-idoszakra>, Points 21. and 31.

<sup>11</sup> See the letter of the NJC to the Ministry of Justice of 12 December 2024 at [https://obt.jud.hu/sites/default/files/sajtokozlemenyek-mellekletek/2024.OBT\\_K.VII\\_90-2.-Letter-to-MoJ.pdf](https://obt.jud.hu/sites/default/files/sajtokozlemenyek-mellekletek/2024.OBT_K.VII_90-2.-Letter-to-MoJ.pdf).

<sup>12</sup> See the statement of the MABIE: <https://mabie.hu/berjavaslat/koezlemenya-birosagi-szervezetet-erinto-alaptoervenyes-toervenymodositasok-orszaggyuleshez-toertent-benyujtasanak-koeruelmenyei-kapcsan> and of the Res Iudicata Association of Judges: <https://resiudicata.hu/a-res-iudicata-birak-a-tarsadalmi-tudatosagert-egyesulet-tajekoztatasa-es-figyelemfelhivasa/>.

the obligation of public consultation and circumventing the right of the NJC<sup>13</sup> to give an opinion on justice-related draft laws.<sup>14</sup>

One of the cornerstone modifications adopted through the deficient law-making process and without meaningful consultation with the judiciary affects the preconditions of judicial appointments. In this respect, the legislation introduced two major modifications: (i) It raised the lower age limit for becoming a judge from 30 to 35 years with effect from 1 March 2025;<sup>15</sup> and (ii) it modified significantly the practice requirements for judicial posts,<sup>16</sup> to the disadvantage of candidates who apply from within the judiciary. Under the new rules applicable from 1 March 2025, candidates must meet two conditions: they must have two years of practice gained outside the judiciary and at least one year practice gained in one of certain specified legal position (such as judicial clerk, deputy prosecutor, attorney-at-law, notary, legal adviser, government official, civil servant). This doubled practice requirement gives preference to those who gain their relevant practice outside the courts, as they become eligible even in the absence of any professional experience gained at courts. At the same time, those who gain their professional experience only at courts will not be eligible for judicial posts unless gaining further two years practice outside the judiciary. This is discriminatory vis-à-vis those who start their career at courts.<sup>17</sup>

The new system has unilaterally put an end to a long debate between the Hungarian government and the judiciary, cementing the most problematic element of the distorted points system for the assessment of applications for judicial posts in cardinal laws. As highlighted in our contributions of previous years, the effective points system (established by the Ministry of Justice through a ministerial decree<sup>18</sup>) is problematic, amongst others, for giving preference to candidates for a judicial post who apply from the executive branch over candidates who apply from within the judiciary. In 2023, the NJC was granted the power to give a motivated binding opinion on future modifications of the points system, but the legislation did not introduce transitional rules that guarantee the effective application of this new power. This way, the Government managed to keep up the distorted points system<sup>19</sup> and now cemented its most problematic part into a cardinal law.

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<sup>13</sup> Act CLXI of 2011 on the Organisation and Administration of the Courts, Article 103(1)(b)

<sup>14</sup> See e.g.: <https://www.szabadeuropa.hu/a/a-kormany-megszegi-az-eu-nak-tett-vallalasi-az-obt-nem-velemenyezheti-az-igazsagugyi-torvenyek-modositasait/33242144.html>.

<sup>15</sup> Articles 2 and 3 of the 14<sup>th</sup> Amendment to the Fundamental Law and Article 4(1) of Act CLXII of 2011 on the Legal Status and Remuneration of Judges

<sup>16</sup> Articles 4(1) and 232/Y of Act CLXII of 2011 on the Legal Status and Remuneration of Judges. The new rules will not be applicable to already appointed judges, and judge trainees (*“bíróági fogalmazó”*) and court clerks (*“bíróági titkár”*) who were employed at a court in such a position before 1 January 2024.

<sup>17</sup> Several individual judges who protested against the planned modification described clearly why this is a problem, see for example the statement of a judge from the Buda Central District Court:

<https://mabie.hu/images/LEVELEK%202024/1202/Sarretine%20Szilagy%20Monika%20%20-%20Budai%20Kozponti%20Keruleti%20Birosag.docx.pdf>.

<sup>18</sup> The effective scoring system was adopted by the Minister of Justice by Decree 14/2017. (X. 31.) IM in 2017 without a meaningful consultation with the judiciary and judges' associations, and has been widely criticised ever since, because it radically modified the points system in a way that favours experience gained in the public administration over experience gained within the judiciary. See: MABIE, 14 November 2017,

<https://www.mabie.hu/index.php/kozlemenyek/339-a-mabie-allasfoglalasa-a-biroi-allaspalyazatok-elbiralasanak-reszletes-szabalyairol-es-a-palyazati-rangsor-kialakitasa-soran-adhato-pontszamokrol-szolo-7-2011-iii-4-kim-rendelet-modositasarol>.

<sup>19</sup> Hungarian Helsinki Committee, *Fundamental Deficiencies of the Hungarian Judicial Reform*, 31 October 2023,

In addition to the above, with respect to the appointment of judges and court presidents, several concerns raised in our 2020,<sup>20</sup> 2021,<sup>21</sup> 2022,<sup>22</sup> 2023<sup>23</sup> and 2024<sup>24</sup> contributions remain relevant, most notably the lack of legislative amendments to regulate multiple applications (when several calls for applications for judicial posts are published simultaneously) and the order of considering such applications in order to exclude the possibility of determining (through the arbitrary order of deciding on applications) the outcome of applications and circumventing the right to consent by the NJC in a non-transparent manner.<sup>25</sup> This loophole is still available to circumvent the merit-based appointment system.<sup>26</sup> The legislation only partially requires the Kúria President and the NOJ President to state reasons for their administrative decisions.<sup>27</sup>

### 3. Irremovability of judges, including transfers, dismissal and retirement regime of judges, court presidents and prosecutors

Despite the strengthened supervisory function of the NJC, the legislation on transfers still lacks fundamental guarantees for the irremovability of judges.

In case of secondments (*"kirendelés"*),<sup>28</sup> the law only requires the NJC's consent to secondments (or their prolongation), but not their termination. As the practice of the NOJ President shows, secondments may be terminated unilaterally, with immediate effect, by a resolution of the NOJ President even before the pre-established term of secondment expires.<sup>29</sup>

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[https://helsinki.hu/en/wp-content/uploads/sites/2/2023/10/Fundamental\\_deficiencies\\_Judicial\\_Reform\\_20231030.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2023/10/Fundamental_deficiencies_Judicial_Reform_20231030.pdf), p. 4. The NJC urged the modification since 2023, see Resolution 125/2023. (XII. 6.) OBT and the minutes of the NJC's meeting held on 5-6 December 2023, <https://orszagosbiroitanacs.hu/download/az-obt-2023-december-5-es-6-napjan-megtartott-ulesenek-jegyzokonyve/?wpdmdl=2795&refresh=659bbef8db6f01704705784>, pp. 82-91.

<sup>20</sup> Contributions of Hungarian NGOs to the European Commission's Rule of Law Report, May 2020, [https://www.helsinki.hu/wp-content/uploads/HUN\\_NGO\\_contribution\\_EC\\_RoL\\_Report\\_2020.pdf](https://www.helsinki.hu/wp-content/uploads/HUN_NGO_contribution_EC_RoL_Report_2020.pdf), p. 4.

<sup>21</sup> Contributions of Hungarian NGOs to the European Commission's Rule of Law Report, March 2021, [https://helsinki.hu/wp-content/uploads/2021/03/HUN\\_NGO\\_contribution\\_EC\\_RoL\\_Report\\_2021.pdf](https://helsinki.hu/wp-content/uploads/2021/03/HUN_NGO_contribution_EC_RoL_Report_2021.pdf), p. 3.

<sup>22</sup> Contributions of Hungarian NGOs to the European Commission's Rule of Law Report, January 2022, [https://helsinki.hu/en/wp-content/uploads/sites/2/2022/01/HUN\\_NGO\\_contribution\\_EC\\_RoL\\_Report\\_2022.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2022/01/HUN_NGO_contribution_EC_RoL_Report_2022.pdf), p. 3.

<sup>23</sup> Contributions of Hungarian CSOs to the European Commission's Rule of Law Report, January 2023, [https://helsinki.hu/en/wp-content/uploads/sites/2/2023/01/HUN\\_CSO\\_contribution\\_EC\\_RoL\\_Report\\_2023.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2023/01/HUN_CSO_contribution_EC_RoL_Report_2023.pdf), p. 3.

<sup>24</sup> Contributions of Hungarian CSOs to the European Commission's Rule of Law Report, January 2024, [https://helsinki.hu/en/wp-content/uploads/sites/2/2024/01/HUN\\_CSO\\_contribution\\_EC\\_RoL\\_Report\\_2024.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2024/01/HUN_CSO_contribution_EC_RoL_Report_2024.pdf), p. 3.

<sup>25</sup> See the minutes of the meeting of the NJC held on 6-7 September 2023 at <https://obt2018.hu/2023-09-06/>, p. 63.

<sup>26</sup> In 2022, both the Kúria President and the NOJ President appointed several judges to the bench in ways circumventing the right to consent by the NJC through opening several positions in one package and then manipulating the outcome of the application procedure by considering the applications in an arbitrary order. See: Hungarian Helsinki Committee, *Tribunal Established by Sleight of Hand – Unlawful Judicial Appointments at the Kúria*, 4 September 2022, <https://helsinki.hu/en/wp-content/uploads/sites/2/2022/09/Tribunal-Established-by-Sleight-of-Hand.pdf>.

<sup>27</sup> Act CLXI of 2011 on the Organisation and Administration of the Courts, Article 77(2)

<sup>28</sup> Secondment (*"kirendelés"*) is a measure of court administration that entails the transfer of the judge concerned from one court to another. According to Article 31(1) of Act CLXII of 2011 on the Legal Status and Remuneration of Judges: "A judge may be seconded by the president of the regional court, if the secondment takes place between a regional court and a district court or between district courts operating within the territory of the same regional court. In all other cases the NOJ President shall be entitled to second a judge."

<sup>29</sup> The Kúria President has expressly affirmed this interpretation (which is, again, in breach of the irremovability of judges): "A precondition of seconding a judge is a consent between the court where the judge holds a post, the court

The legislation still lacks objective criteria regarding when the legal conditions of a secondment are met,<sup>30</sup> for the designation of the receiving court, for the selection of the seconded judge or for determining the term of the secondment. In case of judges seconded to higher instances, the legislation does not provide for an adequate remuneration breaching the principle of equal pay for equal work.<sup>31</sup> Due to lack of guarantees in the legislation, secondments continue to serve as substitutes for opening new positions, entailing mass secondments<sup>32</sup> and secondments that last for several years.<sup>33</sup>

In case of assignments (“kijelölés”),<sup>34</sup> the law only requires the NJC’s consent to the termination of assignment in lack of consent of the judge concerned. Assignments continue to be granted by full discretion of the NOJ President (with respect to judges serving at lower tier courts) or the President of the Kúria (with respect to judges serving at the Kúria), while from the perspective of irremovability, both an assignment and the termination thereof entail a removal of the judge from their former position.<sup>35</sup>

Transfers of judges (“beosztás”)<sup>36</sup> outside the judiciary to a wide range of administrative organs<sup>37</sup> continue to raise serious concerns as to their purpose. According to the law, such transfers concurrently aim that judges gain professional experience and that they support the administrative organ with their own professional experience.<sup>38</sup> This aim is most doubtful in

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*of secondment and the judge. In the absence of the consenting declaration of any party, the secondment cannot be ordered or it shall be terminated. Secondment is an extraordinary form of judicial service. Therefore, withdrawal of the consenting declaration and thus the termination of the secondment shall not be explained or reasoned.”* (Press release of the Kúria of 4 May 2022 on the termination of the secondment of a judge dealing with a high-profile corruption case, <https://kuria-birosag.hu/hu/sajto/kuria-kozlemenye-questor-ugyben-eljaro-biro-kirendelesenek-megszuntetese-targyaban>)

<sup>30</sup> According to Article 31(2) of Act CLXII of 2011 on the Legal Status and Remuneration of Judges, judges may only be seconded for two reasons: (i) to reduce excessive workload at the receiving court or (ii) to facilitate their professional advancement, but the legislation does not provide for any objective criteria for assessing whether the legal grounds of secondment are in place. See: Hungarian Helsinki Committee, *Background Paper on Systemic Deficiencies of the Legal Framework and Practice of the Secondment of Judges in Hungary*, 6 September 2022, <https://helsinki.hu/wp-content/uploads/2022/09/Background-Paper-on-the-Secondment-of-Judges-in-Hungary-updated-06092022.pdf>, Section III.

<sup>31</sup> See e.g.: <https://24.hu/belfold/2024/09/04/birosag-kirendeles-panasz-obh-illetmeny/>.

<sup>32</sup> See e.g. Resolution 304.E/2024. (VII. 17.) OBHE on the secondment of judges to the Metropolitan Court of Appeal affecting simultaneously 13 judges.

<sup>33</sup> See e.g. Resolution 261.E/2024. (VI. 24.) OBHE on the prolongation of the secondment of a judge serving as a seconded judge for over four years.

<sup>34</sup> According to Article 30 of Act CLXII of 2011 on the Legal Status and Remuneration of Judges, judges dealing with specific cases – such as administrative and labour law cases or criminal cases initiated against young offenders – shall explicitly be assigned for this task within the ordinary court system. Assignments have a substantial impact both on the status of individual judges and on the adjudication of specific types of cases concerned. On one hand, the assignment affects the status of the assigned judge as it determines their areas of work, expertise and the types of cases they shall deal with. On the other hand, the assignment may affect the adjudication of the specific cases that shall be dealt with by assigned judges.

<sup>35</sup> Assignments are problematic even if consented by a judge, because they may serve to circumvent the appointment system, where calls for applications are published not only for specific branches of adjudication (civil, criminal and administrative), but also by areas of expertise and types of cases.

<sup>36</sup> The NOJ President is entitled to transfer judges (i) to the NOJ (which does not form part of the judiciary), to work for the judicial administration [Article 27(2) of Act CLXII of 2011 on the Legal Status and Remuneration of Judges]; (ii) to the Kúria to prepare unification decisions and fulfil tasks regarding the analysis of the law [Articles 27(2) and 63 of Act CLXII of 2011 on the Legal Status and Remuneration of Judges] and (iii) to other state organs [Article 27/A of Act CLXII of 2011 on the Legal Status and Remuneration of Judges]. In case of all types of transfers, the consent of the judge to be transferred is a precondition to the transfer. Transferred judges cannot be involved in adjudication. The legislation does not provide for a minimum term of the transfer, it may also be ordered for an indefinite period, thereby creating a permanent new status for the judge.

<sup>37</sup> Act CLXII of 2011 on the Legal Status and Remuneration of Judges, Article 27/A

<sup>38</sup> Act CLXII of 2011 on the Legal Status and Remuneration of Judges, Article 62/A(1)

case of judges dealing with criminal or civil cases, who do not have or need any relevant experience at administrative organs. While the aim of the transfer remains unclear, its consequences are explicit. Judges transferred to an administrative organ get a significantly higher remuneration and bonus.<sup>39</sup> The transfer also entails handing over employer's rights (including the right to evaluate the judge) and disciplinary rights to the leader of the administrative organ (e.g. a member of the Government in case of a ministry).<sup>40</sup> In 2024, the NJC consented to the transfer of a judge who is a close relative of a State Secretary serving at the Ministry of Justice to the National Directorate General for Hospitals without providing meaningful reasoning for the decision, and – as revealed during a later meeting of the NJC – causing capacity constraints at the court.<sup>41</sup>

Transfers create a bypass in judicial careers enabling the transferred judge to acquire a judicial leadership position circumventing the ordinary promotion proceedings<sup>42</sup> upon the termination of the transfer. Due to the fact that the minimum term of the transfer is not regulated by law, short term transfers can be applied as a disguised promotion.<sup>43</sup>

If a court ceases to exist or its area of jurisdiction has been reduced to such an extent that it is no longer possible to continue to employ a judge there, the judge concerned should be offered an open position or transferred by the NOJ President – in case a Kúria judge is concerned, after consulting with the Kúria President – to another court that might be a court at the same, higher or lower instance.<sup>44</sup> This provision enables mass removal of judges simultaneously with reallocation of competences between courts.

According to the law, in case a court leader is dismissed unlawfully, and their reinstatement is subsequently ordered by the court deciding on the matter of the dismissal, they can only be reinstated into their leadership position if that has not been filled in the meantime.<sup>45</sup> This loophole can be used to overhaul certain judicial leadership positions.

The legislation allows certain individuals to get transferred from outside the judiciary to the judicial system, even if their former position was highly political. Former MPs and MEPs can be appointed as judges in case they had served as judges before taking their seat as MPs or MEPs. Once their mandate as MPs or MEPs terminate, they shall be appointed as judge upon

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<sup>39</sup> Act CLXII of 2011 on the Legal Status and Remuneration of Judges, Article 195(2) and (5)

<sup>40</sup> From 1 January 2023 two judges were transferred to the Prime Minister's Office by Resolution 488.E/2022. (XII. 16.) OBHE. From 15 October 2023 one judge was transferred to the Ministry of Economic Development by Resolution 408.E/2023. (X. 2.) OBHE. None of the resolutions provide a clear reasoning for the transfer and its purpose.

<sup>41</sup> According to Resolution 182/2024. (X. 2.) OBHE, the judge concerned, Árpád Répássy, close relative of State Secretary of the Ministry of Justice "could use his professional experience in the field of civil service to the advantage of the organisation in his regulatory role of the National Hospital Directorate General". At the meeting of the NJC held on 11 December 2024, it turned out that the transfer caused capacity constraints at the court where the judge concerned served, but as claimed by the court president who consented to the transfer "it is not appropriate to refuse such a request" (see: [https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv\\_2024.12.11.pdf](https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv_2024.12.11.pdf), p. 33.)

<sup>42</sup> Act CLXII of 2011 on the Legal Status and Remuneration of Judges, Article 58(3)

<sup>43</sup> As the Venice Commission warned, the possibility of transfers "could be used to institute a practice of bypassing the ordinary processes of promoting judges". See: European Commission for Democracy Through Law (Venice Commission), *Opinion on the amendments to the Act on the organisation and administration of the Courts and the Act on the legal status and remuneration of judges adopted by the Hungarian parliament in December 2020*, CDL\_AD(2021)036, 16 October 2021, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2021\)036-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)036-e), para. 60.

<sup>44</sup> Act CLXII of 2011 on the Legal Status and Remuneration of Judges, Article 34(2)

<sup>45</sup> Act CLXII of 2011 on the Legal Status and Remuneration of Judges, Article 145(4)

their own request, automatically, without a cooling-off period and without an application procedure<sup>46</sup> and may be appointed to any court higher than the one they had served at before and may become a “head of panel” without the otherwise necessary separate application procedure. Neither the consent nor the non-binding opinion of the NJC is required for their appointment. Similarly, former university rectors can be appointed as judges<sup>47</sup> upon their request in case they had served as judges before taking their seat as university rectors.<sup>48</sup>

#### 4. Promotion of judges and prosecutors

As a main rule, judicial promotions and leadership positions shall be granted in the framework of an ordinary application procedure,<sup>49</sup> but the legislation allows for a wide range of exceptions.<sup>50</sup> Decisions on promotions without an application procedure lie in their entirety in the hands of administrative leaders, who may also have full discretion to grant judicial leadership positions, which eliminates the guarantees attached to a transparent application procedure.<sup>51</sup> No judicial remedy is available against appointments made without an appointment procedure. Concerns with respect to the lack of an application procedure for judicial leadership position of head of panel after the termination of a transfer remain unaddressed (see also under Question I.3.).<sup>52</sup>

Even the outcome of a standard application procedure can be manipulated by court leaders through several means. Applications for judicial leadership positions (such as the position of head of panel or deputy-college leadership positions)<sup>53</sup> are assessed by the president of the relevant court in a fully discretionary manner. Judge peers hold the right to form a non-binding opinion<sup>54</sup> on the candidates by secret ballots. Although the opinion is non-binding, court presidents should consider it when assessing the candidates. Despite the above, due to the lack of guarantees, court presidents may appoint judicial leaders even against the manifest opposition of judicial peers. The appointment of a judge (the wife of the Kúria President) as

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<sup>46</sup> Act CLXII of 2011 on the Legal Status and Remuneration of Judges, Article 8(3)

<sup>47</sup> Act CLXII of 2011 on the Legal Status and Remuneration of Judges, Article 23(3)

<sup>48</sup> The request should be submitted within 30 days after the expiry of their mandate. Former university rectors can also become heads of panels without an application procedure. Their appointment as judge and judicial leader fully lacks the consent of judicial self-governing bodies.

<sup>49</sup> Act CLXII of 2011 on the Legal Status and Remuneration of Judges, Article 7(1)

<sup>50</sup> Act CLXII of 2011 on the Legal Status and Remuneration of Judges, Article 8(1)

<sup>51</sup> For example, the position of head of panel can be granted even for an indefinite period based on full discretion by the NOJ President under Articles 8(4), 23(3) and 58(3) of Act CLXII of 2011 on the Legal Status and Remuneration of Judges.

<sup>52</sup> See Articles 8(1) e) and 58(3) of Act CLXII of 2011 on the Legal Status and Remuneration of Judges and all further provisions referring back to it: (i) Article 28(1) on the rules governing the transfer of a judge to perform an external foreign service; (ii) Article 62/C(3) on the rules governing the transfer of a judge to another administrative organ; (iii) Article 64(2) on the rules governing the transfer of a judge to the Kúria; (iv) Article 88 on the rules governing the status of judges who wish to stand for election to the Parliament, the European Parliament or a local government.

<sup>53</sup> According to Article 128(4)-(5) of Act CLXI of 2011 on the Organisation and Administration of the Courts the president of the court of appeal is entitled to appoint deputy-college leaders and heads of panel at the court of appeal, while the president of the regional court is entitled to appoint deputy-college leaders and heads of panel at the regional court as well as the president, the vice-president, the group leaders and deputy group leaders of the district courts falling within the territorial scope of jurisdiction of the regional court.

<sup>54</sup> Act CLXI of 2011 on the Organisation and Administration of the Courts, Article 131

head of panel at the Metropolitan Court of Appeal became public as an outstanding example of disregarding the votes of judge peers.<sup>55</sup>

Besides formal appointments, the legislation provides for a variety of informal means to promote a judge. Informal appointments include (i) the possibility to assign administrative tasks to a judge (or terminate such assignment)<sup>56</sup> and (ii) in the case of the Kúria, the possibility to assign special judicial positions via the case allocation scheme of the Kúria.<sup>57</sup> Informal appointments are made on the basis of non-transparent decisions.

An outstanding example for an informal appointment in 2022 was to one of the highest judicial leadership positions at the top tier: it was the de facto assignment of a deputy-college leader at the Kúria for eight months.<sup>58</sup> The leadership position was granted by the sole discretion of the Kúria President despite the fact that no deputy-college leadership positions were open during that term.<sup>59</sup>

Another outstanding example for an informal appointment at the Kúria in 2023 was the assigning of additional “administrative tasks” to judge Barnabás Hajas (former State Secretary who was appointed as judge by the Kúria President without any former experience as a judge based on an unlawful appointment procedure).<sup>60</sup> Judge Hajas was assigned by the Kúria President with additional “administrative tasks” *“to provide professional support in commenting on legislation, to coordinate the staff responsible for monitoring, reviewing and organising draft laws, legislation published in the National Gazette and organisational regulations, to participate in the monitoring of the legislative and rule-making process, to participate in the process of preparing internal regulations”*.<sup>61</sup> The Kúria President also ordered the payment of a 30% extra supplement for the additional administrative tasks assigned. The decision on granting additional administrative tasks to judge Hajas and the extra remuneration were taken in a completely non-transparent manner by the Kúria President. Neither the criteria of nor the terms for an assignment for specific administrative tasks, nor the termination thereof are set out by law.

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<sup>55</sup> See the details at: Hungarian Helsinki Committee, *Egy ítélőtáblai tanácselnöki kinevezés magyarázatának margójára – a tények tükrében [On the Margins of the Explanation of an Appointment as Head of Panel at a Court of Appeal – in the Light of the Facts]*, 19 August 2022, <https://helsinkifigyelo.444.hu/2022/08/19/egy-itelotablai-tanacselnoki-kinevezes-magyarazatanak-margojara-a-tenyek-tukreben>.

<sup>56</sup> According to Article 29(1) of Act CLXII of 2011 on the Legal Status and Remuneration of Judges *“the employer may assign the judge, with their written consent, with the performance of administrative tasks for a fixed or indefinite term, exclusively or partly”*.

<sup>57</sup> For example, the membership in the panel that reviews the regulations of municipalities.

<sup>58</sup> The Hungarian Helsinki Committee has turned to the Kúria with a freedom of information request to acquire information on the legal basis of the assignment. See the response of the Kúria of 2 November 2022 here: [https://helsinki.hu/wp-content/uploads/2023/01/informalis\\_vezetoi\\_kinevezesek\\_a\\_Kurian\\_2022.pdf](https://helsinki.hu/wp-content/uploads/2023/01/informalis_vezetoi_kinevezesek_a_Kurian_2022.pdf)

<sup>59</sup> *Contributions of Hungarian CSOs to the European Commission’s Rule of Law Report*, January 2023, [https://helsinki.hu/en/wp-content/uploads/sites/2/2023/01/HUN\\_CS0\\_contribution\\_EC\\_RoL\\_Report\\_2023.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2023/01/HUN_CS0_contribution_EC_RoL_Report_2023.pdf), p. 9.

<sup>60</sup> Hungarian Helsinki Committee, *Tribunal Established by Sleight of Hand – Unlawful Judicial Appointments at the Kúria*, 4 September 2022, <https://helsinki.hu/en/wp-content/uploads/sites/2/2022/09/Tribunal-Established-by-Sleight-of-Hand.pdf>

<sup>61</sup> Decision 2022.El.VI.A.112/10. of the Kúria President

## 5. Allocation of cases in courts

(1) As regards case allocation at the Kúria, despite the requirement to enhance transparency included in the conditions to access EU funds,<sup>62</sup> monitoring<sup>63</sup> the log files published on the Kúria's website and the actual operation of the case allocation system at the Kúria in 2024<sup>64</sup> showed that although the system is more transparent than before the judicial reform of 2023,<sup>65</sup> the allocation of cases at the Kúria still raises questions and concerns. Such problems include that (i) it is difficult to monitor the case allocation practice based on the online log files; (ii) in many cases the Kúria did not follow the case allocation scheme; (iii) the law provides several vaguely defined grounds for deviating from the general rules for case allocation;<sup>66</sup> and (iv) these deviations may not be monitored and explained without further background information, however, such background information is not available for the public.

Special concerns can be raised with respect to electoral cases at the Kúria. A new case allocation rule was introduced<sup>67</sup> specifically for the 2024 European Parliament and local elections,<sup>68</sup> only a few months before the election was held, which violates the principle of legal certainty and undermines public confidence in the courts,<sup>69</sup> since parties and people challenging election committee resolutions should know well in advance the rules based on which chambers deciding in these cases will be formed. It was not specified which judges would make up the envisaged extra chambers, should these be needed due to an excessive caseload,<sup>70</sup> and it was also unclear how election cases arriving (by e-mail or by post) simultaneously or within a few minutes of each other were allocated.<sup>71</sup>

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<sup>62</sup> In the wording of the respective milestone under Hungary's Recovery and Resilience Plan, "the parties to proceedings be able to verify on the basis of the case file whether the rules on case allocation have been duly applied" and "cases be allocated to chambers following pre-established, objective criteria". Council of the European Union, Annex to the Council Implementing Decision on the approval of the assessment of the recovery and resilience plan for Hungary, 1 December 2022, <https://data.consilium.europa.eu/doc/document/ST-15447-2022-ADD-1/en/pdf>, p. 133.

<sup>63</sup> Amnesty International Hungary, *Anomalies in the allocation of cases by the Kúria*, November 2024, [https://www.amnesty.hu/wp-content/uploads/2024/11/241107\\_Briefing-paper\\_case-allocation-practice-at-the-Hungarian-Kuria.pdf](https://www.amnesty.hu/wp-content/uploads/2024/11/241107_Briefing-paper_case-allocation-practice-at-the-Hungarian-Kuria.pdf)

<sup>64</sup> For each week and for each department, the Kúria publishes the list of cases and their respective allocated chambers on its website in online log files: <https://kuria-birosag.hu/hu/kuria-ugyelosztasi-rendszer>.

<sup>65</sup> Amnesty International Hungary – Eötvös Károly Institute – Hungarian Helsinki Committee, *Assessment of Act X of 2023 on the Amendment of Certain Laws on Justice related to the Hungarian Recovery and Resilience Plan*, May 2023, <https://www.amnesty.hu/joint-assessment-of-hungarys-judicial-reforms/>

<sup>66</sup> Act CLXI of 2011 on the Organisation and Administration of Courts, Article 10(5)

<sup>67</sup> Hungarian Helsinki Committee, *Ügyes elosztás? Új ügyelosztási rend a Kúrián [Clever distribution? New case allocation scheme at the Kúria]*, 8 March 2024, <https://helsinkifigyelo.444.hu/2024/03/08/ugyes-elosztas-uj-ugyelosztasi-rend-a-kurian>

<sup>68</sup> The new rules allowed the creation of four additional, unspecified boards in case the administrative "electoral caseload of the administrative college adjudicating on electoral cases exceeds 15 cases per day for three calendar days". Case allocation scheme of the Kúria effective from 1 January 2024, [https://kuria-birosag.hu/sites/default/files/szabalyzatok/a\\_kuria\\_2024\\_januar\\_1\\_napjatol\\_hatalyos\\_ugyelosztasi\\_rendje\\_modositasokkal\\_egyseges\\_szerkezetben\\_1.pdf](https://kuria-birosag.hu/sites/default/files/szabalyzatok/a_kuria_2024_januar_1_napjatol_hatalyos_ugyelosztasi_rendje_modositasokkal_egyseges_szerkezetben_1.pdf), p. 19.

<sup>69</sup> Although such precondition did not materialize during the 2024 elections, it was unclear which Kúria judges would have been allocated to these special boards.

<sup>70</sup> Such a precondition did not materialize during the 2024 elections so this rule was not applied.

<sup>71</sup> Amnesty International Hungary, *Anomalies in the allocation of cases by the Kúria*, November 2024, [https://www.amnesty.hu/wp-content/uploads/2024/11/241107\\_Briefing-paper\\_case-allocation-practice-at-the-HungarianKuria.pdf](https://www.amnesty.hu/wp-content/uploads/2024/11/241107_Briefing-paper_case-allocation-practice-at-the-HungarianKuria.pdf), pp. 5-6.

(2) With respect to the case allocation system of lower tier courts, all concerns raised in our 2023<sup>72</sup> and 2024<sup>73</sup> contributions remain relevant. Although both the 2023<sup>74</sup> and the 2024<sup>75</sup> Rule of Law Report recommended improving the transparency of their case allocation systems, no progress has been made regarding that issue. The special concerns regarding appeal courts – included in our 2024 contribution<sup>76</sup> – also still apply.

(3) The Constitutional Court (CC) still does not have a case-allocation scheme at all, and cases are still assigned to judges as rapporteurs under non-transparent rules. Consequently, there has been no improvement in this regard either, and concerns included in our 2024 contribution still apply.<sup>77</sup>

## 6. Independence and powers of the body tasked with safeguarding the independence of the judiciary

The NJC is the highest judicial self-governing body mandated to supervise the central administration of courts. Over the past period, both the composition and the legal status of the NJC have remarkably changed. With effect from 1 June 2023<sup>78</sup> legislative modifications strengthened the powers and the status of the NJC.<sup>79</sup> With effect from 30 January 2024, as a result of the expiry of the previous NJC's mandate and the election of the new members, the NJC now carries out its duties in a new composition. Although key powers of the NJC are granted by law, its operation as a body is established by broadly formulated legal provisions, thus members of the NJC have a wide margin of manoeuvre to define their operation, role and scope of supervision.

While only an independent NJC may fulfil its constitutional role in line with its newly strengthened powers, many signs indicate that the independence of the NJC in its new composition may have become compromised. As also highlighted in our 2024 contribution,<sup>80</sup>

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<sup>72</sup> *Contributions of Hungarian CSOs to the European Commission's Rule of Law Report*, January 2023, [https://www.amnesty.hu/wp-content/uploads/2023/01/HUN\\_CS0\\_contribution\\_EC\\_RoL\\_Report\\_2023.pdf](https://www.amnesty.hu/wp-content/uploads/2023/01/HUN_CS0_contribution_EC_RoL_Report_2023.pdf), pp. 9-10.

<sup>73</sup> *Contributions of Hungarian CSOs to the European Commission's Rule of Law Report*, January 2024, <https://www.amnesty.hu/hungarian-csos-contribute-to-the-european-commissions-2024-rule-of-law-report/>, p. 11.

<sup>74</sup> European Commission, *2023 Rule of Law Report – Country Chapter on the rule of law situation in Hungary*, [https://commission.europa.eu/system/files/2023-07/40\\_1\\_52623\\_coun\\_chap\\_hungary\\_en.pdf](https://commission.europa.eu/system/files/2023-07/40_1_52623_coun_chap_hungary_en.pdf), p. 2.

<sup>75</sup> European Commission, *2024 Rule of Law Report – Country Chapter on the rule of law situation in Hungary*, [https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6\\_en?filename=40\\_1\\_58071\\_coun\\_chap\\_hungary\\_en.pdf](https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6_en?filename=40_1_58071_coun_chap_hungary_en.pdf), p. 2.

<sup>76</sup> *Contributions of Hungarian CSOs to the European Commission's Rule of Law Report*, January 2024, <https://www.amnesty.hu/hungarian-csos-contribute-to-the-european-commissions-2024-rule-of-law-report/>, p. 12.

<sup>77</sup> See: *Contributions of Hungarian CSOs to the European Commission's Rule of Law Report*, January 2024, <https://www.amnesty.hu/hungarian-csos-contribute-to-the-european-commissions-2024-rule-of-law-report/>, p. 11.

<sup>78</sup> Date of entry into force of Act X of 2023 on the Amendment of Certain Laws on Justice related to the Hungarian Recovery and Resilience Plan

<sup>79</sup> Act X of 2023 on the Amendment of Certain Laws on Justice related to the Hungarian Recovery and Resilience Plan granted legal personality, an autonomous budget and increased powers, including the right to propose legislation, comment on draft laws affecting the judiciary, have access to documents related to the administration of courts, consent to personnel matters and seek remedy against violations of its rights and competences.

<sup>80</sup> *Contributions of Hungarian CSOs to the European Commission's Rule of Law Report*, January 2024,

several factors prove that political and administrative pressure was exerted on the election process of NJC members,<sup>81</sup> including undue interference on behalf of the Kúria President, who openly lobbied for the election of “one or two court presidents”.<sup>82</sup> In accordance with the controversial request of the Kúria President and in the absence of a conflict-of-interest rule excluding judicial leaders appointed by the NOJ President<sup>83</sup> from becoming members of the NJC,<sup>84</sup> the current NJC also includes a court president, weakening the perception of its independence.<sup>85</sup>

The mode of operation of the NJC remarkably changed after 30 January 2024. Some characteristics of its altered operation as a body and some key decisions taken raised serious doubts regarding the independence of the NJC by the end of 2024, even in the eyes of Hungarian judges.<sup>86</sup> Problematic issues evolved gradually, including (i) limiting, through providing a new interpretation to existing legal provisions, the right of NJC members to propose items to the NJC’s agenda;<sup>87</sup> (ii) concentrating powers in the hands of the NJC President, resulting in actions taken on behalf of the NJC by the NJC President as sole statutory representative without the authorisation of the NJC members (one outstanding example was the participation of the NJC President at the meeting of Presidents and Representatives of Councils of Judges of the Organisation of Turkic States<sup>88</sup> without a prior decision of the NJC, inciting the resignation of a member);<sup>89</sup> (iii) consenting to the transfer of

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[https://helsinki.hu/en/wp-content/uploads/sites/2/2024/01/HUN\\_CSJ\\_contribution\\_EC\\_RoL\\_Report\\_2024.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2024/01/HUN_CSJ_contribution_EC_RoL_Report_2024.pdf), pp. 6-7.

<sup>81</sup> Amnesty International Hungary, *Briefing paper on the election of the new National Judicial Council of Hungary*, 19 January 2024, [https://www.amnesty.hu/wp-content/uploads/2024/01/Briefing-paper\\_Election-of-the-new-NJC-of-Hungary.pdf](https://www.amnesty.hu/wp-content/uploads/2024/01/Briefing-paper_Election-of-the-new-NJC-of-Hungary.pdf)

<sup>82</sup> See e.g.: <https://www.szabadeuropa.hu/a/kuria-elnok-orszagos-biroi-tanacs-megvalasztas-befolyasolas-level-biroi-egyesulet/32739875.html>. Although Article 98(4) of Act CLXI of 2011 on the Organisation and Administration of the Courts the Kúria President does not allow the Kúria President to nominate and vote for members of the NJC, in his speech held at the final round of election of NJC members, the Kúria President openly encouraged delegates “to vote at least one or two court presidents” as members of the NJC. See: [https://kuria-birosag.hu/sites/default/files/sajto/2024\\_01\\_08\\_a\\_kuria\\_elnokenek\\_beszede.pdf](https://kuria-birosag.hu/sites/default/files/sajto/2024_01_08_a_kuria_elnokenek_beszede.pdf).

<sup>83</sup> I.e., court presidents, court vice-presidents, chairs of the departments of judges.

<sup>84</sup> Controversially, the legislation explicitly excludes the possibility of being elected as member of the NJC in case of close relatives of the NOJ President, the Kúria President and the presidents and vice-presidents of appeal courts and regional courts [see Article 90(2)(e) of Act CLXI of 2011 on the Organisation and Administration of the Courts].

<sup>85</sup> The lack of such conflict-of-interest rule is problematic for the operation of the new NJC, as (i) non-judicial leader NJC members may not dare to challenge judicial leader NJC members on issues within the NJC decision-making processes; (ii) it is questionable whether judicial leaders appointed by the NOJ President are able to exercise independent and impartial supervision over the NOJ President exercising the rights of employer with respect to them; and (iii) judicial leaders’ formal and informal influence at courts makes it easier for them to be elected as NJC members at the NJC’s Assembly of Delegates.

<sup>86</sup> As showcased by the protesting letters of judges published after the NJC’s signing of the agreement with the Government on 22 November 2024, available here: <https://mabie.hu/berjavaslat/felhivas-velemenynyilvanitasra-csatlakozo-nyilatkozatok-megkueldesere>.

<sup>87</sup> See the debate around the right of NJC members to propose items on the agenda here: [https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv\\_2024-04-17.pdf](https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv_2024-04-17.pdf), p. 7. According to Article 112(1)(b) of Act CLXI of 2011 on the Organisation and Administration of the Courts, “any member of the NJC is entitled [...] to propose an item to the agenda for an NJC meeting”.

<sup>88</sup> See e.g.: <https://www.szabadeuropa.hu/a/az-obt-is-odaall-a-kormany-illiberalis-nyitasa-moge-elnok-megis-reszt-vesz-a-turk-allamok-igazsagugyi-tanacskozasan-/32957886.html>.

<sup>89</sup> Tamás Gergey reasoned his resignation from the position as member of the NJC that he could not accept that “the representation of the NJC in matters related to its supervisory tasks lack a resolution by the NJC”. See: [https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv\\_2024-04-17.pdf](https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv_2024-04-17.pdf), p. 3. A modification mitigating this problem to some extent was introduced with effect from 5 June 2024 by Resolution 90/2024. (VI. 5.) OBT to the Rules of Operation and Organisation of the NJC. The new provisions make it explicit that in the course of representing the NJC in foreign relations as well as in relations to domestic public bodies, the NJC President

a judge, who is a close relative of a State Secretary, to the National Directorate General for Hospitals without providing meaningful reasoning for the decision, and – as revealed during a later meeting of the NJC – causing capacity constraints at the court;<sup>90</sup> (iv) unanimous approval of the proposal of the NOJ President on the highly disproportionate salary raise at the Kúria,<sup>91</sup> securing a much larger pay rise to Kúria judges than the increase for all other judges, thus severing the system of remunerations at the Kúria from the ordinary system of judicial remunerations;<sup>92</sup> (v) supporting<sup>93</sup> the conclusion of the “Agreement” signed with the Ministry of Justice, the Kúria President and the NOJ President that linked the promise of a salary raise for judges and judicial staff to prior consent to undefined overall reforms.<sup>94</sup>

The “Agreement”<sup>95</sup> violates judicial independence for several reasons, amongst others for linking the long overdue salary raise to the adoption of not clearly defined structural judicial reforms that may undermine judicial independence; for not providing effective guarantees as to the urgently necessary salary raise; and for containing an express undertaking on behalf of the signatories to cooperate to achieve the Government’s planned structural reforms outlined.

The resolution of the NJC on the approval of the “Agreement” resulted in unprecedented public criticism from judicial associations and individual judges<sup>96</sup> (including former NJC Presidents and members),<sup>97</sup> who objected to both the way of adopting the NJC resolution on signing the “Agreement” and the content thereof, and claimed that the NJC had given up its

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must take into account the opinion of the majority of the members expressed prior to any action taken by the President. See: <https://obt-jud.hu/hu/obt-szmsz>, Article 8(2)(a). This however still does not mean that a potentially controversial issue proposed by an NJC member to be discussed must be put on the NJC’s agenda and decided in a formal vote. The absence of a formal discussion at the NJC meeting also entails that the given issue will not appear in the minutes of the meeting, and thus it will not be transparent for the public how the NJC’s stance was formulated about it.

<sup>90</sup> According to Resolution 182/2024. (X. 2.) OBT, the judge concerned, Árpád Répássy, close relative of state secretary of the Ministry of Justice “could use his professional experience in the field of civil service to the advantage of the organisation in his regulatory role of the National Hospital Directorate General”. At the meeting of the NJC held on 11 December 2024, it turned out that the transfer caused capacity constraints at the court where the judge concerned served, but as claimed by the court president who consented to the transfer “it is not appropriate to refuse such a request” (see: [https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv\\_2024.12.11.pdf](https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv_2024.12.11.pdf), p. 33.).

<sup>91</sup> National Judicial Council, Resolution 189/2024. (X. 16.) OBT

<sup>92</sup> The disproportionate pay rise was criticised by the MABIE for “jeopardising the balanced functioning of the judiciary, undermining public trust in courts and the belief in their impartiality, and lacking public support”. See: <https://mabie.hu/berjavaslat/a-mabie-koezlemenye-a-biroi-fizetesek-aranyossaganak-biztositasarol/>.

<sup>93</sup> See: <https://obt-jud.hu/hu/tajekoztatas>. The NJC President signed the “Agreement” following a debate and vote at an NJC meeting held on 20 November 2024; the draft “Agreement” had been shared with the NJC members only two days prior to the meeting.

<sup>94</sup> Hungarian Helsinki Committee, *Black Friday at Hungarian Courts – Sweeping public protest of Hungarian judges against a political deal undermining judicial independence*, 6 December 2024, [https://helsinki.hu/en/wp-content/uploads/sites/2/2024/12/HHC\\_Black\\_Friday\\_Hungarian\\_judiciary\\_2024.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2024/12/HHC_Black_Friday_Hungarian_judiciary_2024.pdf)

<sup>95</sup> See: [https://mabie.hu/images/1183\\_001\\_megallapodas.pdf](https://mabie.hu/images/1183_001_megallapodas.pdf).

<sup>96</sup> Hungarian Helsinki Committee, *Judges’ salary is a public matter, and not an issue of personal finances*, 3 December 2024

<https://helsinki.hu/en/judges-salary-is-a-public-matter-and-not-an-issue-of-personal-finances/>. See the statements of judges in Hungarian at: <https://mabie.hu/berjavaslat/a-mabie-koezlemenye-az-obt-obh-kuria-igazsaguegyi-miniszterium-koezoetti-megallapodas-megkoeteserol> and <https://resiudicata.hu/kozlemenye-a-birosagokat-erinto-megallapodasrol/>.

<sup>97</sup> See e.g. the statement of Tamás Matusik, former President of the NJC: [https://x.com/TamasMatusik/status/1859490126155427965?t=ehnO\\_QDIR-MI44oisTKYew&s=19](https://x.com/TamasMatusik/status/1859490126155427965?t=ehnO_QDIR-MI44oisTKYew&s=19). See also the interview with Edit Hilbert at [https://hvg.hu/360/20250114\\_Hilbert-Edit-OBT-birosag-interju](https://hvg.hu/360/20250114_Hilbert-Edit-OBT-birosag-interju).

independence.<sup>98</sup> The protest led to the resignation of NJC President Péter Szabó on 3 December 2024 who claimed responsibility for signing the “Agreement”.<sup>99</sup> After electing a new NJC President on 11 December 2024,<sup>100</sup> on 15 January 2025, the NJC decided to declare the “Agreement” void and non-binding to the NJC,<sup>101</sup> thereby seeking a way to free themselves from political pressure.

## 7. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil liability of judges

The Integrity Policy<sup>102</sup> issued by the NOJ President prescribes how a judge may conduct any activities outside of their task of adjudication. Its provisions on judges’ potential involvement in political activities are unclear and therefore these provisions open up the space for arbitrary interpretation.<sup>103</sup> Consequently, the policy can still be used as a tool to silence judges who simply wish to exercise their fundamental rights or who want to speak up *inter alia* for judicial independence, by claiming that the topic is political and/or an activity that infringes their integrity.<sup>104</sup> The NOJ President has not amended the Integrity Policy in this regard since his election.<sup>105</sup>

The disciplinary cases of judges are decided by service courts, the operation of which is not public according to the law.<sup>106</sup> The procedure of the service courts is not set by the law, only by internal regulations,<sup>107</sup> therefore the NJC proposed a law-making process to regulate the operation of service courts in an Act of Parliament.<sup>108</sup>

The latest available report by the NOJ President regarding disciplinary proceedings is about the first half of 2023.<sup>109</sup> In the first half of 2023, two judges received written warnings for misconduct in the performance of their duties. Disciplinary proceedings were initiated against

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<sup>98</sup> For more details, see: Hungarian Helsinki Committee, *Black Friday at Hungarian Courts – Sweeping public protest of Hungarian judges against a political deal undermining judicial independence*, 6 December 2024, [https://helsinki.hu/en/wp-content/uploads/sites/2/2024/12/HHC\\_Black\\_Friday\\_Hungarian\\_judiciary\\_2024.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2024/12/HHC_Black_Friday_Hungarian_judiciary_2024.pdf).

<sup>99</sup> See e.g.: <https://hu.euronews.com/2024/12/04/lemondott-elnok-orszagos-biroi-tanacs-szabo-peter-obt-interju-jogallamisag> and the interview with Péter Szabó at [https://hvg.hu/360/20241210\\_Szabo-Peter-lemondott-OBT-elnok-interju-birok-fuggetlenseg-kormany-paktum-alku-fizetesemeles-ebx](https://hvg.hu/360/20241210_Szabo-Peter-lemondott-OBT-elnok-interju-birok-fuggetlenseg-kormany-paktum-alku-fizetesemeles-ebx).

<sup>100</sup> See the interview with new NJC President Csaba Pecsénye at <https://telex.hu/belfold/2024/12/11/orszagos-biroi-tanacs-pecsenye-csaba-igazsagszolgalatas-biroi-fuggetlenseg-megallapodas>.

<sup>101</sup> See: [https://obt-jud.hu/sites/default/files/u156/Osszefoglalo\\_2025.01.15.pdf](https://obt-jud.hu/sites/default/files/u156/Osszefoglalo_2025.01.15.pdf).

<sup>102</sup> Instruction 6/2016. (V. 31.) OBH of the NOJ on the Integrity Policy

<sup>103</sup> For example, Article 7(2) of the Integrity Policy contains a catch-all provision saying that “*other activities [...] endangering the judicial independence or impartiality of a judge*”, which may also infringe integrity, as this provision is open to interpretation of the NOJ President.

<sup>104</sup> “*The integrity is compromised by other activities that undermine the independence or impartiality of the judge or judicial staff member.*” [Integrity Policy, Article 7(2)]

<sup>105</sup> To learn more, see Section 8 of Amnesty International, *Status of the Hungarian judiciary* (Index: EUR 27/3623/2021), February 2021, [https://www.amnesty.hu/wp-content/uploads/2021/02/Status-of-the-Hungarian-judiciary\\_EN\\_FINAL.pdf](https://www.amnesty.hu/wp-content/uploads/2021/02/Status-of-the-Hungarian-judiciary_EN_FINAL.pdf), p. 24.

<sup>106</sup> “*Disciplinary proceedings and preliminary investigations shall be conducted in camera.*” (Act CLXII of 2011 on the Legal Status and Remuneration of Judges, Article 119)

<sup>107</sup> See: <https://birosag.hu/sites/default/files/2023-05/SZOLG%C3%81LATI%20B%C3%8DR%C3%93S%C3%81GOK%20%C3%9CGYRENDJE%202023.%20m%C3%A1jus%2010.pdf>.

<sup>108</sup> Minutes of the 27 March 2024 meeting of the NJC, [https://obt-jud.hu/sites/default/files/u156/Jegyzokonyv\\_2024.03.27.pdf](https://obt-jud.hu/sites/default/files/u156/Jegyzokonyv_2024.03.27.pdf), p. 26.

<sup>109</sup> President of the National Office for the Judiciary, *Report of the NOJ President for the first half of 2023*, [https://birosag.hu/sites/default/files/2024-11/az\\_obh\\_elnokenek\\_2023.\\_i.\\_felevi\\_beszamoloja.pdf](https://birosag.hu/sites/default/files/2024-11/az_obh_elnokenek_2023._i._felevi_beszamoloja.pdf), p. 51.

six judges before the first instance service court (in five cases for misconduct in the performance of their duties and in one case for a behaviour harming or endangering the dignity of the judiciary). In the first half of 2023, three proceedings ended with the imposition of disciplinary sanctions (two cases of rebuking, one case of reduction by one salary level).

From November 2022, the NJC started to publish on its website<sup>110</sup> some recent anonymized disciplinary decisions for the years 2021 (14 decisions), 2022 (eight decisions), 2023 (11 decisions) and 2024 (6 decisions). In 2024, one first instance case<sup>111</sup> and one second instance case<sup>112</sup> resulted in establishing a judge's misconduct in the performance of their duties (both referred to professional misconduct). There was one case<sup>113</sup> where the procedure was terminated due to the resignation of the judge and one case<sup>114</sup> where the procedure was terminated due to the termination of the judge's tenure. In one case,<sup>115</sup> the service court rejected a request for the suspension of a disciplinary sanction and in another<sup>116</sup> it rejected the request for exemption from the disciplinary sanctions. The publication of these disciplinary decisions is not prescribed by the law, and depends solely on the NJC's discretion.

As in previous years, the Kúria President questioned the legitimacy of the service courts: e.g. he did so at the 27 March 2024 meeting of the NJC.<sup>117</sup> Moreover, at the 11 December 2024 NJC meeting, the Kúria President criticized<sup>118</sup> the presidents of the service courts who had also signed a letter of protest against the quadrilateral "Agreement" with the Government and stated that service courts would guarantee that judges may not be retaliated against for their opinion expressed with respect to the "Agreement".<sup>119</sup> The conflict got even more tense in relation to the debate around the New Years' greetings of the Kúria President, in the aftermath of which he published a response to statements by the NJC<sup>120</sup> and the NOJ President,<sup>121</sup> claiming that the service court presidents "irresponsibly and arbitrarily deceive their fellow

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<sup>110</sup> See: <https://obt-jud.hu/hu/szolgalmati-birosag-hatarozatai>.

<sup>111</sup> Case number SZF.3/2024. [https://obt-jud.hu/sites/default/files/hatarozatok/2024-11/SZF-3\\_2024\\_absztrahalt\\_hatarozat\\_20240610.pdf](https://obt-jud.hu/sites/default/files/hatarozatok/2024-11/SZF-3_2024_absztrahalt_hatarozat_20240610.pdf)

<sup>112</sup> Case number Szf.8/2024/6. [https://obt-jud.hu/sites/default/files/hatarozatok/2024-11/Szf-8-2024-6\\_absztrahalt\\_hatarozat\\_20240926.pdf](https://obt-jud.hu/sites/default/files/hatarozatok/2024-11/Szf-8-2024-6_absztrahalt_hatarozat_20240926.pdf)

<sup>113</sup> Case number SZF.1/2024. [https://obt-jud.hu/sites/default/files/hatarozatok/2024-11/SZF-1\\_2024\\_absztrahalt\\_hatarozat\\_20240901.pdf](https://obt-jud.hu/sites/default/files/hatarozatok/2024-11/SZF-1_2024_absztrahalt_hatarozat_20240901.pdf)

<sup>114</sup> Case number SZF.2/2024. [https://obt-jud.hu/sites/default/files/hatarozatok/2024-11/SZF-2\\_2024\\_absztrahalt\\_hatarozat\\_20240411.pdf](https://obt-jud.hu/sites/default/files/hatarozatok/2024-11/SZF-2_2024_absztrahalt_hatarozat_20240411.pdf)

<sup>115</sup> Case number SZM.1/2024. [https://obt-jud.hu/sites/default/files/hatarozatok/2024-11/SZM-1\\_2024\\_absztrahalt\\_hatarozat\\_20240711.pdf](https://obt-jud.hu/sites/default/files/hatarozatok/2024-11/SZM-1_2024_absztrahalt_hatarozat_20240711.pdf)

<sup>116</sup> Case number Szf.M.4/2024/6. [https://obt-jud.hu/sites/default/files/hatarozatok/2024-11/Szf-M-4-2024-6\\_absztrahalt\\_hatarozat\\_20240422.pdf](https://obt-jud.hu/sites/default/files/hatarozatok/2024-11/Szf-M-4-2024-6_absztrahalt_hatarozat_20240422.pdf)

<sup>117</sup> "[T]his separate form of organisation is not allowed [by the Fundamental Law in my opinion [...]]." (Minutes of the 27 March 2024 meeting of the NJC, [https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv\\_2024.03.27.pdf](https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv_2024.03.27.pdf), p. 25.)

<sup>118</sup> "[But there are also those who knowingly fabricate falsehoods.] In the latter category are the presidents of the service courts, who, by stepping out of their judicial role, violating the requirement of impartiality and giving prior exemption from the legal consequences of any unconstitutional or illegal conduct, are at the forefront of the deception of judges." (Minutes of the 11 December 2024 meeting of the NJC, [https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv\\_2024.12.11.pdf](https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv_2024.12.11.pdf), p. 58.)

<sup>119</sup> Open letter of Katalin Éva Farkas, president of the service court of second instance and of Dávid Éliás, president of the service court of first instance, 9 December 2024, <https://www.mabie.hu/images/LEVELEK%202024/1209/Szolgalmati%20Birosag%20levele.pdf>

<sup>120</sup> See: <https://obt-jud.hu/hu/kozlemeny-kuria-elnokenek-ujevi-koszontojevel-kapcsolatban>.

<sup>121</sup> See: <https://birosag.hu/hirek/kategoria/birosagokrol/az-orszag-birosagi-hivatal-kozlemeny-0>.

*judges*”, and *“are consciously forging lies”*.<sup>122</sup> As included in our 2024 contribution,<sup>123</sup> the judgment of the Court of Justice of the European Union (CJEU) in case C-564/19 remains non-executed, and the mere act of referring a question to the CJEU may serve as the basis for initiating a disciplinary action against a judge (see also Question IV.10.). This case also highlights the significance of the conflict between the Kúria President and the service court presidents, since as experts warn, the independence of the service courts from the court hierarchies is an important safeguard against the use of disciplinary proceedings for exerting pressure on judges.<sup>124</sup> The Kúria President’s recurring attacks must be assessed in this light.

The procedure regarding the constitutionality of the new, NJC-adopted Code of Ethics at the CC is still pending,<sup>125</sup> and the ongoing dispute and the chilling effect that it exerts on the NJC and the judges continue to have a negative impact on judges’ right to freedom of expression including participation in professional debates.

The Government called upon<sup>126</sup> the NJC to review its Code of Ethics including the rules on accepting gifts. The NJC did not revise the code,<sup>127</sup> but decided instead to contact the NOJ, requesting documents regarding the application of those rules on accepting gifts that are included in the NOJ’s Integrity Policy.

## 8. Independence/autonomy of the prosecution service

(1) As recalled by the 2024 Rule of Law Report, *“[t]he 2023 and previous Rule of Law Reports noted that the strictly hierarchical architecture of the prosecution service and a lack of internal checks and balances enhance the persistent risk of top prosecutors influencing the work of subordinate prosecutors, including in individual cases”*.<sup>128</sup> Since the structure of the prosecution service remained the same and the respective concerns have not been addressed in any form, the 2024 Rule of Law Report’s conclusion that *“risks of undue interference with individual cases remain”* is still valid.

Hungary has still not implemented GRECO’s recommendation to review the possibility to maintain the Prosecutor General in office after the expiry of their mandate by a minority blocking of the election in Parliament of a successor.<sup>129</sup> This possibility was criticized by the

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<sup>122</sup> See: <https://kuria-birosag.hu/hu/sajto/kuria-elnokenek-valaszlevele-az-orszagos-biroi-tanacs-es-az-orszagos-birosagi-hivatal>.

<sup>123</sup> *Contributions of Hungarian CSOs to the European Commission’s Rule of Law Report*, January 2024, <https://www.amnesty.hu/hungarian-csos-contribute-to-the-european-commissions-2024-rule-of-law-report/>, p. 16.

<sup>124</sup> Tamás Matusik, Targeting Disciplinary Courts. Why Hungary is on the verge of a full-scale judicial capture, *Verfassungsblog*, 16 January 2025, <https://verfassungsblog.de/targeting-disciplinary-courts/>. See also: <https://www.szabadeuropa.hu/a/a-kuria-elnok-harca-mindenki-ellen/33275186.html>.

<sup>125</sup> Case II/01285/2022, <https://alkotmanybirosag.hu/ugyadatlap/?id=B1E83AFC8B10B1D2C125885B005B3B7E>

<sup>126</sup> Government Resolution 1025/2024. (II. 14.) on the Adoption of the Mid-Term National Anti-Corruption Strategy 2024–2025 and the Action Plan for its implementation, Annex 1, Section 3.2.

<sup>127</sup> Summary of the 18 September 2024 meeting of the NJC, [https://obt-jud.hu/sites/default/files/u156/Osszefoglalo\\_2024.09.18.pdf](https://obt-jud.hu/sites/default/files/u156/Osszefoglalo_2024.09.18.pdf)

<sup>128</sup> European Commission, *2024 Rule of Law Report – Country Chapter on the rule of law situation in Hungary*, [https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6\\_en?filename=40\\_1\\_58071\\_coun\\_chap\\_hungary\\_en.pdf](https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6_en?filename=40_1_58071_coun_chap_hungary_en.pdf), p. 36.

<sup>129</sup> Group of States against Corruption (GRECO), *Fourth Evaluation Round – Corruption prevention in respect of members of parliament, judges and prosecutors, Fourth Interim Compliance Report – Hungary*, GrecoRC4(2023)7, <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680ab87f1>, paras 54-57. According to Article 22(2) of Act CLXIV on the Status of the Prosecutor General, Prosecutors and Other

Venice Commission as early as 2012,<sup>130</sup> and, as also pointed out by the 2023 Rule of Law Report, it “could expose [the Prosecutor General] to undue political influence”.<sup>131</sup> It continues to be the case that the Prosecutor General can only be removed from office with a two-thirds majority of Members of Parliament as a result of a 2021 amendment.<sup>132</sup> Moreover, the 14<sup>th</sup> Amendment to the Fundamental Law, adopted in December 2024, opened the path for the position of the Prosecutor General to be filled in by a non-prosecutor, which may signal an increase in political expectations at the expense of professional standards.

GRECO’s recommendation that the immunity of prosecutors be limited to activities relating to their participation in the administration of justice (“functional immunity”) remains not implemented.<sup>133</sup>

It was also recommended by GRECO that disciplinary proceedings in respect of prosecutors be handled outside the immediate hierarchical structure of the prosecution service and in a way that provides for enhanced accountability and transparency. As a result, the respective rules were amended to involve a disciplinary commissioner in disciplinary proceedings. GRECO welcomed this step, but pointed out in its 2023 compliance report that the disciplinary commissioner’s “role is limited, and the superior prosecutor is still leading the overall procedure”, and that “[n]o measures to increase the transparency of the process has been reported” by the Hungarian authorities.<sup>134</sup>

In sum, out of the four recommendations issued by GRECO in 2015 in relation to corruption prevention in respect of prosecutors, one recommendation remains not implemented, while two remain only partly implemented.

(2) As of 9 July 2024, Act CLXI of 2011 on the Organisation and Administration of Courts and Act CLXIII of 2011 on the Prosecution Service were amended,<sup>135</sup> granting the Ministry of Justice unlimited access to decisions delivered by the judiciary, the prosecution service and other autonomous state bodies and government agencies. The new rules allow the Ministry of Justice to acquire protected information to which it would not have access otherwise. Early access to information regarding ongoing cases allows the Government and the government majority to interfere in ongoing court proceedings and influence their outcome through

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Prosecution Employees and the Prosecutor Career, if the mandate of the Prosecutor General expires, they shall exercise the powers of the Prosecutor General until the new Prosecutor General takes office. Under Article 29(4) of the Fundamental Law, the Prosecutor General shall be elected with the votes of two thirds of the Members of Parliament.

<sup>130</sup> European Commission for Democracy Through Law (Venice Commission), *Opinion on Act CLXIII of 2011 on the Prosecution Service and Act CLXIV of 2011 on the Status of the Prosecutor General, Prosecutors and Other Prosecution Employees and the Prosecution Career of Hungary*, CDL-AD(2012)008, 19 June 2012, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2012\)008-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2012)008-e), paras 55-60.

<sup>131</sup> European Commission, *2023 Rule of Law Report – Country Chapter on the rule of law situation in Hungary*, [https://commission.europa.eu/system/files/2023-07/40\\_1\\_52623\\_coun\\_chap\\_hungary\\_en.pdf](https://commission.europa.eu/system/files/2023-07/40_1_52623_coun_chap_hungary_en.pdf), p. 8.

<sup>132</sup> See Article 61/A(1)(i) of Act XXXVI of 2012 on the Parliament, as introduced by Article 85 of Act CXXII of 2021 on Amending Certain Laws on Justice and Related Matters.

<sup>133</sup> Group of States against Corruption (GRECO), *Fourth Evaluation Round – Corruption prevention in respect of members of parliament, judges and prosecutors, Fourth Interim Compliance Report – Hungary*, GrecoRC4(2023)7, <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680ab87f1>, paras 58-61.

<sup>134</sup> Group of States against Corruption (GRECO), *Fourth Evaluation Round – Corruption prevention in respect of members of parliament, judges and prosecutors, Fourth Interim Compliance Report – Hungary*, GrecoRC4(2023)7, <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680ab87f1>, paras 62-66.

<sup>135</sup> Via Act XVII of 2024 on the Amendment of Laws related to Justice Matters.

immediate effect law-making (e.g. by issuing emergency decrees, or amending laws in the Parliament's fast-track legislative process), thereby undermining the organisational independence of courts and the prosecution service.<sup>136</sup> A freedom of information request revealed that until 19 December 2024, the Ministry of Justice requested the NOJ once (in August 2024) to provide it with a random sample of anonymised civil and criminal decisions.<sup>137</sup>

As far as the prosecution service is concerned, according to the new rules, the Ministry of Justice can get access to prosecutorial decisions relating to criminal procedures (i) that have been adjudicated by the court's final instance, or (ii) have been terminated by either a judicial decision that cannot be appealed against, (iii) or by a non-appealable decision by the prosecutor or by an investigating authority. Besides decisions of the prosecution service and letters of indictment, all other decisions, made by either a prosecutor or by any other state body shall be shared with the Ministry of Justice on the condition that such decisions have been reviewed by the prosecution service.<sup>138</sup> It is particularly concerning that the Ministry of Justice can get access to decisions of the prosecutor and of the investigating authorities generated in criminal processes that can be reopened without judicial intervention. In addition to the concern that the Ministry of Justice can exert political influence and pressure on the prosecution service with regard to individual cases based on reviewing the decisions accessed, it is also disquieting that the Ministry of Justice is able to access decisions generated in criminal proceedings that contain a plethora of highly sensitive personal information, which can potentially be extrapolated despite anonymisation.<sup>139</sup>

## 9. Independence of the bar and of lawyers

Since it started its operation in February 2024, the Sovereignty Protection Office (SPO, see Question IV.13. for details) has sent requests for cooperation to at least the following six state and public bodies, asking them to collect information in the name of protecting sovereignty: the Chamber of Hungarian Auditors, the Hungarian Bar Association, the National Authority for Data Protection and Freedom of Information, the National Bank of Hungary, the National Media and Infocommunications Authority, and the National Tax and Customs Administration. Four of the state and public bodies have accepted the request and/or are working on establishing their framework for cooperation with the SPO. However, the Chamber of Hungarian Auditors and the Hungarian Bar Association have essentially refused the requests.<sup>140</sup> In its response of

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<sup>136</sup> For a detailed analysis on how such interference may take place, see: Hungarian Helsinki Committee – Transparency International Hungary, *A Sauron's Eye in the Hungarian Justice System*, 31 May 2024, [https://helsinki.hu/wp-content/uploads/2024/05/A\\_Saurons\\_eye\\_in\\_the\\_Hungarian\\_Justice\\_System\\_20240531.pdf](https://helsinki.hu/wp-content/uploads/2024/05/A_Saurons_eye_in_the_Hungarian_Justice_System_20240531.pdf), especially pp. 12-13.

<sup>137</sup> Reply of the NJO to the freedom of information request by Amnesty International Hungary, 19 December 2024, <https://www.amnesty.hu/wp-content/uploads/2025/01/2024.OBH..XII..B.56-3.pdf>

<sup>138</sup> Act CLXIII of 2011 on the Prosecution Service, Article 37/A

<sup>139</sup> For a detailed analysis, see: Hungarian Helsinki Committee – Transparency International Hungary, *A Sauron's Eye in the Hungarian Justice System*, 31 May 2024, [https://helsinki.hu/wp-content/uploads/2024/05/A\\_Saurons\\_eye\\_in\\_the\\_Hungarian\\_Justice\\_System\\_20240531.pdf](https://helsinki.hu/wp-content/uploads/2024/05/A_Saurons_eye_in_the_Hungarian_Justice_System_20240531.pdf), especially pp. 12-13. See also: Hungarian Helsinki Committee, *Indul a bírói és ügyészi döntések feletti kormányzati kontroll [Government control over judicial and prosecutorial decisions begins]*, 11 April 2024, <https://helsinkifigyelo.444.hu/2024/04/11/indul-a-biroi-es-ugyeszi-dontesek-feletti-kormanyzati-kontroll>.

<sup>140</sup> See: <https://english.atlatszo.hu/2024/08/13/hungarys-sovereignty-protection-office-requested-information-on-private-bank-accounts/>.

22 April 2024 to the request by the SPO,<sup>141</sup> the Hungarian Bar Association cited, among others, the confidentiality obligations of attorneys.

## 10. Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

(1) In June 2024, the Committee of Ministers (CM) of the Council of Europe monitoring the execution of judgments by the European Court of Human Rights (ECtHR) put on its agenda the execution of the judgment in the *Baka v. Hungary* case.<sup>142</sup> In its decision passed, the CM invited the Chair of the CM to send a letter to the Hungarian authorities conveying the CM's deep concern about the present situation and urging them to find swift solutions to abide fully and effectively by their obligations deriving from the ECtHR's judgment in the case.<sup>143</sup> The CM strongly exhorted the Hungarian authorities to proceed with an evaluation, including an analysis of the impact of all legislative and other measures adopted and foreseen on judges' freedom of expression, and to present their conclusions to enable the CM to make a full assessment whether the "chilling effect" has been abated. The CM invited the authorities to provide information on developments in the proceedings before the CC initiated by the Kúria President with respect to the new Code of Ethics for judges.<sup>144</sup>

(2) Despite the enhanced monitoring of the freedom of expression of Hungarian judges in the *Baka* case, smear campaigns<sup>145</sup> against judges continued. On 20 March 2024, government-aligned media released an article falsely "accusing" the former NJC President of having terminated the pre-trial detention of a person charged with possessing child pornography.<sup>146</sup> In January 2025, after the former NJC President published an article claiming that Hungary is at the verge of a full-scale capture<sup>147</sup> yet another smear campaign was launched against him claiming that "he made a biased attack on Hungary and the Kúria President in a defamatory article" and that he "relativised the requirement of political neutrality and questioned the professional integrity of the Kúria President".<sup>148</sup>

(3) The Kúria President has a long track-record of restricting judges' freedom of expression by claiming that cardinal laws must be interpreted as precluding any type of political activity, including public criticism of laws, the legal system and judicial administration. His public statements and activities in all his different roles – as an academic, as the representative of

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<sup>141</sup> The request of the SPO is available here: <https://szuverenitasvedelmihivatal.hu/dokumentumok/level-a-Magyar-Ugyvedi-Kamara-elnokenek.pdf>, while the response of the Hungarian Bar Association is available here in Hungarian: <https://szuverenitasvedelmihivatal.hu/dokumentumok/valasz-a-Magyar-Ugyvedi-Kamara-elnoketol.pdf>.

<sup>142</sup> CM/Del/Dec(2024)1501/H46-15, [https://hudoc.exec.coe.int/?i=CM/Del/Dec\(2024\)1501/H46-15E](https://hudoc.exec.coe.int/?i=CM/Del/Dec(2024)1501/H46-15E)

<sup>143</sup> See: <https://www.coe.int/en/web/execution/-/the-committee-of-ministers-invites-its-chair-to-send-a-letter-to-the-hungarian-authorities-conveying-deep-concern-about-the-lack-of-progress-in-the-case-of-the-supreme-court-s-former-president-baka>.

<sup>144</sup> See as well: <https://helsinki.hu/en/ngos-turn-to-the-constitutional-court-in-support-of-judicial-independence/>.

<sup>145</sup> See more on black campaigns of the Hungarian propaganda media here:

<https://www.youtube.com/watch?v=ego4aQLZKIQ>.

<sup>146</sup> See e.g.: <https://magyarnemzet.hu/belfold/2024/03/ime-a-biroi-csoportvezeto-akinek-beosztottja-elengedte-a-gyermekpornografiaval-gyanusított-volt-allami-vezető>.

<sup>147</sup> Tamás Matusik: Targeting Disciplinary Courts. Why Hungary is on the verge of a full-scale judicial capture, *Verfassungsblog*, 16 January 2025, <https://verfassungsblog.de/targeting-disciplinary-courts/>

<sup>148</sup> See e.g.: <https://www.origo.hu/itthon/2025/01/matusik-tamas-orzagos-biroi-tanacs-varga-zs-andras-kuria>, <https://mandiner.hu/belfold/2025/01/munkaban-a-halozat-ujabb-tamadast-inditottak-magyarorszag-es-a-kuria-ellen-ellen>

the Hungarian judiciary, as member of the NJC, as judge and as judicial leader – all point towards a restrictive interpretation that fully contradicts the spirit of the *Baka* judgment.<sup>149</sup>

(4) In 2024, in quick succession, the Kúria President retaliated against two employees to silence professional criticism of his activities.<sup>150</sup> By suppressing the expression of opinions, the Kúria President intends to deprive his employees of a fundamental safeguard of the functioning of the judiciary: the right to report to the public breaches of their own independence. Both of them were sanctioned by their employer despite their impeccable professional record.<sup>151</sup> The Kúria President suspended judge András Kovács from his position of head of panel and dismissed a senior scientific advisor with immediate effect.<sup>152</sup>

(i) András Kovács, head of panel at the Kúria, became the subject of a concerted attack by his superiors after his panel, which had also adjudicated political cases sensitive to the Government, had been dissolved under the pretext of amending the case allocation scheme. He felt that, as a judge, he had the duty to draw attention to the deficiencies of the process. He wished to publish his professional views in a study<sup>153</sup> criticising the adoption and application of the Kúria's case allocation scheme. The Kúria President first banned the publication of the study, and then launched several parallel proceedings against judge Kovács. In November 2024, one of these proceedings resulted in his suspension from his position of head of panel. These measures have the barely disguised aim of preventing András Kovács from exercising his freedom of expression as a judge, depriving him of the possibility of factual and professional public criticism regarding issues affecting judicial independence and the parties' right to a lawful judge and a fair trial.

(ii) In eerily similar circumstances, a senior scientific advisor was dismissed from the Kúria in a breach of fundamental rights.<sup>154</sup> The person concerned, who for many years had provided professional advice to the judges of the Kúria, was dismissed overnight for an opinion attributed to her, regardless of her outstanding and internationally recognised expertise. The opinion was disseminated in a closed circle as part of a manuscript and, since it has not been made public, all that is known is that it contains passages about the "occupation" of the Kúria and the "weakening" of the NJC. However, these statements were not even drafted by the senior advisor who was retaliated against, but by her co-author. The immediate dismissal in this way is also a form of pressure on other independent advisors working at the Kúria and also breaches academic freedom.

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<sup>149</sup> See Annex I of the communication of the Hungarian Helsinki Committee to the CM 22 April 2024: [https://helsinki.hu/wp-content/uploads/2024/04/Baka\\_v\\_Hungary\\_NGO\\_Communication\\_under\\_Rule\\_9\\_2-20240422.pdf](https://helsinki.hu/wp-content/uploads/2024/04/Baka_v_Hungary_NGO_Communication_under_Rule_9_2-20240422.pdf).

<sup>150</sup> See e.g.: <https://helsinki.hu/en/presidential-retaliation-critical-opinions-kuria-supreme-court-hungary/>.

<sup>151</sup> See e.g.: [https://hvg.hu/360/20241218\\_kritika-velemenynyilvanitas-Kuria-eljaras-Kovacs-Andras-tanacselnok-Varga-Zs-Andras](https://hvg.hu/360/20241218_kritika-velemenynyilvanitas-Kuria-eljaras-Kovacs-Andras-tanacselnok-Varga-Zs-Andras).

<sup>152</sup> Hungarian Helsinki Committee, *Attempts to Silence Judicial Dissent in Hungary – The cases of Kúria Judge András Kovács and X., a senior scientific advisor at the Kúria*, 11 December 2024, <https://helsinki.hu/en/wp-content/uploads/sites/2/2024/12/Attempts-at-the-Kuria-to-silence-judicial-dissent.pdf>

<sup>153</sup> See: <https://m2.mtmt.hu/gui2/?mode=browse&params=publication:34904203>.

<sup>154</sup> Hungarian Helsinki Committee, *A Kúria elnöke szerint már kérdezni sem szabad* [According to the President of the Kúria, questions should no longer be asked], 19 December 2024, <https://helsinkifigyelo.444.hu/2024/12/19/a-kuria-elnoke-szerint-mar-kerdezni-sem-szabad>

## B. Quality of justice

### 11. Accessibility of courts

(1) In criminal procedures, defendants are entitled to use their mother tongue, or any other language spoken/understood by them, as well as sign language.<sup>155</sup> However, concerns stipulated in our 2024 contribution<sup>156</sup> remain valid regarding the quality of interpretation and translation and the lack of a formalised quality assurance system.

(2) The income threshold for legal aid in Hungary is the lowest in all European Union countries.<sup>157</sup> Hungary provides free legal aid (legal counsel) for people with a monthly maximum income of HUF 28,500 (€ 69) per person<sup>158</sup> as a general rule.<sup>159</sup> Consequently, access to equal justice for all is hindered by the fact that not everyone is able to afford legal services and go to court because of their financial situation.

In criminal cases, too, if it is foreseen that due to their financial situation the defendant will be unable to pay the costs of the procedure or parts of it, authorities may grant them cost reduction, entailing that the fee and the costs of the defence counsel are advanced and borne by the state,<sup>160</sup> however, the above-mentioned extremely low income threshold applies and defendants have to live way below the minimum subsistence level to qualify. In addition, administrative requirements are rigid and difficult to comply with. As a result, many indigent defendants – living even under the poverty line – are not granted a cost reduction.

Even though the fees for defence lawyers under the legal aid scheme were raised to HUF 7,000 (€ 17) per hour as of 2024,<sup>161</sup> they are still regarded as critically low,<sup>162</sup> impacting access to justice and the right to a fair trial. Furthermore, there is still no quality assurance system in place for legal aid lawyers.

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<sup>155</sup> Act XC of 2017 on the Code of Criminal Procedure, Articles 8 and 78

<sup>156</sup> *Contributions of Hungarian CSOs to the European Commission's Rule of Law Report*, January 2024, <https://www.amnesty.hu/hungarian-csos-contribute-to-the-european-commissions-2024-rule-of-law-report/>, pp. 22-23.

<sup>157</sup> European Commission, *The 2024 EU Justice Scoreboard*, June 2024, [https://commission.europa.eu/document/download/84aa3726-82d7-4401-98c1-fee04a7d2dd6\\_en?filename=2024%20EU%20Justice%20Scoreboard.pdf](https://commission.europa.eu/document/download/84aa3726-82d7-4401-98c1-fee04a7d2dd6_en?filename=2024%20EU%20Justice%20Scoreboard.pdf), p. 23., Figure 24.

<sup>158</sup> According to the calculations of the Budapest Institute, based on Eurostat data, the approximate number of people earning no more than HUF 28,500 (€ 69.5) in Hungary was 211,000 in 2018. According to research, the national poverty line ("létminimum") was HUF 124,820 (€ 304) in 2020. See: Policy Agenda, *Létminimum Magyarországon 2019–2020 [Poverty Line in Hungary 2019–2020]*, 23 March 2023, <https://policyagenda.hu/elemezések/tarsadalom/2023/letminimum-magyarorszagon-2019-2020/>.

<sup>159</sup> According to Article 5(1) and (3) of Act LXXX of 2003 on Legal Aid, the state bears the costs of the legal services if the net monthly income of the person concerned does not exceed the base of calculation for social benefits (or, if they live alone, 150% of the base of calculation for social benefits), and have no assets. According to Article 7(1) of Government Decree 63/2006. (III. 27.) on the Detailed Rules for the Application for, Determination and Payment of Social Benefits in Cash and in Kind, the sum of the base of calculation for social benefits is HUF 28,500 (€ 69.5).

<sup>160</sup> Act XC of 2017 on the Code of Criminal Procedure, Articles 75(1), 76(1)(a) and 77(1)

<sup>161</sup> Act LV of 2023 on the Central Budget of Hungary for 2024, Article 66(3)-(4)

<sup>162</sup> There is no available state statistics about defence lawyers' fees in the private sector, however, according to a website that connects professionals with clients, the average hourly fee of an attorney is between HUF 22,000-30,000 (€ 49-73). See: <https://qjob.hu/blog/articles/ugyved-arak>.

Consequently, concerns as regards the level of inclusiveness for indigent defendants and other law-seeking people relying on the legal aid scheme in general, as raised by the 2023<sup>163</sup> and 2024<sup>164</sup> Rule of Law Report, remain valid.

(3) A new regulation passed in December 2024,<sup>165</sup> effective from 8 February 2025, in civil and administrative cases limited the courts' possibilities<sup>166</sup> to reduce the attorneys' and inhouse lawyers' fees – being part of the legal costs to be paid by the unsuccessful party –, and in case of claims worth no more than HUF 10 million (€ 24,400) such possibility was terminated altogether, which may prevent indigent parties from suing and undermines their right to access to justice.

(4) The CC's emerging practice when reviewing the constitutionality of ordinary court judgments – that resulted in the CC acting essentially as a fourth instance court in politically sensitive cases and to annul judicial decisions unfavourable for the Government – continues to raise concerns.<sup>167</sup>

(5) The lack of deadlines in the CC's proceedings, or the CC's failure to respect the existing deadlines – including the 90-day constitutional deadline in procedures initiated by judges<sup>168</sup> – continues to constitute a serious obstacle to access to justice. In 2024, the CC decided after eight years on a request for interpretation<sup>169</sup> of the Fundamental Law by the Commissioner for Fundamental Rights, and it took the CC more than five years to decide on a constitutional complaint<sup>170</sup> challenging an individual judgment regarding taking a child into state protection. Another striking example is that it took more than three years for the CC to deliver its ruling<sup>171</sup> on a case regarding academic freedom in 2024.

## 12. Resources of the judiciary, remuneration/bonuses/rewards for judges and prosecutors, including observed changes

The Hungarian judiciary is severely underfinanced and lacks financial independence which makes it vulnerable to economic and political pressure. The overall central budget expenditure proposed for 2025 is HUF 192.152 billion (ca. € 466 million).<sup>172</sup> Even after a remarkable raise (ca. 23% compared to 2024), courts remain underfinanced due to the fact that the budget of

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<sup>163</sup> European Commission, *2023 Rule of Law Report – Country Chapter on the rule of law situation in Hungary*, [https://commission.europa.eu/system/files/2023-07/40\\_1\\_52623\\_coun\\_chap\\_hungary\\_en.pdf](https://commission.europa.eu/system/files/2023-07/40_1_52623_coun_chap_hungary_en.pdf), p. 9.

<sup>164</sup> European Commission, *2024 Rule of Law Report Country Chapter on the rule of law situation in Hungary*, [https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6\\_en?filename=40\\_1\\_58071\\_coun\\_chap\\_hungary\\_en.pdf](https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6_en?filename=40_1_58071_coun_chap_hungary_en.pdf), p. 12.

<sup>165</sup> Decree 17/2024. (XII. 9.) IM of the Minister of Justice, Article 4(3)

<sup>166</sup> Based on Articles 2(2), 3(6) and 4(2) of the previous decree of the Minister of Justice, Decree 32/2003. (VIII. 22.) IM, the courts have been able to reduce the fee of attorneys and inhouse lawyers (“jogtanácsos”) if that was “not proportionate to the work actually carried out by the lawyer”.

<sup>167</sup> *Contributions of Hungarian CSOs to the European Commission's Rule of Law Report*, January 2024, <https://www.amnesty.hu/hungarian-csos-contribute-to-the-european-commissions-2024-rule-of-law-report/>, p. 23.

<sup>168</sup> Ibid.

<sup>169</sup> Constitutional Court, Decision 3044/2024. (II. 23.) AB

<sup>170</sup> Constitutional Court, Decision 21/2024. (XI. 28.) AB

<sup>171</sup> Constitutional Court, Decision 3005/2024. (I. 12.) AB. The case concerned the takeover of the University of Theatre and Film Arts by a public interest asset management foundation.

<sup>172</sup> Act XC of 2024 on the Central Budget of Hungary for 2025, Annex 1

courts has been retained and even diminished in past years<sup>173</sup> despite the extremely high inflation rate.<sup>174</sup> Underfinancing is also proved by critically low judicial salaries.

The root cause of the persisting financial crisis lies in the legislation governing the remuneration of judges and judicial staff, which lacks guarantees against systemic violations of the institutional independence of the judiciary and enables undue pressure on judges.<sup>175</sup> Judicial salaries are calculated on the basis of a salary base (*"illetményalap"*) the amount of which is established by the Parliament on an annual basis.<sup>176</sup> The legislation does not guarantee the review of judicial salaries to overcome or minimise the effect of inflation despite reiterated and unanimous demands by judicial bodies and representatives.<sup>177</sup> Except for a single safeguard rule, according to which it may not be lower than that of the previous year,<sup>178</sup> the amount of the salary base is not protected by law. As pointed out by complaints submitted to the European Commission by more than a hundred judges and judicial staff,<sup>179</sup> the legislation (i) fails to ensure that judicial salaries are commensurate with the status, dignity and responsibility of the judicial office; (ii) it does not include a corrective mechanism to guarantee the preservation of the real value of judicial salaries; (iii) it does not ensure the separation of powers making the determination of judicial salaries entirely dependent on the

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<sup>173</sup> For 2021, the proposed central budget expenditure was HUF 141,964.5 million (€ 396 million) [see: Act XC of 2020 on the Central Budget of Hungary for 2021, Annex 1]; for 2022, this amount was increased to HUF 155,649.5 million (€ 422 million) [see: Act XC of 2021 on the Central Budget of Hungary for 2022, Annex 1]; for 2023, the proposed central budget expenditure of the courts was HUF 160,377.3 million (€ 418 million) [see: Act XXV of 2022 on the Central Budget of Hungary for 2023, Annex 1]; but for 2024, the proposed central budget expenditure of the courts was diminished to HUF 155,662.4 million (€ 406 million) [see: Act LV of 2023 on the Central Budget of Hungary for 2024, Annex 1].

<sup>174</sup> In 2021, the annual inflation rate was 5.1%; in 2022 the annual inflation rate was 14.5%; in 2023 the annual inflation rate was 17.6%. For the year 2024 the annual inflation rate was 3.7%. See:

<https://www.ksh.hu/gyorstajekoztatok/#/hu/list/far>.

<sup>175</sup> See the report by the Hungarian Helsinki Committee to the UN Special Rapporteur on the Independence of Judges and Lawyers, 14 June 2024, <https://helsinki.hu/wp-content/uploads/2024/07/UN-Special-Rapporteur-on-the-Independence-of-Judges-and-Lawyers.pdf>.

<sup>176</sup> Act CLXII of 2011 on the Legal Status and Remuneration of Judges, Chapter XII and Annexes 2 and 3

<sup>177</sup> Representatives of judges have been calling upon the necessity of a salary increase for judges and court staff since 2023. In June 2023, by Resolution 46/2023. (VI. 7.) OBT, the NJC proposed an amendment of the laws to increase the salaries of both judges and court staff at least in line with the inflation by 1 September 2023 (see: <https://obt2018.hu/2023-06-07/>). The NJC further kept the salary raise on its agenda after the proposal was dismissed by the Government (see: <https://obt2018.hu/2023-11-08/>, p. 23.). In 2024, the issue of the salary raise was on the agenda of every NJC meeting, resulting in a number of resolutions urging an immediate salary raise with retroactive effect and the indexation of judicial salaries. See Resolution 20/2024. (II. 26.) OBT, which aimed to increase the salary base of judges by 35% from 1 January 2024, and to introduce an annual indexation of judges' salaries linking it to 150% of the average national salaries of the previous year, effective from 1 March 2025, and to increase the judges' salaries at lower level and appeal courts. [See also Resolution 48/2024. (III. 19.) OBT and Resolution 49/2024. (III. 21.) OBT.] Resolution 50/2024. (III. 27.) OBT aimed to introduce, as from 1 May 2024, an increase in the remuneration of court clerks, court secretaries, clerks and clerks of the courts of 10% of the judicial salary base. [See also Resolution 104/2024. (VI. 19.) OBT.] On 3 May 2024, the NJC issued a press release urging the raise of the base salary, reminding that *"[t]he salary base of judges has remained unchanged since 1 January 2022, and is already lagging behind the average gross national salary by a considerable margin. Since 2010, the minimum wage has increased four and a half times, the average gross national salary three times, while the salary base of judges has increased only one and a half times. For a lasting time, the actual level of remuneration is not commensurate with the dignity of the judiciary and is far from commensurate with the responsibilities of judicial staff."* The last resolution passed by the NJC, Resolution 189/2024. (X. 16.) OBT, approved the budget proposal of the NOJ containing 35% raise of the salary base from 1 January 2025 and a further raise from 1 March 2025 so that the salary base reaches 150% of the average gross national salary.

<sup>178</sup> Act CLXII of 2011 on the Legal Status and Remuneration of Judges, Article 169(2)

<sup>179</sup> The complaint was lodged by judge Gaszton Oláh on 15 July 2024. See e.g.:

<https://24.hu/belfold/2024/07/15/biroi-illetmeny-panasz-europai-bizottsag-olah-gaszton/>. Within a month, his complaint was followed by more than a hundred other judges and judicial staff. See e.g.: <https://telex.hu/gazdasag/2024/08/08/europai-bizottsag-birak-panasz>.

political will of the executive and legislative authorities in the absence of a mechanism that would allow judicial salaries to be established on the basis of objective and verifiable criteria, free from arbitrary interference, independently of the discretion of the executive and legislative branches; and (iv) it is contrary to the requirement of the balance between the branches of powers, as it establishes significantly lower remuneration for judges than for the staff of both the executive and the legislative branch.<sup>180</sup>

Making use of the deficiencies encoded in the laws, the ruling majority exerted undue financial pressure on the judiciary by keeping the salary base of judges unchanged for three years,<sup>181</sup> despite a 40% inflation rate during the same period. While all judicial representatives, including the NJC, the Kúria President and the NOJ President unanimously agreed that an immediate 35% raise of the salary base is inevitable, for 2024 the salary base remained HUF 566,660 (€ 1,400), severely jeopardizing the functioning of courts and the independence of the justice system. In November 2024, the persisting financial pressure was converted into open political pressure on the NJC to agree to a political bargain on structural judicial reforms in exchange for an unspecified promise of a salary raise (i.e. the “Agreement”).<sup>182</sup>

As of 1 January 2025, the system of remuneration remarkably changed at the Kúria, but neither the structural deficiencies were tackled, nor the requested 35% raise of the salary base was granted. There was a 15% increase of the salary base to HUF 651,660 (€ 1,600)<sup>183</sup> which falls far from the required level of adjustment and, by the end of 2025, will hardly cover one-third of the relevant inflation ratio since the last raise. When establishing the salary base, the executive and legislative branches (i) ignored the resolutions of the NJC, (ii) disregarded the complaints of more than one hundred individual judges who turned to the European Commission signalling the violation of their financial independence, (iii) neglected the recommendation formulated by the European Commission in its 2024 Rule of Law Report, and (iv) violated the obligation prescribed by laws to include, without any modification, the amount proposed by the NOJ President in the central budget.<sup>184</sup>

In contrast to the general landscape of judicial remunerations, last minute legislative amendments adopted in December 2024 introduced a highly disproportionate salary raise at the Kúria.<sup>185</sup> As from 1 January 2025, the remuneration of Kúria judges became linked to the remuneration of the Kúria President (who earns seven times the salary base),<sup>186</sup> severing the

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<sup>180</sup> See Section IV. of the complaint at <https://24.hu/app/uploads/2024/07/hatteranyag-1.pdf>, p. 3.

<sup>181</sup> Between 1 January 2022 and 31 December 2024.

<sup>182</sup> For more details, see: Hungarian Helsinki Committee, *Black Friday at Hungarian Courts – Sweeping public protest of Hungarian judges against a political deal undermining judicial independence*, 6 December 2024, [https://helsinki.hu/en/wp-content/uploads/sites/2/2024/12/HHC\\_Black\\_Friday\\_Hungarian\\_judiciary\\_2024.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2024/12/HHC_Black_Friday_Hungarian_judiciary_2024.pdf).

<sup>183</sup> Act XC of 2024 on the Central Budget of Hungary for 2025

<sup>184</sup> Act CLXI of 2011 on the Organisation and Administration of the Courts, Article 76(3)

<sup>185</sup> The salary raise at the Kúria was adopted in line with a “special agreement” secretly signed by the Kúria President and the Ministry of Justice. The existence of the “special agreement” was only revealed on 13 January 2025, after the adoption of the relevant legislative modifications by the Parliament and upon request of the NJC. (See: <https://obt-jud.hu/hu/kozlemeny-kuria-elnokenek-ujevi-koszontojevel-kapcsolatban>.) The Kúria President did not feel obliged to inform the public about the existence of the “special agreement” signed on 22 November 2024. (See: <https://kuria-birosag.hu/hu/sajto/kuria-kozlemenye-7>.) According to the “special agreement”, “ensuring an adequate level of income for Kúria judges is essential to enable them, as representatives of the judiciary who shape the uniformity of the law, to make decisions solely on the basis of the law and legality, free from all dependence and influence. For this reason, in the case of the Kúria as the highest judicial body, it is necessary to establish a completely new career and salary structure to ensure that they receive a higher salary for their judicial work.” (See: [https://kuria-birosag.hu/sites/default/files/sajto/im\\_kuria\\_egyuttmukodesi\\_megallapodas.pdf](https://kuria-birosag.hu/sites/default/files/sajto/im_kuria_egyuttmukodesi_megallapodas.pdf).)

<sup>186</sup> Act CLXII of 2011 on the Legal Status and Remuneration of Judges, Article 150

remuneration of Kúria judges from the ordinary system of judicial remunerations and securing a pay rise to Kúria judges that significantly exceeds the proportions of the increase in the salaries of other judges. The distorted salary raise was criticised by the Hungarian Association of Judges (Magyar Bírói Egyesület, MABIE) for “jeopardising the balanced functioning of the judiciary, undermining public trust in courts and the belief in their impartiality, and lacking public support”,<sup>187</sup> and used by the Kúria President to exert undue pressure on Kúria judges claiming that “this special treatment was not granted for free”.<sup>188</sup>

### 13. Training of justice professionals

The main structure of the educational system for judges did not change in 2024. It is the NOJ President who decides on and supervises the implementation of the central training program and who determines, with the NJC’s consent, the rules for the judicial training system and fulfilling training obligations.<sup>189</sup> The NOJ President publishes the annual training plan on the central court website.<sup>190</sup> Since 2021, an expert group of 16 judges, invited by the NOJ President, has also assisted in preparing and executing the central training plan.<sup>191</sup>

The Hungarian Academy of Justice (Magyar Igazságügyi Akadémia, MIA) is responsible for the training of judges and others involved in the administration of justice and carries out the task of the uniform, central training of judge trainees (“fogalmazók”).<sup>192</sup> MIA operates within the NOJ, and its head is appointed by the NOJ President. The information on the MIA website is very scarce; not even the name of MIA’s director is indicated.<sup>193</sup>

Participation in different training programs and teaching is important for judicial career development. These activities are rewarded with points in judicial applications. In recent years, the NJC has urged a more transparent and merit-based system for selecting judge trainers and providing equal access to national and international trainings.<sup>194</sup>

The NJC makes a proposal for the central training plan and can exercise the right to consent regarding the rules for the judges’ training system.<sup>195</sup> In May 2024, members of the NJC discussed<sup>196</sup> the need for improving the education system and made proposals regarding the 2025 central training plan.<sup>197</sup> In the proposal, the NJC recommended, amongst others, to have more in-person and multi-day trainings (in 2023, there were 82 webinars, 45 e-learning courses

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<sup>187</sup> The disproportionate pay rise was immediately criticised by the MABIE: <https://mabie.hu/berjavaslat/a-mabie-koezlemenye-a-biroi-fizetesek-aranyossaganak-biztositasarol>.

<sup>188</sup> See the New Years greetings of the Kúria President: [https://kuria-birosag.hu/sites/default/files/sajto/a\\_kuria\\_elnokenek\\_ujevi\\_koszontoje\\_2025\\_b.pdf](https://kuria-birosag.hu/sites/default/files/sajto/a_kuria_elnokenek_ujevi_koszontoje_2025_b.pdf).

<sup>189</sup> Act CLXI of 2011 on the Organisation and Administration of Courts, Article 76(7)

<sup>190</sup> These plans back to 2018 are available at <https://birosag.hu/birosagokrol/birosagiszervezet/obh/mia/kepzesi-rendszer>.

<sup>191</sup> See: <https://birosag.hu/birosagokrol/birosagi-szervezet/obh/mia/kepzesi-rendszer>.

<sup>192</sup> Act CLXI of 2011 on the Organisation and Administration of Courts, Article 171/A

<sup>193</sup> see. <https://birosag.hu/birosagokrol/birosagi-szervezet/obh/mia>.

<sup>194</sup> For the criticism of the training system, see: *Contributions of Hungarian CSOs to the European Commission’s Rule of Law Report*, January 2023, [https://helsinki.hu/en/wpcontent/uploads/sites/2/2023/01/HUN\\_CS0\\_contribution\\_EC\\_RoL\\_Report\\_2023.pdf](https://helsinki.hu/en/wpcontent/uploads/sites/2/2023/01/HUN_CS0_contribution_EC_RoL_Report_2023.pdf), pp. 19-20.

<sup>195</sup> Act CLXI of 2011 on the Organisation and Administration of Courts, Article 103(4)

<sup>196</sup> Minutes of the 2-3 May 2024 meeting of the NJC, [https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv\\_2024.05.02-03.pdf](https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv_2024.05.02-03.pdf), pp. 26-35.

<sup>197</sup> National Judicial Council, Resolution 72/2024. (V. 2.) OBT

and only 62 in-person trainings organised for judges and court staff),<sup>198</sup> not to limit the number of attendees at online courses, to put more emphasis on fundamental rights and EU law, and to make courses more available for senior judges appointed for an indefinite term, as well ) – since according to NJC members courses are mainly reserved for judges appointed for a definite term of 3 years at the beginning of their career. The NJC also argued for organising training programs with other legal professionals, for having more courses regarding handling vulnerable groups of society and sensitivity trainings by involving CSOs, and trainings focusing on judges’ mental health. NJC members also complained that the NOJ President did not provide enough time to discuss the plan.<sup>199</sup>

The NOJ President passed the resolution on the 2025 central training plan in October 2024, after the NJC supported<sup>200</sup> the draft plan. According to the 2025 training plan,<sup>201</sup> compulsory trainings are organised primarily for junior judges appointed for a fixed three-year term, court clerks and judge trainees, aiming to prepare them for the judicial office. As the Hungarian judiciary is traditionally built on a career system, judges are selected mainly from among court clerks who previously entered the judiciary as judge trainees. Therefore, judges are typically trained and socialised within the judicial organisation, making compulsory training important. According to the plan, court executives participate in leadership training; according to the latest report<sup>202</sup> of the NOJ President, in 2023, 151 district court presidents and vice-presidents partook in such trainings.

## 14. Digitalisation

Hungary’s digitalisation process in criminal procedures has sped up significantly in the past years. Remote hearings are possible in all stages of the procedure, and a remote hearing is the main rule for procedural acts requiring the presence of the defendant in certain cases, e.g. if the defendant is detained.<sup>203</sup> As of March 2022, the legislator created the possibility of a so-called simplified telecommunication presence, that is, those obliged or entitled to participate in the procedural act, except for detainees, can participate in the remote hearing using their own telecommunication device.

Research<sup>204</sup> carried out by the Hungarian Helsinki Committee in the framework of the EU-funded project “*DigiRights - Digitalisation of defence rights in criminal proceedings*”<sup>205</sup> (involving interviews with judges, attorneys, etc.) indicates a strong push for remote hearings due to cost-efficiency considerations. However, there is a lack of systemic considerations regarding

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<sup>198</sup> President of the National Office for the Judiciary, *Report of the NOJ President for 2023*, <https://www.parlament.hu/irom42/09608/09608.pdf>, p. 69.

<sup>199</sup> Minutes of the 2-3 May 2024 meeting of the NJC, [https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv\\_2024.05.02-03.pdf](https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv_2024.05.02-03.pdf), p. 30.

<sup>200</sup> National Judicial Council, Resolution 186/2024. (X. 16.) OBT

<sup>201</sup> President of the National Office for the Judiciary, Resolution 94.SZ/2024 (XI. 20.) OBHE on the Central Education Plan for 2025

<sup>202</sup> President of the National Office for the Judiciary, *Report of the NOJ President for 2023*, <https://www.parlament.hu/irom42/09608/09608.pdf>, p. 68.

<sup>203</sup> Act XC of 2017 on the Code of Criminal Procedure, Article 122(1)(b)

<sup>204</sup> András Kádár – Tünde Komoróczy – Lili Krámer – Róbert Pócza, *A digitalizáció hatása a védelemhez való jogra (DigiRights) – magyar országjelentés [The Effect of Digitalisation on the Right to Defence (DigiRights) – Country report on Hungary]*, 2024, [https://helsinki.hu/wp-content/uploads/2024/11/MHB\\_DigiRights\\_magyar\\_orzagjelentés\\_FIN\\_240701.pdf](https://helsinki.hu/wp-content/uploads/2024/11/MHB_DigiRights_magyar_orzagjelentés_FIN_240701.pdf)

<sup>205</sup> Project number: 101056667, project website: <https://www.digirights.net/>.

the striking of a fair balance between judicial efficiency and practical benefits on the one hand and fair trial standards on the other.

Although lawyers have devised practical solutions to navigate the challenges of remote hearings, the inability to build trust in remote consultations and technical shortcomings during hearings hinder defence effectiveness. Both lawyers and judges have expressed concerns about the confidentiality and reliability of communication systems, particularly within penitentiaries.

While remote hearings have improved procedural flexibility, concerns about the erosion of defendants' rights, particularly regarding their ability to engage in effective defence during trials, persist. In some instances, safeguards for vulnerable individuals and legal remedies remain insufficient. The remote nature of hearings may impair direct evidence perception and can also severely affect the ability of vulnerable individuals such as those with disabilities or elderly people to participate in the proceeding in an effective manner. The digital vulnerability of individuals with limited technological skills or special needs also needs addressing.

The principle of immediacy, central to fair trial standards, is perceived as compromised by all research participants, potentially affecting the depth of the judicial assessment of evidence during the trial. Although safeguards like appeal rights and requests for physical presence exist, the discretionary power of authorities and the main rule of connecting detained defendants through telecommunication devices in the proceedings could potentially limit defendants' rights.

The research shows significant challenges regarding remote interpretation in criminal proceedings. While the law permits remote hearings with interpreters via telecommunication, regulations on AI-assisted document translation are not in place. Interviews revealed mixed views in this regard, highlighting concerns about technical limitations, the confidentiality of interpreted client-attorney consultations when the defendant, the lawyer and the interpreter are not in the same place, and the quality of interpretation. Professionals cited issues such as the remote hearing software not being capable of handling simultaneous interpretation and poor sound quality.

A detailed legal framework for procedural documents and electronic case file management exists. After hearing the suspect, the case files are made available to the defence upon request, with access often provided electronically if technical conditions allow. Individuals can examine or download the files electronically after identification; access is also available at official premises or detention facilities. The authorities and the defendant's lawyer are obliged to communicate electronically, while the defendant can choose to do so. The law ensures that no legal penalties are imposed on the client if the system malfunctions. At the same time, interviewees identified technical and practical obstacles, such as inadequate infrastructure, compatibility issues between paper and digital files, and unreliable access for detained individuals. A new type of official correspondence also became possible in criminal procedures from 1 March 2022: authorities are allowed to serve a document to an e-mail address or other electronic contact details in the case of paper-based communication.

Challenges such as the stakeholders' often inadequate digital competence persist. Judges and prosecutors do not receive effective training in this regard, and professional guidelines that could systematically ensure the fairness of the procedure are missing.

## 15. Use of assessment tools and standards

(1) As regards case allocation at the Kúria, previous concerns included in our 2024 contribution<sup>206</sup> still apply: the existence of an electronic system adequately guaranteeing the automated case allocation without human intervention is still questionable.

(2) In November and December 2023, MABIE conducted an online survey<sup>207</sup> among judges on whether they think they can express their opinions, and what the possibilities and limitations are. Around 11% of all Hungarian judges completed the survey questionnaire and the results published in June 2024 show that various circumstances lead to the vast majority of the responding judges having the opinion that there is a chilling effect and self-censorship amongst judges (50% said this is strongly the case, and 36% said that this is the case to some extent). The results of the questionnaire show that two-thirds of the responding judges did not dare to express their opinion on matters related to the judicial profession (specifically on issues concerning the organisation of the judiciary, judicial independence, law, legal system and the application of the law).

(3) Annual reports on judicial administration containing statistical data by the NOJ President get published with a considerable delay: it was only in November 2024 that the NOJ President's annual report<sup>208</sup> for 2023 was made public (although the Parliament still has not approved either this or the 2022 report<sup>209</sup>). Data in the report cover caseload, arrival and termination of cases, timeliness, soundness of the judgments, efficiency, the changes of laws affecting courts' operation, human resources, composition of the judiciary, judicial career, material resources, management of the judicial organisation, disciplinary proceedings, education, and functioning of the NOJ. The Parliament still has not approved the annual report of the Kúria President for 2022<sup>210</sup> and 2023.<sup>211</sup>

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<sup>206</sup> *Contributions of Hungarian CSOs to the European Commission's Rule of Law Report*, January 2024, <https://www.amnesty.hu/hungarian-csos-contribute-to-the-european-commissions-2024-rule-of-law-report/>, p. 10.

<sup>207</sup> Hungarian Association of Judges, *KUTATÁSI JELENTÉS – A magyar bírák véleménynyilvánítási szabadságával kapcsolatos egyes kérdésekről [RESEARCH REPORT – On certain issues related to the freedom of expression of Hungarian judges]*, [https://mabie.hu/attachments/article/1801/Kutatasi\\_jelentes\\_B.pdf](https://mabie.hu/attachments/article/1801/Kutatasi_jelentes_B.pdf). For an unofficial English translation of the research report, see: [https://helsinki.hu/wp-content/uploads/2025/01/Kutatasi\\_jelentes\\_B\\_en-1.pdf](https://helsinki.hu/wp-content/uploads/2025/01/Kutatasi_jelentes_B_en-1.pdf).

<sup>208</sup> President of the National Office for the Judiciary, *Report of the NOJ President for 2023*, <https://www.parlament.hu/irom42/09608/09608.pdf>

<sup>209</sup> See: <https://tinyurl.com/yckkrycc>.

<sup>210</sup> Kúria President, *A Kúria elnökének országgyűlési beszámolója a Kúria 2022. évi tevékenységéről a jogegység biztosítása és az önkormányzati normakontroll körében [Parliamentary report of the President of the Kúria on the activities of the Kúria in 2022 in the field of ensuring legal unity and the control of local government norms]*, 2024, <https://www.parlament.hu/irom42/03717/03717.pdf>

<sup>211</sup> Kúria President, *A Kúria elnökének országgyűlési beszámolója a Kúria 2023. évi tevékenységéről a jogegység biztosítása és az önkormányzati normakontroll körében [Parliamentary report of the President of the Kúria on the activities of the Kúria in 2023 in the field of ensuring legal unity and the control of local government norms]*, 2024, <https://www.parlament.hu/irom42/08026/08026.pdf>

(4) The publication of the detailed minutes of NJC meetings uniquely contributes to the transparency of court administration, however, the law<sup>212</sup> only prescribes the publication of a summary of the minutes of the NJC meetings, not the minutes themselves, which is only made available due to the NJC's choice and practice. The NJC in February 2024 upheld the previous NJC's practice on publishing the minutes, and explicitly provided for keeping verbatim minutes that the NJC President must publish on the NJC website.<sup>213</sup> This provides much needed transparency over the central court administration and the Kúria administration.

(5) As regards court statistics and their transparency, there are Excel sheets available online containing some aggregated data about the number of cases at each regional court, regional court of appeal and at the Kúria. The latest report is available for the first half of 2024<sup>214</sup> and includes the number of case arrivals, the number of concluded cases and the number of pending cases. It does not provide, however, separate data for district courts. A detailed analysis is also available on the NOJ website about case numbers.<sup>215</sup>

(6) The report from the Kúria President about his practice for appointing judges and court leaders in 2023 – a report that the NJC supported in its opinion in September 2024<sup>216</sup> – has not been made available to the public. Neither has the report from the NOJ President about his practice for appointing judges and court leaders in 2023 been made available to the public, although the NJC supported the report in its opinion in October 2024.<sup>217</sup> Moreover, according to the law,<sup>218</sup> the NOJ President is obliged to inform the NJC about its activities every half a year in line with the structure prescribed by the NJC. The NJC approved the NOJ President's last such report with a considerable delay (for the report concerning the second half of 2023, only on 2 October 2024<sup>219</sup>), moreover, it is not available to the public, either.

## 16. Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialization

Concerns articulated in our 2024 contribution<sup>220</sup> – including centralization and the Kúria's uniformity complaint chamber – still remain.

The geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialization was not modified in 2024, however, the quadrilateral “Agreement” between the Government and judicial leaders in November 2024 envisaged structural changes in this regard for the future, without providing much detail<sup>221</sup> (no legal amendment has been put

<sup>212</sup> Act CLXI of 2011 on the Organisation and Administration of Courts, Article 108

<sup>213</sup> National Judicial Council, Resolution 19/2024. (II. 26.) OBT

<sup>214</sup> National Office for the Judiciary, *A bírósági ügyforgalom 2024. I. féléves adatai [Court case flow data for the first half of 2024]*, <https://birosag.hu/ugyforgalmi-adatok/birosagi-ugyforgalom-2024-i-feleves-adatai>

<sup>215</sup> National Office for the Judiciary, *Ügyforgalmi elemzés – 2024. I. félév [Analysis of court case flow data – first half of 2024]*, [https://birosag.hu/sites/default/files/2024-10/ugyforgalom\\_2024.felev\\_.pdf](https://birosag.hu/sites/default/files/2024-10/ugyforgalom_2024.felev_.pdf)

<sup>216</sup> National Judicial Council, Resolution 151/2024. (IX. 4.) OBT

<sup>217</sup> National Judicial Council, Resolution 175/2024. (X. 2.) OBT

<sup>218</sup> Act CLXI of 2011 on the Organisation and Administration of Courts, Article 76(8)a)

<sup>219</sup> Minutes of the 2 October 2024 meeting of the NJC, [https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv\\_2024.10.02.pdf](https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv_2024.10.02.pdf), p. 16.

<sup>220</sup> *Contributions of Hungarian CSOs to the European Commission's Rule of Law Report*, January 2024, <https://www.amnesty.hu/hungarian-csos-contribute-to-the-european-commissions-2024-rule-of-law-report/>, p. 30-31.

<sup>221</sup> “The Parties agree that in order to maintain the varying workloads of the courts and to maintain the high quality of judgments, it is necessary to review the functioning and organisation of the courts [...]” (Agreement between the

forward as of the cut-off date of this contribution). At the 20 November 2024 NJC meeting, an NJC member referred<sup>222</sup> to another draft government plan – not available to the public – that envisaged the merger of regional courts of appeal.

The “Agreement” stipulates<sup>223</sup> that *“in order to even out the workload of the district courts, any district judge’s scope of jurisdiction should cover the entire jurisdiction of the regional court, while maintaining the local district courts within its [the regional court’s] organisational framework”*. NJC members<sup>224</sup> raised concerns about this plan claiming that the possibility of a court leader to relocate a district court judge to another city could lead to undue pressure on the judge and may undermine judicial independence.

The “Agreement” also envisages<sup>225</sup> companies’ and other legal entities’ registration to be transferred from the courts to public administration.

## C. Efficiency of the justice system

### 17. Developments related to efforts to improve the efficiency of the justice system (e.g. as regards length of proceedings)

As reported in our earlier contributions, in response to the long-standing demand by the Committee of Ministers of the Council of Europe supervising the execution of ECtHR judgments, with a view to complying with the pilot judgment handed down in 2015 in the *Gazsó v. Hungary* case<sup>226</sup> concerning the excessive length of judicial proceedings, the Parliament adopted Act XCIV of 2021 on the Enforcement of Pecuniary Satisfaction Relating to the Protractedness of Civil Contentious Proceedings, which introduced a compensatory (financial) remedy for the excessive length of certain proceedings as of 1 January 2022.

However, the law introduced the compensatory remedy only for excessively lengthy civil proceedings (civil law trial cases). Thus, no compensatory remedy is available for protracted administrative court procedures or criminal proceedings, and the law does not cover non-contentious (non-trial) procedures either, such as enforcement proceedings, or constitutional review procedures.<sup>227</sup> Since the Government has not taken any steps to address these

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Ministry of Justice, the Kúria, the National Office for the Judiciary and the National Judicial Council, 22 November 2024, [https://obt-jud.hu/sites/default/files/sajtokozelemenyek-mellekletek/Agreement\\_Nov-22-2024.pdf](https://obt-jud.hu/sites/default/files/sajtokozelemenyek-mellekletek/Agreement_Nov-22-2024.pdf), Section III.4.)

<sup>222</sup> Minutes of the 20 November 2024 meeting of the NJC, [https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv\\_2024.11.20.pdf](https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv_2024.11.20.pdf), p. 27.

<sup>223</sup> Agreement between the Ministry of Justice, the Kúria, the National Office for the Judiciary, the National Judicial Council, 22 November 2024, [https://obt-jud.hu/sites/default/files/sajtokozelemenyek-mellekletek/Agreement\\_Nov-22-2024.pdf](https://obt-jud.hu/sites/default/files/sajtokozelemenyek-mellekletek/Agreement_Nov-22-2024.pdf), Section III.4.c)

<sup>224</sup> Minutes of the 20 November 2024 meeting of the NJC, [https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv\\_2024.11.20.pdf](https://obt-jud.hu/sites/default/files/ulesek/Jegyzokonyv_2024.11.20.pdf), p. 27. and pp. 39-40.

<sup>225</sup> “[I]n order to reduce administration and strengthen the substantive work of the judiciary, in addition to creating an information technology background, the court’s decisions on the registration of companies and other legal entities that are simple or can be automated should be transferred to administrative channels [...]” (Agreement between the Ministry of Justice, the Kúria, the National Office for the Judiciary and the National Judicial Council, 22 November 2024, [https://obt-jud.hu/sites/default/files/sajtokozelemenyek-mellekletek/Agreement\\_Nov-22-2024.pdf](https://obt-jud.hu/sites/default/files/sajtokozelemenyek-mellekletek/Agreement_Nov-22-2024.pdf), Section III.4.f)).

<sup>226</sup> Application no. 48322/12, Judgment of 16 July 2015

<sup>227</sup> See also: CM/Notes/1419/H46-15, [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=0900001680a48aca](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a48aca), footnote 9.

shortcomings, in June 2024, the Committee of Ministers issued an interim resolution in the case, in which it “noted with grave concern the continued absence of a reaction to the Committee’s decisions regarding the outstanding criminal, administrative, and non-contentious civil compensatory remedies; strongly urged the authorities to intensify their efforts in these respects and provide the Committee with a concrete timetable for the legislative process for administrative and criminal remedies without further delay; and strongly called upon them to find a solution ensuring that all kinds of civil proceedings falling under the scope of Article 6 of the Convention (in particular non-contentious proceedings) are covered by a remedy”.<sup>228</sup> The Government submitted an updated action plan in the case in December 2024,<sup>229</sup> but this does not address the main outstanding issue at all, i.e. it does not foresee any compensatory remedy in protracted criminal, administrative, and non-contentious civil procedures.

As far as the newly introduced compensation scheme in civil law trial cases are concerned, as reported earlier, in its decision of 30 March 2023 delivered in the case of *Szaxon v. Hungary*,<sup>230</sup> the ECtHR found that the newly introduced compensation scheme guaranteed in principle a genuine redress for violations of the European Convention on Human Rights originating in the protractedness of contentious civil proceedings. In light of the ECtHR’s decision, the Committee of Ministers decided to end its supervision in the *Gazsó v. Hungary* group case in respect of contentious civil proceedings in June 2023.<sup>231</sup>

At the same time, the concerns highlighted in relation to the new compensation scheme in our previous contribution<sup>232</sup> remain valid. These include that the law determines the durations that are regarded as excessive, but these are more lenient vis-à-vis the courts than the ECtHR jurisprudence or the time periods that the statistical analysis of the NOJ itself<sup>233</sup> uses when analysing the performance of courts from the point of view of “reasonable length”. While Hungarian courts can deviate from the default rule and determine a shorter (or longer) length of time that counts as reasonable in a specific case, but the criteria for doing so are not specified in the law. Furthermore, the daily amount of pecuniary satisfaction is arguably insufficient, even in the context of the Hungarian “economic realities”: the daily amount of pecuniary satisfaction is HUF 400 (ca. € 1) per day,<sup>234</sup> which in practice means that e.g. the sum of the pecuniary satisfaction for one year of protractedness is 3% of the average yearly net income.

As far as the statistical data is concerned, the Government’s updated action plan submitted in December 2024,<sup>235</sup> in accordance with the data available on the website of the court system,<sup>236</sup> states that “[t]he downward trend in the number of protracted pending litigation cases was halted at the end of the first half of 2024. On 30 June 2024, the number of these cases

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<sup>228</sup> CM/ResDH(2024)119, <https://search.coe.int/cm/eng?i=0900001680b05d03>

<sup>229</sup> DH-DD(2024)1502, [https://hudoc.exec.coe.int/?i=DH-DD\(2024\)1502E](https://hudoc.exec.coe.int/?i=DH-DD(2024)1502E)

<sup>230</sup> Application no. 54421/21

<sup>231</sup> CM/Del/Dec(2023)1468/H46-13, <https://hudoc.exec.coe.int/eng?i=004-10875>

<sup>232</sup> *Contributions of Hungarian CSOs to the European Commission’s Rule of Law Report*, January 2024, [https://helsinki.hu/en/wp-content/uploads/sites/2/2024/01/HUN\\_CS0\\_contribution\\_EC\\_RoL\\_Report\\_2024.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2024/01/HUN_CS0_contribution_EC_RoL_Report_2024.pdf), p. 32.

<sup>233</sup> See e.g.: <https://birosag.hu/ugyforgalmi-adatok/reszletes-elemzes-2024-i-felevi-birosagi-ugyforgalomrol>, p. 175.

<sup>234</sup> Government Decree 372/2021. (VI. 30.) on the Amount of Pecuniary Satisfaction for Protraction in Civil Contentious Proceedings and the Rules for Calculating the Amount to be Paid, Article 1(2)

<sup>235</sup> DH-DD(2024)1502, [https://hudoc.exec.coe.int/?i=DH-DD\(2024\)1502E](https://hudoc.exec.coe.int/?i=DH-DD(2024)1502E)

<sup>236</sup> See: <https://birosag.hu/ugyforgalmi-adatok/reszletes-elemzes-2024-i-felevi-birosagi-ugyforgalomrol>, p. 176.

increased by 0.4% [...] compared to the previous year; however, the rate of decrease was 47.5% compared to the end of the first half of 2020". These numbers are an aggregate to all court levels and procedure types.

## 18. Any other developments related to the justice system

On several occasions in the past years, the Kúria President has publicly questioned the legitimacy of service courts (i.e. courts dealing with disciplinary cases of judges)<sup>237</sup> and the disciplinary court of bailiffs,<sup>238</sup> claiming that these are established as "separate courts". According to the Kúria President, the 7th Amendment of the Fundamental Law "abolished all kinds of separate courts, therefore since the Seventh Amendment, except for district courts, regional courts, courts of appeal and the Kúria, no other courts can be established".<sup>239</sup> The Kúria President repeatedly claimed that "the constitutional basis for the existence of service courts and disciplinary courts has ceased to exist"<sup>240</sup> anticipating the necessity of reorganising these courts for fully theoretical reasons.

In November 2024, an unprecedented public protest burst out<sup>241</sup> amongst Hungarian judges and judicial staff at all levels of the judicial system after the conclusion of the "Agreement". After several hundreds of judges voiced criticism,<sup>242</sup> on 9 December 2024, the presidents of service courts released a statement<sup>243</sup> to assure their peers that "judges have the right to express their opinion and even the duty to do so to protect the independence of the judiciary" and that service court presidents "will guarantee that service courts keep applying this principle in their proceedings, and that judges may not be retaliated against for their opinion expressed with respect to the Agreement". Immediately after the release of this statement, on 11 December 2024, at the meeting of the NJC, the Kúria President claimed that service court presidents "deliberately fabricate falsehoods" and that "denying the requirement of impartiality, giving prior exemption from the consequences of any unconstitutional or illegal conduct, form the forefront of misleading judges".<sup>244</sup> The next day, on 12 December 2024, the Minister leading

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<sup>237</sup> The first and second Instance service courts are established by Articles 101-104 of Act CLXII of 2011 on the Legal Status and Remuneration of Judges. The NJC holds powers to appoint judges and the court president of the service court.

<sup>238</sup> The first and second instance disciplinary courts of bailiffs are established by Articles 270-276 of Act LIII of 1994. The NJC holds powers to appoint judges and the court president of the disciplinary court of bailiffs.

<sup>239</sup> See the minutes of the meeting of the NJC held on 1 March 2023 at <https://obt2018.hu/2023-03-01/>, pp. 6-7. See also the minutes of the meeting of the NJC held on 4 October 2023 at <https://obt2018.hu/2023-10-04/>, p. 8.; and the minutes of the meeting of the NJC held on 5-6 December 2023 at <https://obt2018.hu/2023-12-05-06/>, pp. 15. and 25.

<sup>240</sup> Minutes of the 4 October 2023 meeting of the NJC, <https://obt2018.hu/2023-10-04/>, p. 8.

<sup>241</sup> Hungarian Helsinki Committee, *Judges' salary is a public matter, and not an issue of personal finances*, 3 December 2024, <https://helsinki.hu/en/judges-salary-is-a-public-matter-and-not-an-issue-of-personal-finances/>

<sup>242</sup> See e.g.: <https://hang.hu/belfold/ez-peldatlan-oriasi-fordulat-700-biro-nevet-vallalva-nyilvanosan-tiltakozik-a-kormany-tervei-ellen-170350>.

<sup>243</sup> For an unofficial English translation of the full text of the statement of the service court presidents, see: [https://helsinki.hu/wp-content/uploads/2025/01/Open\\_Letter\\_of\\_Hungarian\\_Service\\_Court\\_Presidents\\_20241209.pdf](https://helsinki.hu/wp-content/uploads/2025/01/Open_Letter_of_Hungarian_Service_Court_Presidents_20241209.pdf). The original Hungarian version is available here: <https://mabie.hu/images/LEVELEK%202024/1209/Szolgalati%20Birosag%20levele.pdf>.

<sup>244</sup> Minutes of the 11 December 2024 meeting of the NJC, [https://obtjud.hu/sites/default/files/ulesek/Jegyzokonyv\\_2024.12.11.pdf](https://obtjud.hu/sites/default/files/ulesek/Jegyzokonyv_2024.12.11.pdf), p. 58.

the Prime Minister's Office labelled the public statement of judges as *"political declarations"* and claimed that *"there was an intention to disturb"*.<sup>245</sup>

After the first round of reforms were adopted against the harsh criticism of judges, on 2 January 2025, the Kúria President sent a circular<sup>246</sup> to Kúria judges in which he threatened service court presidents (one of them serving as Kúria judge) claiming that they *"as leaders of a formation that considers itself a court [...] deliberately, knowingly and willingly [...] fed the public with falsehoods"* and that *"they have even been willing to ridicule the judiciary in the streets"*. In his view, service court presidents *"have tried to harm Hungary's courts"*. He continues, turning to his colleagues at the Kúria: *"We will try to remedy this too. We will succeed."*

The Kúria President's circular incited a new wave of criticism on behalf of the judiciary, prompting all relevant bodies and representative organs – including the NJC,<sup>247</sup> MABIE<sup>248</sup> and even the NOJ President<sup>249</sup> – to reject the claims of the Kúria President, reminding that Hungarian judges are free to express their opinions and that *"the application of any sanction, even if implied, may constitute a restriction of rights"*. The threat implied by the Kúria President can easily turn to reality by further modifications of the law,<sup>250</sup> putting an end to the internal independence of service courts and to the freedom of expression of Hungarian judges. After a senior Hungarian judge, former NJC President Tamás Matusik published an article claiming that Hungary is at the verge of a full-scale judicial capture,<sup>251</sup> a smear campaign was launched against him claiming that *"he made a biased attack on Hungary and the Kúria President in a defamatory article"* and that he *"relativised the requirement of political neutrality and questioned the professional integrity of the Kúria President"*.<sup>252</sup>

In 2023, the Government declared as a political program the close monitoring of final and binding decisions of ordinary courts and the tightened control of the content of judicial (and prosecutorial) decision-making.<sup>253</sup> A new law<sup>254</sup> passed in April 2024 in breach of the principle of non-regression<sup>255</sup> undermines the organisational independence of courts and the prosecution service at a crucial point, granting the Minister of Justice unlimited access to decisions delivered by the judiciary, the prosecution service and other autonomous state

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<sup>245</sup> See e.g.: <https://444.hu/2024/12/12/ketezer-biro-es-igazsaguigy-alkalmazott-tiltakozott-mar-az-igazsaguigy-reformjavaslatok-ellen>.

<sup>246</sup> The circular was published by the Kúria President on the official website of the Kúria only after it was leaked to the media: [https://kuria-birosag.hu/sites/default/files/sajto/a\\_kuria\\_elnokenek\\_ujevi\\_koszontoje\\_2025\\_b.pdf](https://kuria-birosag.hu/sites/default/files/sajto/a_kuria_elnokenek_ujevi_koszontoje_2025_b.pdf).

<sup>247</sup> See the statement of the NJC at: <https://obt-jud.hu/hu/kozlemeny-kuria-elnokenek-ujevi-koszontojevel-kapcsolatban>.

<sup>248</sup> See the statement of the MABIE at: <https://mabie.hu/hirek/allasfoglalas-a-kuria-elnoekenek-ujevi-koeszontojeben-irtak-kapcsan>.

<sup>249</sup> See the statement of the NOJ at: <https://birosag.hu/hirek/kategoria/birosagokrol/az-orszag-birosagi-hivatal-kozlemeny-0>.

<sup>250</sup> See e.g.: <https://www.szabadeuropa.hu/a/a-kuria-elnok-harca-mindenki-ellen/33275186.html>.

<sup>251</sup> Tamás Matusik, Targeting Disciplinary Courts. Why Hungary is on the verge of a full-scale judicial capture, *Verfassungsblog*, 16 January 2025, <https://verfassungsblog.de/targeting-disciplinary-courts/>

<sup>252</sup> See e.g.: <https://www.origo.hu/itthon/2025/01/matusik-tamas-orszag-biroi-tanacs-varga-zs-andras-kuria>, <https://mandiner.hu/belfold/2025/01/munkaban-a-halozat-ujabb-tamadast-inditottak-magyarorszag-es-a-kuria-elnoke-elle>.

<sup>253</sup> Hungarian Helsinki Committee – Transparency International Hungary, *A Sauron's Eye in the Hungarian Justice System*, 31 May 2024, [https://helsinki.hu/wp-content/uploads/2024/05/A\\_Saurons\\_eye\\_in\\_the\\_Hungarian\\_Justice\\_System\\_20240531.pdf](https://helsinki.hu/wp-content/uploads/2024/05/A_Saurons_eye_in_the_Hungarian_Justice_System_20240531.pdf)

<sup>254</sup> Act XVII of 2024 on the Amendment of Laws related to Justice Matters

<sup>255</sup> The non-regression principle was established by the CJEU under Article 19(1) TEU and precludes the adoption of laws on the organisation of justice which constitute a reduction of the protection of the rule of law and guarantees of judicial independence.

bodies and government agencies mandated to limit and independently review the exercise of public powers.<sup>256</sup> This possibility allows the Government to acquire protected information to which it would not have access otherwise, interfere in ongoing processes and influence their outcome through immediate effect law-making (e.g. by adopting emergency decrees), also providing the executive with tools to prevent effective investigation in high-profile corruption cases in the future. According to the information provided by the NOJ President, the Minister of Justice already requested information on decisions.<sup>257</sup> (See also Question I.8.)

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<sup>256</sup> Article 53(1) of the Omnibus Act inserted Article 76(8) into Act CLXI of 2011 on the Organisation and Administration of Courts: *"In the framework of their tasks related to providing information, the NOJ President shall [...] g) upon the request of the Minister of Justice for the purposes of preparing legislation and examining the effective application of laws, make available to the Minister of Justice in a form that does not allow identification [of the persons concerned] the final or conclusive judicial decisions delivered within the scope of the subject matter specified in the request, together with those decisions taken by courts, other public authorities or other bodies that have been overruled or reviewed by the final or conclusive judicial decision."*

<sup>257</sup> See the interview with György Senyei published on 16 September 2024: <https://24.hu/belfold/2024/09/16/senyei-gyorgy-obh-elnok-interju/>, and the response of the NOJ of 19 December 2024 to the freedom of information request by Amnesty International Hungary: [https://www.amnesty.hu/wp-content/uploads/2025/01/2024.OBH\\_XII\\_B.56-3.pdf](https://www.amnesty.hu/wp-content/uploads/2025/01/2024.OBH_XII_B.56-3.pdf).



## II. ANTI-CORRUPTION FRAMEWORK

### 1. Information on measures taken to follow-up on the recommendations received in the 2024 Report regarding the anti-corruption framework

The 2023 Rule of Law Report concluded that Hungary has made no progress

1. on adopting comprehensive reforms on lobbying and revolving doors, and further improving the system of asset declarations, providing for effective oversight and enforcement; and
2. on establishing a robust track record of investigations, prosecutions and final judgments for high-level corruption cases.

The 2024 Rule of Law Report reiterated the same anti-corruption recommendations.

(1) Hungary's new mid-term national anti-corruption strategy (NACS) was adopted in February 2024 and it envisions a series of measures aiming to fulfil the recommendation on *"adopting comprehensive reforms on lobbying and revolving doors, and further improving the system of asset declarations, providing for effective oversight and enforcement"*. The NACS expected the digitalisation of asset declarations in the public sector by 31 May 2024 and the introduction of adequate and deterrent administrative and criminal sanctions for serious breaches of obligations relating to asset declarations by 30 April 2024. Although a certain level of digitalisation was achieved, as previously hand-written declarations are now available in a single pdf document, the measures relating to a sanction system have not been adopted until the day of submission of this contribution. Furthermore, neither the substance of the asset declarations nor the sanctions mechanism associated with them have advanced. In addition, the NACS mandates the Government to examine by 30 November 2025 the expansion of asset declaration obligation to high-level officials of non-government public organs, such as chambers of commerce, the Hungarian Academy of Sciences, etc.

By 31 December 2024, the NACS expected

- the inclusion of provisions relating to lobbying, conflict of interests and the revolving door phenomenon into the Ethics Code of public officials;
- the adoption of Ethics Codes in order to address conflict of interests, the acceptance of gifts and hospitality, the revolving door phenomenon, lobby contacts, and the occupation of immediate relatives among top level executives, their advisers, parliamentarians and employees of the Parliament's Office; and
- the adoption of a methodology guide at the municipal level to identify and promote best practices in lobbying, the revolving door phenomenon and the prevention of conflict of interests.

However, it needs to be stressed that to date, no publicly available information indicates the completion of the above goals. It has to be noted that information received in relation to the delivery on the NACS requirements indicate that the Ethics Code of the employees of the Parliament's Office is believed to be completed and uploaded on the Office's internal web, but no public access has been granted.

By 30 November 2025, the NACS expects the completion of Hungary's new lobby act. Except for hinting at the revolving door phenomenon, the strategy fails to outline any detail regarding the content, direction or principles of the envisioned new regulation. So far, no preparatory work or regulatory draft relating to the new lobby act has been made public.

(2) As regards the other recommendation of the 2024 Rule of Law Report, Hungary should "[e]stablish a robust track record of investigations, prosecutions and final judgments for high-level corruption cases". The 2022 criminal procedure reform, with the introduction of the "motion for revision" and by enabling private prosecution in certain high-level corruption offences and offences of abuse and mismanagement intended to facilitate the prosecution of high-level cases even if they are derailed by the investigating authorities or the prosecution service. In light of experience accumulated during the past two years, this new legal instrument has not improved the fight against corruption.

## **A. The institutional framework capacity to fight against corruption**

### **2. Changes as regards relevant authorities in charge of prevention, detection, investigation and prosecution of corruption and the resources allocated to each of these authorities, including the cooperation among domestic and with foreign authorities**

Concerns identified in our previous contribution still prevail. The anti-corruption framework remained fragmented with numerous stakeholders, such as the State Audit Office, the Public Procurement Authority, the Competition Authority, the Integrity Authority, the prosecution service and the judiciary. Although the National Protective Service, under the auspices of the Ministry of Interior, is tasked with coordinating the Government's anti-corruption policy, since 2022, it has lost significant parts of its jurisdiction. Parallel to this, the anti-corruption portfolio of the Constitution Protection Authority, one of Hungary's six national security agencies includes, since 2022, reliability checks and the detection of corruption offences of government officials, except for the ones working under the Ministry of Interior, i.e., law enforcement, health, and education. This narrows the purview of the National Protective Service and the police, and it expands secrecy over the Government's anti-corruption activities by excluding accessibility of even the most basic statistics, such as the number of reliability screenings.

New elements of the anti-corruption framework introduced in 2022 to meet EU standards, such as the Integrity Authority, the Directorate for Internal Audit and Integrity (DIAI), the Anti-Corruption Task Force (ACTF) and the redesigned Directorate General for Audit of European Funds did not substantially contain high-level government corruption. Newly created institutions lack jurisdiction and have mainly subsidiary or parallel competencies, therefore they rely on the powers and cooperation of other pre-existing institutions, whose reluctance to upgrade the fight against corruption is clear.

The Integrity Authority's budget for the year 2025 remained HUF 19 billion (€ 46 million),<sup>258</sup> and it employs 120 individuals.<sup>259</sup> It is noteworthy that while the Integrity Authority theoretically holds the autonomy to determine its budget and it had allocated a nearly HUF 10 billion (€ 24 million) budgetary increase for 2025, this decision was ultimately overruled by MPs of the ruling party following a direct suggestion from the Ministry of Finance.

The law allows the Integrity Authority to sign agreements with other public bodies and non-state bodies for communication and information exchange, and for facilitating the practical measures related to exercising its powers while performing its duties. However, cooperation agreements signed by the Authority only facilitate limited information exchange, due to the mismatch between the Authority's right to access data and information related to its audit procedures as stipulated in the law on the one hand, and the reporting authorisations of the cooperating bodies in accordance with the sectoral laws on the other hand. Accordingly, the Authority's attempt to establish vital cooperation agreements for information access was undermined, leaving it with agreements that barely function. Consequently, the Authority's ability to tackle corruption and financial misconduct is severely hampered by conflicting access-to-data regulations.<sup>260</sup>

The hardships and hindrances that prevent the ACTF from effectively carrying out its mission persist. The ACTF still has no dedicated budget, and the experience accumulated during the past two years has proven that it is unable to contribute to the success of the anti-corruption efforts. The ACTF's role in the anti-corruption coordination is practically non-existent, basically no consultation on the anti-corruption framework takes place in the ACTF, and government agencies charged to combat corruption do not consider the ACTF or its non-governmental members as relevant stakeholders. The Government fails to consult important legislative amendments with the ACTF, as exemplified by the introduction of new provisions on conflict of interest in the governing bodies of public interest asset management foundations, where the draft regulation was not even tabled at the ACTF.<sup>261</sup> Lack of financial and infrastructural capacities in case of the non-governmental members of the ACTF remains unaddressed by the government, although the ACTF unanimously approved the concept that certain reforms regarding its operations were necessary to improve efficiency.

As a result, both the Integrity Authority and the ACTF remain isolated enclaves in Hungary's anti-corruption landscape.

### **3. Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption**

Concerns raised in our previous contributions prevail. State institutions designed to represent democratic checks and balances are headed by political loyalists and tend to selectively

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<sup>258</sup> See information disclosed by the Integrity Authority at: [https://integritashatosag.hu/wp-content/uploads/2023/10/Tajekoztato-es-kozzeteteli-lista\\_1031.pdf](https://integritashatosag.hu/wp-content/uploads/2023/10/Tajekoztato-es-kozzeteteli-lista_1031.pdf).

<sup>259</sup> According to the assertion by the Integrity Authority's president in an interview he gave on 22 January 2025: [https://www.youtube.com/watch?v=Gl6zj7FDk3A&list=PLlbVIN5-thkoeCwtqy98KGoEneF19a\\_ix&index=2&t=193s](https://www.youtube.com/watch?v=Gl6zj7FDk3A&list=PLlbVIN5-thkoeCwtqy98KGoEneF19a_ix&index=2&t=193s).

<sup>260</sup> See: <https://integritashatosag.hu/wp-content/uploads/2024/03/integrity-authority-annual-report-2023.pdf>.

<sup>261</sup> See Act LIII of 2024. Note that during public consultations, the Hungarian Helsinki Committee, K-Monitor and Transparency International Hungary submitted their opinion to the Government.

enforce the laws or underuse their jurisdiction to favour the incumbent administration. The Integrity Authority exhibits the only exception to the pervasive state capture, but this agency, as highlighted above, functions as an enclave and is reliant on other state agencies.

There is no development in the Integrity Authority's ability to effectively exercise its anti-corruption powers, which is still reliant on the cooperation of other state agencies and further restricted by the lack of accessibility of necessary databases. Consequently, the Integrity Authority underlined the legal and infrastructural hindrances following from the ill-advised regulation. In a press conference held in Brussels in April 2024 the Integrity Authority's president asserted that the Authority was unable to carry out its mission and stressed that he had submitted a draft legal amendment to the Government that serves to address legislative shortcomings and strengthen the Integrity Authority's capacities.<sup>262</sup> There is no publicly available response from the Government to this initiative.

Tasks to combat corruption are distributed among various state agencies, some of which are subordinated to the government, such as, for example, the National Protective Service, the National Tax and Customs Administration, or the Government Control Office. These institutions can in no way be considered as independent or autonomous bodies. Other institutions charged with anti-corruption duties are formally independent from the government's executive, such as the State Audit Office, the Competition Authority, the Public Procurement Authority, and the prosecution service. These agencies remain exposed to undue government influence and show low levels of autonomy in performing their functions. This is exemplified by the reluctance of the prosecution service and of the Public Procurement Authority to take action in the case of the 35-year long concession of substantial parts of Hungary's waste management industry to the oil giant MOL company. Transparency International Hungary firmly holds that this concession infringes upon the EU's public procurement requirements, as the 35-year long duration puts market competition effectively to an end, therefore, Transparency International Hungary submitted a complaint to the European Commission.<sup>263</sup> The original bid expected the concessionaire to acquire all necessary permits by the end of 2022 and to purchase two state-owned enterprises. However, the concessionaire MOL did not purchase the shares of one of the two state-owned enterprises and acquired the permits only through suppliers and subcontractors, still, as a result of ex-post legal amendments, was exempted from these requirements.<sup>264</sup> Transparency International Hungary is convinced, though, that the ex-post legal intervention by the Parliament only served to condone the concessionaire's failure to fully comply with the expectation.<sup>265</sup> Nonetheless Transparency International Hungary's submissions failed, as the Prosecution Service did not file a lawsuit to nullify the concession contract, nor did the Public Procurement Authority nullify the bidding process<sup>266</sup>.

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<sup>262</sup> See: <https://integritashatosag.hu/az-integritas-hatosag-a-jogkorei-boviteset-keri/>.

<sup>263</sup> See: <https://transparency.hu/wp-content/uploads/2021/09/TI-HU-letter-to-COM-on-waste-management-concession.docx>.

<sup>264</sup> Act CLXXXV of 2012 on Waste, Article 53/H(4)

<sup>265</sup> See e.g.: <https://www.szabadeuropa.hu/a/transparency-az-ugyeszseg-vizsgalhatna-a-hulladekkoncessziós-szerzodest/33109584.html> and <https://www.szabadeuropa.hu/a/hiaba-volt-feltetel-a-mol-nem-vette-meg-a-kukaholdingot/32973917.html>.

<sup>266</sup> See the letter under filing number SZEf-00129/14/2024 of the Public Procurement Authority, the letter under filing number PM/5378/2024/3. of the Metropolitan Prosecution Service, and the letter under filing number

The 14<sup>th</sup> Amendment to the Fundamental Law, adopted in December 2024, opened the path for the position of the Prosecutor General to be filled by a non-prosecutor, which gives rise to speculations regarding the potential early termination of the incumbent Prosecutor General's mandate and recruitment of his potential successor, loyal to the current ruling party, for a nine-year term before the 2026 election, in case of a threat of a potential government change.

#### **4. Information on the implementation of measures foreseen in the strategic anti-corruption framework**

Beyond the requirements in the area of lobbying, the revolving doors phenomenon and the digitalisation of asset declarations described in the section providing information on measures taken to follow-up on the recommendations received in the 2024 Rule of Law Report regarding the anti-corruption framework, Hungary's mid-term NACS envisions a variety of different anti-corruption related goals to be achieved until the end of 2024.

By 31 March 2024, the Ministry of Justice ought to have outlined the directions of amendments to the freedom of information regulatory framework in line with the recommendations of a previous EU funded research project implemented by Hungary's National Data Protection and Freedom of Information Authority.<sup>267</sup> No corresponding draft was made publicly available, even though CSO members of the ACTF asked for this on multiple occasions. It is worth noting that the Act LXXXV of 2024 amended the freedom of information legal framework, but these amendments only partially reflect the recommendations. By April 30, the Ministry of Justice was expected to examine the political finance framework to protect political parties against foreign influence and the compliance of operations of political organisations with international and EU standards. Beyond the lack of any publicly available information relating to the completion of this specific task, it has to be underlined that the NACS fails to define "political organisations", opening the door to speculations as to whether this exercise targets civil society organisations labelled as "political pressure groups".

By 29 February 2024, the new provisions on private prosecution of high-level cases related to corruption and mismanagement ought to have been revisited and necessary amendments ought to have been proposed by the Ministry of Justice, but no publicly available evidence supports that either of these goals have been achieved. By the end of 2024, the Ministry of Interior was expected to complete the review of the methodology of reliability screenings, but again, no information on progress is publicly available to date.

By 30 June 2024, the Ministry of Justice was expected to consult the Commissioner for Fundamental Rights and draft training materials relating to the new whistleblower regulation by 30 June 2024, but no deliverables following from this task were made public.

The NACS expects the review of Ethics Codes of judges (by 30 June 2024) and law enforcement (by 31 December 2024). The Ministry of Justice was expected to review by 30 June 2024 the scoring system based on which judicial applicants are selected. The Ministry of Culture and the Ministry of Interior were jointly tasked with the development of training

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P.KvFG. 12.417/2024/1-I. of the Prosecutor General's Office, all of which are in the possession of Transparency International Hungary.

<sup>267</sup> This project's final report is accessible here: [https://infoszab.hu/sites/default/files/2022-12/Osszefoglalo\\_jelentes\\_donteshozok\\_reszere.pdf](https://infoszab.hu/sites/default/files/2022-12/Osszefoglalo_jelentes_donteshozok_reszere.pdf).

materials specifically serving to promote the prevention of corruption among the youth (by June 30 2024). The Ministry of Interior, within its own purview, should have examined the possibility of further reducing the risk of corruption in education, healthcare and social services (by 31 December 2024). Except for the amendment to the Police Code of Ethics, no publicly available information indicates if these targets have been met.

The Ministry of Justice was expected to examine the possibility of introducing methods aiming to promote integrity within public bodies and state-owned service providers by 30 June 2024, and to propose a roadmap for the introduction of the necessary amendments to the Government by 31 December 2024. No publicly available information indicates whether these targets have been met.

The Ministry of Foreign Affairs and Trade was expected to assess Hungarian businesses' exposure to foreign bribery by 31 December 2024, but no evidence support that this has been achieved.

Multiple tasks were assigned to the Ministry of Finance in relation, *inter alia*, to assessment of the domestic and EU funds distribution mechanism, reporting obligations to the State Aid Monitoring Office (by 30 September 2024), prevention of cases of "double jeopardy" (by 31 December 2024), internal control systems of major domestic corporations (by 31 March 2024) and a roadmap for introduction (by 30 June 2024), cooperation framework in foreign bribery cases (by 31 December 2024).(by 30 June 2024), however, no publicly available information indicates if these targets have been met.

## B. Prevention

### 5. Measures to enhance integrity in the public sector

The NACS outlines several actions for developing and adopting ethical codes across various public sector entities in Hungary, each with its own requirements, timelines, and procedures.

Top officials, advisors, MPs, and Parliament staff were mandated to adopt comprehensive ethical codes by 31 December 2024. These codes must explicitly address core areas, including conflicts of interest, gift acceptance policies, post-employment restrictions (like cooling-off periods), rules governing interactions with lobbyists, and regulations regarding the employment of relatives. This includes stipulations on referrals, procedural rules for enforcement, and mechanisms of oversight. The Parliament's Office has taken initial steps by drafting an Ethical and Conduct Code for parliamentary civil servants, which was developed following consultations with various bodies, including parliamentary committees, government departments, and the Ministry of European Union Affairs. Furthermore, a compendium of ethical codes and legal rules for MPs has been completed, although minor revisions are anticipated due to pending legislation, and issues concerning the formal publication of these documents remain under discussion. Issues concerning the official adoption and publication of these documents prevail.

The National Judicial Council (NJC) is tasked with reviewing the existing judicial Code of Ethics, specifically focusing on provisions related to gift acceptance. This review has no

specific deadline but should encompass the procedural rules for enforcement of these provisions. The NJC has confirmed that the current Code of Ethics lacks explicit provisions on gift acceptance and has also noted the existence of the National Office for the Judiciary's (NOJ) integrity regulations which do cover gift acceptance. The NJC has contacted the NOJ to obtain documents related to the enactment of these regulations, to avoid conflicting rules. It is worth noting that the judges adopted their Code of Ethics in 2022, which was then unusually challenged by the President of the Kúria before the Constitutional Court, but this issue has not been placed on the agenda of the Constitutional Court in the past two years.

For police officers, the Police Code of Ethics was to be supplemented by 31 December 2024, with detailed and practical guidance on appropriate conduct, developed in collaboration with the Hungarian Police Association. The National Police Headquarters, the National Disaster Management Directorate, the National Prison Service, and the National Immigration Directorate have all submitted proposals to the Ministry of Interior regarding amendments to sector-specific ethical codes, particularly the Police Code of Ethics and the Law Enforcement Ethical Code. In November 2024 the civil servants, specifically those belonging to the Hungarian Civil Servants' Association, are required to supplement their code of ethics with detailed rules on avoiding conflicts of interest and regulating interactions with lobbyists. These rules should build upon the work of integrity advisors and should align with the Council of Europe's recommendations on civil servant ethical codes. However, the Hungarian Civil Servants' Association plans to revise these codes in 2025.

Despite these efforts initiated throughout 2024, a significant gap remains. There are no known plans, not even conceptual plans, to develop ethical codes (or establish associated enforcement mechanisms) specifically for MPs and senior government officials. This gap has previously been highlighted in GRECO's (Group of States against Corruption) fifth evaluation round, representing a major deficiency.

In lack of a comprehensive regulation on conflict of interests, lobbying, nepotism, or the revolving door phenomenon, concerns raised in our previous contribution prevail. Although the completion of Hungary's new lobby act is due by 30 November 2025, the NACS hints only at the revolving door phenomenon, while it fails to outline any detail regarding the content, direction or principles of the envisioned new regulation. So far, no preparatory work or regulatory draft relating to the new lobby act was made public.

An outstanding case of the revolving door phenomenon resulted when Judit Varga, Hungary's previous Minister of Justice and the Fidesz party's designated "Spitzenkandidat" for the 2024 European Parliament elections had to resign due to countersigning a controversial pardon decision by the President of the Republic. After her resignation it turned out that her new partner was László Windisch, chair of the State Audit Office. It was revealed that since her resignation, Judit Varga receives a monthly remuneration of HUF 2,1 million (€ 5,000) from the public interest asset management foundation that manages the university of Miskolc, in exchange for very low teaching requirements.<sup>268</sup>

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<sup>268</sup> See e.g.: <https://24.hu/belfold/2025/01/07/varga-judit-havi-21-millio-miskolci-egyetem-akademia/>.

## 6. Measures to enhance general transparency of public decision-making

Although the NACS expects the completion of Hungary's new lobby act by 30 November 2025, to this date, no information relating to preparatory works or the scope of the planned regulation is available. In lack of encouraging developments, concerns raised in our previous contribution are still relevant. There is no transparency register in Hungary; therefore, it is not possible to track if individual or partial interests drive the adoption or amendments of regulations, which are often tailored and fail to serve public good while giving preference to the interests of certain groups or individuals. This is exemplified by a recent amendment to the anti-money laundering regulatory framework aiming to promote transparency of ultimate beneficial owners of private equity funds. The amendment aimed to harmonise Hungarian regulations with the CJEU's joint ruling in cases C-37/20 and C-601/20. The original text of the draft amendment envisioned that new provisions were to be applied with immediate effect,<sup>269</sup> while a last-minute amendment postponed the original date of entry into force to 1 July 2026.<sup>270</sup> This hugely benefits those who hide their profits in private equity funds and it prevents the eruption of major corruption scandals before the next parliamentary elections due in the first half of 2026. The explanatory note cites preparatory requirements, however, no evidence supports that such a long period would really be needed.

The material and personal scope of public asset declarations has not been widened since it was modified in 2022. Therefore, asset declarations offer only insufficient information of the declarants' tangible assets, revenues, and investments compared to the forms that were operational prior to 2022.<sup>271</sup> Fiduciary relationships, investments into private equity funds, foreign assets, and non-taxable revenues such as royalty insurance are still missing from asset declarations. In the absence of verification, enforcement and sanctions the system of digitised and searchable asset declarations did not contribute to more reliable tracking of enrichment.

Corruption risks following from the ill-regulated political finance framework persists. The NACS obliged the Ministry of Justice to overview the party financing regulations to protect political parties from foreign influence and to enhance the compliance of operations of political organisations with international and EU standards. Beyond the lack of any publicly available information relating to the completion of this specific task, it has to be underlined that the NACS fails to define "political organisations", which opens the door to speculations as to whether this exercise targets civil society organisations labelled as "political pressure groups", a widening practice introduced by the Sovereignty Protection Office in its reports on Transparency International Hungary and Átlátszó.<sup>272</sup>

Challenges relating to the political finance system remain unrecognised and unaddressed since Hungary's political transition in 1990. Although extensive regulations prohibit foreign funding and business donations of political parties, in the absence of reliable enforcement, these requirements are circumvented. Beyond the questionable auditing practices by the State Audit Office, which incommensurately clamps down on the political opposition for unlawful

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<sup>269</sup> See Articles 106-107 of the original text of Bill T/9719 and the related explanatory note attached at <https://www.parlament.hu/irom42/09719/09719.pdf>.

<sup>270</sup> See amendment T/9719/6 at <https://www.parlament.hu/irom42/09719/09719-0006.pdf>.

<sup>271</sup> K-Monitor, *Hungarian MP's assets: less declared and still not monitored*, 15 February 2023, [https://k.blog.hu/2023/02/15/hungarian\\_mp\\_s\\_assets\\_less\\_declared\\_and\\_still\\_not\\_monitored](https://k.blog.hu/2023/02/15/hungarian_mp_s_assets_less_declared_and_still_not_monitored)

<sup>272</sup> The reports and their English summaries are available here: <https://szuverenitasvedelmihivatal.hu/dokumentumaink/>.

third-party campaigning,<sup>273</sup> while failing to equally sanction similar practices on behalf of pro-government entities,<sup>274</sup> the lack of separation of state and party is particularly worrisome, as this enables the unhindered use of public funds to promote the campaigns of the ruling Fidesz party.<sup>275</sup>

Act LXXXVIII of 2023 on the Protection of National Sovereignty (hereafter: Sovereignty Protection Act) prohibits foreign funding for nominating organisations and limits domestic support options for them as well as it expands the definition of foreign funding in a way that besides political parties it applies to civil society organisations nominating candidates for local elections, too. The broad wording of the law created significant uncertainty for civil society organisations during the 2024 campaigns, particularly concerning their permitted level of involvement. For example, there was uncertainty about whether CSOs using EU funds could provide legal aid to candidates or organise town hall forums for voters to be able to ask questions from candidates without risking criminal liability. Although no legal action has been taken against any CSO for such activities, this ambiguity significantly chilled CSO activity during the election cycle.

## 7. Measures to prevent conflicts of interest in the public sector

The new DIAI, set up at the end of 2022 and tasked to monitor conflict of interest declarations and raise awareness of potential incidents of conflict of interest at national authorities involved with the implementation of European Union support, published its latest available report with substantial delay.<sup>276</sup> According to this report, in 2023, DIAI conducted conflict of interest checks on 382 individuals (about 5% of those in the institutional system) as part of its two-year plan. It also processed 19 reports from [www.palyzat.gov.hu](http://www.palyzat.gov.hu) (five with useful information) and one from [www.anti-lop.hu](http://www.anti-lop.hu), prioritizing investigations based on these reports over random checks. The DIAI aims to complete investigations within 30 days, with a possible 60-day extension, and notifies reporters of the findings.

A law adopted in 2024 outlined new conflict of interest regulations for public interest asset management foundations, but due to the envisioned regulation's rather limited scope, the European Commission refused to lift the prohibition to enter into new legal commitments with such foundations and entities maintained by them for EU funding it had previously imposed under the conditionality mechanism.<sup>277</sup> Although the law excludes most high-level public

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<sup>273</sup> The letter of 16 March 2023 by the State Audit Office's president to the chairperson of the Parliament's Economic Committee under filing number EL-3712-568/2023 is available here: [https://www.asz.hu/files/ASZ\\_level\\_Gazdasagi\\_Bizottsag\\_203\\_03\\_16.pdf](https://www.asz.hu/files/ASZ_level_Gazdasagi_Bizottsag_203_03_16.pdf).

<sup>274</sup> See e.g.: <https://444.hu/2023/12/06/brutalis-mikulas-a-szamvevoszek-260-milliora-buntette-az-ellenzeki-partokat-de-fejenkent-felmilliard-is-lehet-a-vege>.

<sup>275</sup> See the OSCE ODIHR's Election Observation Mission Final Report on Hungary's Parliamentary elections and referendum of 3 April 2022 (<https://www.osce.org/files/f/documents/2/6/523568.pdf>).

<sup>276</sup> National Development Centre, *Beszámoló az Európai Unióból származó forrásokra vonatkozó Csalás Elleni Stratégia Cselekvési Tervének 2023. évi megvalósulásáról, valamint a magyar fejlesztéspolitikai intézményrendszer további csalás elleni intézkedéseiről* [Report on the implementation in 2023 of the Action Plan of the Anti-Fraud Strategy concerning European Union funds and further anti-fraud measures of the Hungarian development policy institutional system], July 2024, [https://www.palyzat.gov.hu/api/download\\_document?name=csalas\\_elleni\\_beszamolo\\_2023.pdf&urn=workspace%3ASpacesStore%2Fi%2Fce19d3cb-52d6-465d-8e4e-abf67b084aae](https://www.palyzat.gov.hu/api/download_document?name=csalas_elleni_beszamolo_2023.pdf&urn=workspace%3ASpacesStore%2Fi%2Fce19d3cb-52d6-465d-8e4e-abf67b084aae)

<sup>277</sup> See the respective press release of the European Commission of 16 December 2024 here: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_24\\_6465](https://ec.europa.eu/commission/presscorner/detail/en/ip_24_6465).

officials from the leadership of public interest asset management foundations, it only pertains to those foundations which maintain a higher education institution on condition that such public interest asset management foundations wish to acquire European Union funding. Moreover, serious concerns relating to public interest asset management foundations remained unaddressed, including those arising from the co-optation of leadership members by incumbent members of the board of trustees, and the boards' empowerment to exercise all proprietary rights. It needs to be noted that these new provisions have not entered into force and the law fails to define the exact time of their entry into force.

The NACS is expecting the revision and expansion of conflicts of interest rules to cover more individuals and institutions. Crucially, these revisions will be largely limited to Ethics Codes and will therefore lack the binding power of actual legislation.

## **8. Measures to ensure whistleblower protection and encourage reporting of corruption, including their application**

The 2023 law that transposed the EU Whistleblowing Directive assigned the Commissioner for Fundamental Rights a central role in overseeing public interest disclosures. This includes monitoring the processing of reports, evaluating the functioning of whistleblower systems, and providing a secure online portal for submissions. The system allows whistleblowers to appeal to the Commissioner if they believe that their case was improperly handled and requires security clearance for investigation staff. Since the law's entry into force, the Commissioner has initiated 12 proceedings due to failures in handling public interest reports, primarily concerning delayed responses. These investigations, reports on which can be found on the Commissioner's website, typically conclude with recommendations to relevant bodies for procedural improvements. However, the Commissioner lacks stronger enforcement powers. Importantly, the public interest disclosures examined have not been related to corruption. While the NACS has made moderate progress in training relevant organisations through the Office of the Commissioner for Fundamental Rights and the creation of e-learning materials, a full-scale public awareness campaign is yet to be implemented.

Meanwhile, in practice there is no change in the approach to whistleblowers who report on mismanagement or malpractice relating to high-level wrongdoing. An outstanding example is the case of Péter Bátonyi, a former desk officer with the Ministry of Construction and Transport, who gave a video interview to the independent media outlet Partizán about serious abuses of cultural heritage protection requirements in construction permit processes.<sup>278</sup> Mr Bátonyi revealed unlawful practices where the level of certain edifices' protection was decreased or the protection was withdrawn in order to enable substantial reconstruction or demolition.<sup>279</sup> Bátonyi named State Secretary for construction Regő Lánzski as the person responsible for condoning such practices, moreover he alleged that the sister of the State Secretary, Ms Csenge Lánzski was a leading architect at the development firm, which may benefit from the unlawful decrease of cultural heritage protection of one of Budapest's landmark caserns.<sup>280</sup> Péter Bátonyi was dismissed with immediate effect when the video

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<sup>278</sup> See: <https://www.youtube.com/watch?v=jC0com1Gp3g>.

<sup>279</sup> See e.g.: <https://telex.hu/belfold/2024/11/27/muemlekvedelem-batonyi-peter-epitesi-es-kozlekedesi-miniszterium>.

<sup>280</sup> See e.g.: <https://24.hu/belfold/2024/11/27/muemlek-epulet-ner-gulyas-gergely-lanszki-rego-fejjelentes/>.

interview's three-minute-long teaser was published online.<sup>281</sup> Later the Ministry of Construction and Transport submitted an official complaint to the police accusing Mr Bátonyi of breach of professional obligations.<sup>282</sup>

This incident indicates that the law to transpose the EU Whistleblowing Directive in Hungary does not offer real protection to reporting persons and it fails to improve the culture of whistleblowing. The persecution of Mr Bátonyi also showcases that state agencies impacted by whistleblower reports tend to react with retribution. However, Act XXV of 2023 expressly states that disclosures to the press are not covered by whistleblower protection (which also means that Mr Bátonyi's case does not qualify as a protected disclosure under the law), consequently, it intentionally fails to properly transpose Article 15(2) of the EU's Whistleblower Directive, which clearly expands protection to public disclosure of whistleblower reports to the press. K-Monitor and Transparency International Hungary jointly submitted a complaint to the European Commission in 2023 to call attention to the failed transposition, but this complaint was not tabled since submission.<sup>283</sup>

All in all, the 2023 conclusions by K-Monitor and Transparency International Hungary that the legislation only marginally meets anticipated standards, fails to put adequate safeguards into place for individuals who approach the media, and contravenes EU legislation are still valid.<sup>284</sup>

The new legislation has failed to remove confusion about whistleblowing: it is still unclear where and how citizens and potential whistleblowers can turn to in cases of wrongdoing, how they can preserve their anonymity and be protected from retaliation. In this respect, the forthcoming anti-corruption draft strategy would launch an awareness-raising campaign – at this moment it would be obviously premature to assess its potential impacts.

Despite the general perception that whistleblowing is not prevalent in Hungary, and authorities do little to encourage whistleblowing, numerous authorities and institutions receive reports about incidents of potential wrongdoing. Anonymous whistleblowing regarding EU fraud, for instance, is possible on the anti-lop.hu website, which, from 2023, also provides a brief summary of the reports. 25 reports were received in 2023; of which three are the subject of investigation, while 10 have been deemed unfounded or rejected subsequent to investigation. Regarding the remaining cases, the course of action taken is unclear.

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<sup>281</sup> The teaser is available here: <https://www.youtube.com/watch?v=tqL3AC8twhw>. See also: <https://helsinki.hu/kirugtak-kiallt-a-kozerdekert-batonyi-peter/>, <https://www.valaszonline.hu/2024/12/16/kilian-laktanya-muemlek-bontas-lanszki-rego-csenge-batonyi-peter-rombolas-lazar-janos/>.

<sup>282</sup> See e.g.: [https://nepszava.hu/3259795\\_lazar-janos-feljelentes-batonyi-peter-muemlekvedelem](https://nepszava.hu/3259795_lazar-janos-feljelentes-batonyi-peter-muemlekvedelem).

<sup>283</sup> See the joint letter by K-Monitor and Transparency International Hungary to the European Commission, dated 21 December 2023: [https://transparency.hu/wp-content/uploads/2024/01/K-Monitor\\_Transparency-Int-HU\\_letter\\_to\\_COM\\_on\\_transposition\\_of\\_whistleblower\\_directive\\_21122023.pdf](https://transparency.hu/wp-content/uploads/2024/01/K-Monitor_Transparency-Int-HU_letter_to_COM_on_transposition_of_whistleblower_directive_21122023.pdf).

<sup>284</sup> For details, see the following joint assessment of the new whistleblower legislation: Hungarian Civil Liberties Union – K-Monitor – Transparency International Hungary, *New Whistleblower Protection Bill in Hungary: Failed*, 19 May 2023, [https://k.blog.hu/2023/05/19/whistleblower\\_protection\\_bill\\_in\\_hungary\\_the\\_hungarian\\_government\\_to\\_comply\\_with\\_the\\_eu\\_directive\\_bu](https://k.blog.hu/2023/05/19/whistleblower_protection_bill_in_hungary_the_hungarian_government_to_comply_with_the_eu_directive_bu).

## 9. Specific measures to enhance transparency, integrity and accountability in sectors with high risks of corruption

While a significant part of the commitments under Hungary's Recovery and Resilience Plan (RRP) and the conditionality mechanism aim to improve the integrity of public procurement processes, the implementation of corrective measures has fallen short of expectations on several points. Although the share of single bid tenders is decreasing, this alone is not sufficient to restore market conditions.<sup>285</sup>

Concentration of the public procurement market remains high, and some pro-government players established themselves in leading positions, which is a cause for concern. A childhood friend of the Prime Minister Viktor Orbán, Lőrinc Mészáros has long been the most successful player in the public procurement market, becoming the richest entrepreneur in the country during Viktor Orbán's premiership.<sup>286</sup> Meanwhile, the quarry of Viktor Orbán's father is participating as a supplier in the most important tender won by Lőrinc Mészáros' companies, the HUF 800 billion (€ 1.94 billion) Budapest-Belgrade railway project.<sup>287</sup>

The excessive use of concession contracts has also led to extreme concentration in certain segments. In both the highway and the waste management concessions, the 35-year duration is too long and too restrictive of competition, and the detailed reasoning is not made public either.

Framework agreements have become increasingly important in the Hungarian public procurement market. While the value of contracts concluded in framework agreements reached only HUF 605 billion (€ 1,468 billion) in 2019, in 2023, they already represented HUF 4,082 billion (€ 9.9 million), which exceeded the value of other tenders, HUF 3,368 billion (€ 8.2 million).<sup>288</sup> Central purchasing bodies based on large framework agreements often do not use methods to measure efficiency leading to monopolization of service markets, such as communication and event organisation or cleaning and maintenance to government cronies.<sup>289</sup>

The proportion of framework agreements with a single bidder has been rising steadily since 2019 in Hungary and was particularly high, over 70% in 2023.<sup>290</sup> As regards centralised public procurement bodies, single bidding in framework agreements is particularly significant in the case of the tenders of the National Communications Office (NCO). According to the G7.hu investigative portal, between 2015 and 2023, state actors have signed contracts worth a total

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<sup>285</sup> The share of single-bid tenders financed by the European Union reduced to 13.3% in 2022 from 15.9% in 2021. In 2023, the share of EU-funded single-bid tenders fell to 5.5%. The share of single-bid tenders financed from domestic (national) resources was reduced to 31.3% in 2022 from 35.9% in 2021, and to 29% in 2023. See: Deputy State Secretariat for Public Procurement Supervision of the Prime Minister's Office, *Elemzés az egyajánlatos közbeszerzések alakulásáról 2019–2023 [Analysis of the evolution of single bid tenders between 2019–2023]*, <https://ekr.gov.hu/portal/hirek/8798812861784>.

<sup>286</sup> Transparency International Hungary, *Corruption Perceptions Index and Hungary's track record of corruption, 2023*, [https://transparency.hu/wp-content/uploads/2024/01/CPI\\_2023\\_report\\_EN.pdf](https://transparency.hu/wp-content/uploads/2024/01/CPI_2023_report_EN.pdf)

<sup>287</sup> See e.g.: <https://444.hu/2024/09/16/orbanek-kovebol-epul-a-budapestbelgrad-vasut>.

<sup>288</sup> Integrity Authority, *Éves Elemző Integritásjelentés 2023 [Annual analytical integrity report 2023]*,

<https://integritashatosag.hu/wp-content/uploads/2024/06/2023-Eves-Elemzo-Integritasjelentes.pdf>

<sup>289</sup> See e.g.: <https://24.hu/belfold/2024/11/26/bn-korhazak-fenntartas-letesitmenygazdalkodas-kef-400-milliard/#paywall>.

<sup>290</sup> See indicator n47 in the results of the performance measurement framework to assess the efficiency and cost-effectiveness of public procurements: <https://ekr.gov.hu/portal/hirek/8798812927320>.

of HUF 1,360 billion (€ 3.3 million) for communication and event management tasks under the framework agreements of the NCO. In recent years, 73% of the value of NCO's contracts were concluded with the companies of one operator, Gyula Balásy's companies between 2015 and 2023.<sup>291</sup>

The Government's action plan to boost competition in public procurement has limited ambitions, which raises doubts about their potential to enhance competition.<sup>292</sup> The action plan hardly takes into consideration the findings and the proposals of the Integrity Authority, the non-governmental members of the ACTF and the working group on the performance measurement framework to assess the efficiency and cost-effectiveness of public procurements. This shortcoming is tangible in the case of certain types of procurement with high risk of corruption: notably for procurement procedures according to Article 115 of the Public Procurement Act (this procedure allows awarding low value works contracts without prior contract notice) and multiannual framework contracts established by central purchasing bodies with a single market operator. Public procurement in Hungary faces challenges in risk-based analysis and audit, particularly in cases not covered by EU funding. High-quality public procurement data is essential for identifying corruption patterns, but the Government's pledge to allow bulk downloads of data from the Electronic Procurement System has resulted in mixed results.

## C. Repression

### 10. The legal framework on the criminalisation and sanctions for corruption and related offences, including foreign bribery

Conclusions in the previous contributions by K-Monitor and Transparency International Hungary remain relevant. Shortcomings relating to the regulation enabling private prosecution of high-level incidents of corruption and mismanagement persist, as due to procedural shortcomings, this legal solution remains ineffective.<sup>293</sup>

No legal or institutional reform took place aiming to change the hierarchical structure of the prosecution service, one of the root-causes underlying malfunctions within the system and the failure to take action in prominent corruption cases. In lack of groundbreaking changes, no improvement can be anticipated.

As for the procedural framework, in April 2024, Act CLXIII of 2011 on the Prosecution Service was amended, granting access to the Ministry of Justice to prosecutorial decisions relating to criminal procedures (i) that have been adjudicated by the court's final instance or (ii) have been terminated by either a judicial decision that cannot be appealed against or (iii) by a non-appealable decision by the prosecutor or by an investigating authority. Besides decisions of

<sup>291</sup> See e.g.: <https://g7.hu/kozelet/20240219/1360-milliardot-koltott-az-allam-a-rogan-fele-kommunikaciora-2015-ota/>.

<sup>292</sup> Government Resolution 1082/2024. (III. 28.) on the Review of the Action Plan on Measures to Increase the Level of Competition in Public Procurement (2023–2026)

<sup>293</sup> See. e.g.: *Korrupcióellenes Munkacsoport 2023. évre vonatkozó jelentése [Report of the Anti-Corruption Task Force on 2023]*, March 2024, <https://kemcs.hu/wp-content/uploads/2024/03/KEMCS-2023-rol-szolo-eves-jelentes.pdf>, p. 72.

the prosecution service and letters of indictment, all other decisions made by either a prosecutor or by an investigating agency shall be shared with the Ministry of Justice on the condition that such decisions have been reviewed by the prosecution service. Concerns result when access to decisions is granted to the Ministry of Justice in relation to criminal procedures terminated by the prosecutor or by an investigating authority, as in such cases the procedure can be reopened until the case is time-barred due to statute of limitation. A judicial decision to reopen previously terminated processes is only required if two conditions are conjunctively fulfilled: six months have elapsed from the termination and charges were communicated to a suspect during the previously terminated process. This means that within six months of the termination, the prosecutor may decide on the reopening of previously terminated cases. It is particularly troublesome that the Ministry of Justice can get access to decisions of the prosecutor and of the investigating authorities generated in criminal processes that can be reopened without judicial intervention. This invokes the concern that the Ministry of Justice exerts political influence while reviewing decisions or can otherwise pressurise the prosecution service, which is prone to act leniently in politically sensitive cases, to relaunch the investigation in previously discontinued criminal cases. Besides, granting the Ministry of Justice access to a wide range of decisions resulting from criminal proceedings that contain a plethora of highly sensitive personal information, which can potentially be extrapolated despite anonymisation, is particularly disquieting. The more severe and unique the criminal offence for which the previously closed investigation had been started, the weaker the chance is that anonymisation will effectively prevent the identification of the persons or entities targeted. For instance, in high-level cases of corruption, anonymisation will not suffice to exclude the identification of the supposed perpetrator and others, for instance reporting persons or sources of evidence. Another talkative nuance is that the Prosecutor General may only ask to negotiate with the Ministry of Justice in cases when fulfilling the request of access would result in disproportionate burden to the prosecution service. This means that the Prosecutor General may not oppose the Ministry of Justice's request and may not raise concerns except for the cumbersome nature of the request.<sup>294</sup>

The 13<sup>th</sup> Amendment to the Fundamental Law affects criminal cases that have already been conclusively closed, stating that from now on, the exercise of the presidential pardon will no longer require the countersignature of a government member. This amendment narrows professional control, which was previously exercised by the Minister of Justice, over decisions regarding the further fate of convicted individuals.

## **11. Official data on the number of investigations, prosecutions, final judgments and the application of sanctions for corruption offences**

According to the latest parliamentary report of the Prosecutor General,<sup>295</sup> in 2023, 1,491 investigations were initiated within the category of official corruption crimes, including 84 active and 377 passive official bribery cases, 38 active and 11 passive bribes in judicial or

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<sup>294</sup> Hungarian Helsinki Committee – Transparency International Hungary, *A Sauron's Eye in the Hungarian Justice System*, 31 May 2024, [https://transparency.hu/wp-content/uploads/2024/05/A\\_Saurons\\_eye\\_in\\_the\\_Hungarian\\_Justice\\_System\\_20240531.pdf](https://transparency.hu/wp-content/uploads/2024/05/A_Saurons_eye_in_the_Hungarian_Justice_System_20240531.pdf), pp. 12-13.

<sup>295</sup> *A legfőbb ügyész országgyűlési beszámolója az ügyészség 2023. évi tevékenységéről [Report of the Prosecutor General to the Parliament on the activities of the prosecution service in 2023]*, <https://ugyeszseg.hu/a-legfobb-ugyesz-orszaggyulesi-beszamolaja-az-ugyeszseg-2023-evi-tevekenysegerol/>

official proceedings, 16 cases of influence peddling, 961 cases of trading in influence, and 4 instances of failure to report a corruption crime. The number of proceedings initiated due to corruption crimes was 384, though this data also includes economic corruption. The number of perpetrators of registered official bribery was 131. The National Protective Service and the Constitution Protection Authority conducted 988 integrity testings, based on which criminal reports were filed against 17 individuals (nine police officers, two government officials, one prison service employee, and five healthcare service employees). Statistical data specifically related to corruption offences are not available for cases in the judicial phase or for the sanctions imposed.

The Prosecutor General's report links the above-mentioned crimes to EU expectations by suggesting that high-level corruption situation is of particular interest to EU institutions, and their decisions are also based on this focus.

Among the summaries of the Kúria's jurisprudence analysis groups, there is no analysis concerning judicial practice related to corruption offences.<sup>296</sup> Also, the National Office for the Judiciary has not published any such report, and its case flow analysis for the first half of 2024 does not include a separate data provision on corruption cases either.<sup>297</sup>

## **12. Potential obstacles identified in law or in practice to the investigation and prosecution of high-level and complex corruption cases**

Concerns raised in previous contributions regarding impunity in high-level corruption cases persist. The Prosecutor General still maintains his position regarding the lack of a definition for high-level corruption, which is why the prosecution service does not collect separate statistical data on this. Although he mentions cases that fall within this category, in his response to the 2024 Rule of Law Report, the Prosecutor General maintained his reference to the lack of conceptual clarity, adding that *"the prosecution office is still awaiting feedback on what the European Commission's interpretation of high-level corruption cases entails"*.<sup>298</sup>

Impunity of a supposed high-level perpetrator of grand corruption is most recently exemplified in the Schadl–Völner case, where the prosecution service indicted the former Deputy Minister of Justice Pál Völner for allegedly having rigged the appointment of bailiffs in exchange of bribes. According to wiretaps recorded by Péter Magyar, ex-spouse of former Minister of Justice Judit Varga, the defendant had concrete and specific information about the ongoing investigation and Antal Rogán, the Minister overseeing the Prime Minister's Cabinet Office had direct access to the casefile and gave instructions to the authorities as regards the direction of the investigation. On complaint of Péter Magyar, the prosecution service examined these allegations and the recorded wiretaps but came to the conclusion that no criminal offence occurred.<sup>299</sup>

Besides, the adjudication of major corruption cases is further protracted due to malfunctions of the judicial administration. In the Simonka case, the prosecution service indicted former governing party MP György Simonka for budgetary fraud committed in a criminal organisation

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<sup>296</sup> See: <https://kuria-birosag.hu/joggyakorlat-elemzo-csoportok-osszefoglalo?page=0>.

<sup>297</sup> See: <https://birosag.hu/ugyforgalmi-adatok/reszletes-elemzes-2024-i-felevi-birosagi-ugyforgalomrol>.

<sup>298</sup> See: <https://www.parlament.hu/irom42/08764/08764-0001.pdf>.

<sup>299</sup> See e.g.: [https://hvg.hu/itthon/20230119\\_Polt\\_tonigate\\_volner\\_hadhazy](https://hvg.hu/itthon/20230119_Polt_tonigate_volner_hadhazy).

in 2019 and four and a half years did not suffice for the court's first instance to decide in the merits of this case (the criminal offences suspected to have taken place in 2008–2013).<sup>300</sup> This case was reassigned twice following indictment, and had to be restarted due to the change of the judge. On 29 November 2024, judge Adrienn Laczó, to whom this case was assigned, resigned, therefore this process will need to be restarted from the first hearing for the fourth time.<sup>301</sup> The protraction of criminal proceedings violates the fair trial principles, and, according to long-standing judicial practice, if it is imputable to the authorities, it entails the mitigation of the sanction. Protraction therefore not only places the enforcement of fair trial principles into doubt, but, due to compulsory mitigation, it results in disproportionately soft punishments.

The use of plea bargains in corruption cases creates perverse incentives that compromise investigations. The legal framework allows criminals to stockpile information on unrelated crimes for leverage, rather than providing full cooperation. This has been seen in the cases of several Socialist politicians in Budapest (who face charges related to a parking scheme and a local transport company's IT contract), where a key witness secured immunity from prosecution.

The 2022 criminal procedure reform introduced the "motion for revision" and enabled private prosecution in certain high-level corruption offences and offences of abuse and mismanagement intended to facilitate the prosecution of high-level cases even if they are derailed by the investigating authorities or the prosecution service. According to information received from the respective court, 38 judicial review requests were submitted in 2023 and 74 were submitted in 2024 until 20 November 2024. The court appointed to hear such motions has examined all 38 motions submitted in 2023 and has examined 71 motions out of the 74 motions submitted in 2024 until 20 November 2024. The court granted the motion in only 5 cases in 2023 and in a mere 3 cases in 2024, while the number of rejections was 27 in 2023 and 64 in 2024. A repeated motion for judicial review was submitted only in 1 case in 2023 and in another case in 2024. According to the information provided by the respective court, there was no private prosecution in any of the cases concerned. Judicial review motions were submitted in relation to the following types of criminal offences: abuse of public authority, misappropriation of funds, cartel offence, bribery, budgetary (practically: tax or subsidy) fraud, forgery, etc.<sup>302</sup> According to the NACS, the Ministry of Justice ought to have revisited the provisions on private prosecution of high-level cases related to corruption and mismanagement by 29 February 2024, and should have proposed amendments as necessary, but none of these requirements have been met.

In December 2024, another six motions were submitted, out of which the court rejected two motions, while the decision in the remaining four motions was pending at the date of submission of this contribution. In addition, on 10 December 2024 the court approved a motion submitted by the Integrity Authority on 11 November 2024.<sup>303</sup>

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<sup>300</sup> Press statement by the prosecution service on 21 August 2019: *Vádemelés az országgyűlési képviselő és társai elleni büntetőeljárásban [Indictment in the case against the Member of Parliament and accomplices]*, <https://ugyesszeg.hu/vademeles-az-orszaggyulesi-kepviselo-es-tarsai-elleni-buntetoeljarasban/>

<sup>301</sup> See e.g.: <https://444.hu/2024/11/29/lemondott-biroi-tisztsegerol-laczo-adrienn-a-simonka-per-biraja>.

<sup>302</sup> Information contained in the response by the Central District Court of Buda (filing number 2024.El.IV.H.17/4.) dated 29 November 2024. Document in the possession of Transparency International Hungary.

<sup>303</sup> Information received from the court in their amicable response to a directly submitted request.

### 13. Information on effectiveness of criminal and non-criminal measures and of sanctions on both public and private offenders

The prosecution brought charges against a total of 54 individuals in the corruption case related to EU tenders, including the former Deputy State Secretary of the Ministry of Finance and other high-ranking officials in February 2024.<sup>304</sup> The indictment reveals the possibility of the unchecked operation of a corruption network spanning across ministries.<sup>305</sup> Some of the indictees were also responsible for implementing the NACS.<sup>306</sup>

The long-standing situation has not changed, where instead of holding the crony companies that were caught for misusing EU funds accountable, the Hungarian state prefers to pay the fines from taxpayers' money rather than recover them from the guilty companies, whether through criminal proceedings, civil lawsuits, or other legal means.<sup>307</sup> As a result, even when public funds misuse comes to light, there is very low financial or criminal risk at the level of government-linked relationships. The loss of funds due to the withholding of EU resources also impacts the Hungarian budget, from which government-linked companies, such as those owned by the Prime Minister's son-in-law, István Tiborcz, continue to receive substantial support.<sup>308</sup> The Hungarian legal system thus lacks any deterrent force against the misuse of public funds or the behaviour of companies benefiting from it.

Companies harming the interests of the Prime Minister's inner circle, or which have fallen out of favour, are typically subjected to extensive investigations and sanctions. The most recent examples of this are the fines imposed by the Competition Authority for cartel activity, such as the HUF 11 billion (€ 26,7 million) fine imposed on the company of the large entrepreneur László Bige, who has not joined the government interest group, and the HUF 1.2 billion (€ 2.9 million) fine imposed on the companies of Zsolt Homlok, the disgraced son-in-law of Lőrinc Mészáros, who divorced the latter's daughter.<sup>309</sup> In the former case, the court found the fine to be unlawful.<sup>310</sup>

### 14. Any other developments related to the anti-corruption framework

(1) Both the Integrity Authority and the ACTF are facing a severe crisis following a police raid and criminal investigation targeting the Integrity Authority's president, Ferenc Biró in January 2025. The prosecution service alleges that the Integrity Authority's president abused his office and mismanaged funds, claiming that he had improperly used public funds to lease multiple vehicles, including one for his wife's private use and to refurbish his home – charges Ferenc

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<sup>304</sup> See e.g.: <https://24.hu/belfold/2024/11/27/penzugyminiszterium-korrupcio-vesztegetes-birosag-vad-barta-eke-gyula-karsai-tamas-volt-helyettes-allamtitkar/>.

<sup>305</sup> See e.g.: <https://24.hu/belfold/2024/10/21/varga-mihaly-penzugyminiszterium-korrupcio-vesztegetes-volt-helyettes-allamtitkar-karsai-tamas-palkovics-laszlo-barta-eke-gyula-eu-palyazat-kenopenz-miniszterelnokseg-birosag-elokeszito-ules/>.

<sup>306</sup> Ibid.

<sup>307</sup> See e.g.: [https://hvg.hu/gazdasag/20191112\\_Tobb\\_szazmilliard\\_forintos\\_buntetest\\_vallalt\\_be\\_a\\_kormany\\_hogy\\_jojjenek\\_az\\_EUpenzek](https://hvg.hu/gazdasag/20191112_Tobb_szazmilliard_forintos_buntetest_vallalt_be_a_kormany_hogy_jojjenek_az_EUpenzek).

<sup>308</sup> See e.g.: [https://hvg.hu/360/20241025\\_hvg-a-miszter-lyukas-cipoje-tiborcz-istvan-cegek-veszteseg-orban-rahel](https://hvg.hu/360/20241025_hvg-a-miszter-lyukas-cipoje-tiborcz-istvan-cegek-veszteseg-orban-rahel).

<sup>309</sup> See e.g.: <https://atlatzso.hu/kozpenz/2024/12/14/meszarosek-cege-nyerte-azt-a-tendert-amely-miatt-homlok-zsolt-ceget-megbuntettek/>.

<sup>310</sup> See e.g.: <https://hang.hu/gazdasag/pert-nyert-bige-laszlo-cege-168441>.

Biró vehemently denies. Additionally, the prosecution service reportedly seized a large volume of documents from the Integrity Authority, raising significant concerns about the protection of ongoing Integrity Authority investigations, and the potential risks for whistleblowers who have come forward with sensitive information. While the alleged financial irregularities appear to be relatively minor (improper car leasing and later, alleged home renovations), the scale and intensity of the raid, and the ensuing investigation are perceived as disproportionate, especially when compared to the typically muted responses in similar, yet much larger and more complex corruption investigations in Hungary. This apparent overreach raises serious questions about the motives behind the investigation and threatens the perceived independence and credibility of both the Integrity Authority and ACTF. The conflict stems from direct contradictions between the prosecution's claims and Biró's public statements. The prosecution asserts that two vehicles were leased using public funds, with one exclusively for his wife's use, which is refuted by Biró who maintains that only one vehicle was leased and any use by his wife was occasional and permitted under Integrity Authority regulations. A further significant disagreement revolves around the nature of the seized documents. The prosecution denies seizing documents related to ongoing Integrity Authority cases, while Biró insists that these files were indeed taken, which Biró suggests highlights an attempt to undermine the Integrity Authority's oversight function beyond targeting him personally. This crisis creates major problems for both the Integrity Authority and ACTF. The disproportionate response from the prosecution risks a chilling effect, potentially discouraging whistleblowers from coming forward, and ultimately undermining the ability of both bodies to function independently and effectively as credible checks on corruption. The future leadership and effectiveness of both the Integrity Authority and ACTF are now uncertain, with the possibility that the State Audit Office initiates legal proceedings for the termination of Biró's employment in court, potentially leaving the organisation vulnerable to political influence and attempts to capture.<sup>311</sup>

(2) According to information disclosed in December 2024, the Information Office, responsible for foreign intelligence, illegally wiretapped and followed OLAF staff investigating in Hungary for years, and special focus went to those investigators who examined the so-called Elios-case, which was related to the son-in-law of Prime Minister Viktor Orbán and where OLAF concluded that a mafia-like behaviour took place in order to extract EU-funds.<sup>312</sup>

(3) In 2024, GRECO adopted compliance reports concerning Hungary during its plenary meetings.<sup>313</sup> However, the Hungarian government has not yet made these reports public. Based on past behaviour, this publication could be delayed for a significant period, potentially up to one and a half or two years.

In its October 2024 plenary, the OECD Working Group on Bribery decided that the Hungarian government had not adequately responded to the concerns and deficiencies identified in previous evaluations and proposed a high-level mission. The mission was subsequently cancelled because of the Hungarian government's inability to secure sufficient representation. This unprecedented event signals not just a lack of cooperation but a deliberate attempt to

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<sup>311</sup> See the press conference held by Integrity Authority president Ferenc Biró.

<sup>312</sup> See: <https://www.direkt36.hu/english-eu-investigators-probing-orbans-son-in-law-surveilled-sparking-intelligence-agency-infighting/>.

<sup>313</sup> 97<sup>th</sup> GRECO Plenary Meeting (17–21 June 2024): The compliance report for Hungary's Fifth evaluation round; 98<sup>th</sup> GRECO Plenary Meeting (18–22 November 2024): The second compliance report for Hungary's Fourth evaluation

avoid meaningful engagement. The failure to implement long-standing recommendations, dating as far back as 2012, coupled with this cancellation, points to a significant problem with Hungary's approach to anti-corruption measures.<sup>314</sup>

Meanwhile the OECD Economic Survey for Hungary highlighted the necessity of the complete implementation of the National Anti-Corruption Strategy.<sup>315</sup> Other OECD reports concerned the procurement system. While the OECD report *"Improving Competitive Practices in Hungary's Public Procurement"*<sup>316</sup> recommended improving Hungary's public procurement through better data governance, competition analysis, stronger oversight, coordination, and stakeholder engagement, another focused on creating a transparent and effective performance measurement framework, with an emphasis on data quality and effective processes.<sup>317</sup>

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<sup>314</sup> See: <https://www.oecd.org/en/about/news/speech-statements/2024/10/oecd-working-group-on-bribery-cancels-high-level-mission-to-hungary.html>.

<sup>315</sup> OECD, *OECD Economic Surveys: Hungary 2024*, OECD Publishing, Paris, 2024, <https://doi.org/10.1787/795451e5-en>

<sup>316</sup> OECD, *Improving Competitive Practices in Hungary's Public Procurement: Reducing Single-bids and Enhancing Supplier Participation*, OECD Public Governance Reviews, OECD Publishing, Paris, 2024, <https://doi.org/10.1787/5d1c1ec1-en>

<sup>317</sup> OECD (2024), *Enhancing the Public Procurement Performance Measurement Framework in Hungary: Assessing Efficiency, Compliance and Strategic Objectives*, OECD Public Governance Reviews, OECD Publishing, Paris, <https://doi.org/10.1787/afc1d91a-en>.



### III. MEDIA PLURALISM AND MEDIA FREEDOM

#### 1. Information on measures taken to follow-up on the recommendations received in the 2024 Report regarding media pluralism and media freedom

The recommendations of the 2024 Rule of Law Report were not implemented. No legislative proposals have been made to introduce mechanisms strengthening the functional independence of the media regulator. Neither has been any steps taken to strengthen the independent governance and the editorial independence of public service media, the KESMA is still operating; in fact, there has been some regression, such as the establishment of the Sovereignty Protection Office.

There were some negative developments. The President of the National Media and Infocommunications Authority (hereafter: Authority) was appointed as the Digital Services Coordinator in Hungary. According to the EU's Digital Services Act (DSA), the Digital Service Coordinator is appointed by the Member States, without any formal approval by the European Commission. However, the DSA requires national digital service coordinators to carry out their tasks impartially and transparently, and to be politically and economically independent and free from external influence. The President of the Authority, who is also the President of the Media Council hardly meets this condition. The political influence of the Media Council is treated as a fact in all relevant EU documents. In the light of this, it is surprising that the President of the Media Council and the Authority can be given such a significant European mandate.

There was also a development in the public service media. In 2016, Mertek Media Monitor and its partners submitted a complaint to the European Commission concerning the unlawful state aid of public service media. After eight years the Commission sent its final response, rejecting the complaint, but the reasoning does not seem very profound.<sup>318</sup>

The distribution of advertising spending in 2024 continued to favour the ruling Fidesz party's political interest, as evidenced, among others, by the spending on political advertising on social media prior to the European and local elections held in Hungary on 6 June.<sup>319</sup> From the

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<sup>318</sup> Mertek Media Monitor, *Egy magára hagyott médiarendszer – A magyar média: ostromolva, támogatás nélkül. Lány Cenzúra 2023 [A Media System Abandoned: the Hungarian Media Under Siege and Without Support. Soft Censorship 2023]*, 2024, [https://mertek.eu/wp-content/uploads/2024/11/Mertek\\_fuzetek\\_38.pdf](https://mertek.eu/wp-content/uploads/2024/11/Mertek_fuzetek_38.pdf)

<sup>319</sup> Lakmusz – Mertek Media Monitor – Political Capital, *Fidesz & Co. flooded social media with anti-Western hostile disinformation in Hungary's election campaign, reaching EU spending records*, 2024, <https://politicalcapital.hu/pc->

beginning of 2024 until election day, Fidesz and two government-organised non-governmental organisations (GONGOs), Megafon and the Civil Solidarity Forum (CÖF), which are funded mainly by donations from obscure private donors alongside state-owned companies and Fidesz's party foundation,<sup>320</sup> spent about four times as much on Facebook and Google ads as all 15 opposition parties and their associated media combined (€ 5.3 million vs. € 1.3 million). Political ad spending by the pro-government camp was extremely high even by European standards. The top three most advertised political videos on YouTube in the EU were Fidesz videos. Moreover, Fidesz and its satellite organisations were the main purveyors of hostile disinformation narratives,<sup>321</sup> accounting for 98.6% of the total € 2.0 million spent on promoting such narratives

## A. Media authorities and bodies

### 2. Measures taken to ensure the independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies

The issues raised in our previous contributions to the Rule of Law Reports still prevail, but there are some developments.

The Authority is a convergent authority, which handles as regulator the telecommunications and media markets within a single body. The Media Council is part of the Authority; it has a distinct competence in the media field. The President of the Authority and the Media Council are the same person.

On 27 April 2024, in the EP and local election campaign period, public service M1 television broadcasted a political advertisement supporting the governing party in its news programme.<sup>322</sup> The National Election Commission found this to be a violation, but the public media continued this practice.<sup>323</sup> The Media Council, the supervisory body of public service media, investigated the case following a complaint but without any consequences. The Media Council warned the public service media and ordered them to refrain from future infringements and to comply with the law.<sup>324</sup> This decision was made in August, almost three months after the election. As usual, the reasons for the decision are not available on the Media Council's website, only the result itself. This practice creates a serious transparency problem in the operation of the Media Council.

Act CIV of 2023 on Certain Rules for Internet Broadcasting Services appointed the President of the Authority as the Digital Services Coordinator in Hungary. This institution was established by the Digital Services Act to carry out the tasks of the Member States in

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[admin/source/documents/Uncovering\\_analyzing\\_debunking\\_and\\_researching\\_sponsored\\_disinfo\\_project\\_summary\\_2024.pdf](#) (project summary report)

<sup>320</sup> See e.g.: <https://24.hu/belfold/2023/09/20/fidesz-propaganda-megafon-kampany-cof-adomany-tamogatas/>.

<sup>321</sup> Political Capital, *Methodological Toolkit*, 2024,

[https://politicalcapital.hu/kereses.php?article\\_read=1&article\\_id=3404](https://politicalcapital.hu/kereses.php?article_read=1&article_id=3404)

<sup>322</sup> See e.g.: <https://444.hu/2024/05/04/a-nemzeti-valasztasi-bizottsag-szerint-is-a-fidesz-politikai-reklamjat-adta-le-a-kozteve-hirados-riportnak-alcazva>.

<sup>323</sup> See e.g.: <https://444.hu/2024/05/08/a-kozteve-megint-politikai-reklamot-adott-le-hirados-riportkent-pedig-par-napja-buntettek-meg-oket-pont-ezert>.

<sup>324</sup> See: [https://nmhh.hu/cikk/248221/A\\_Mediatanacs\\_6562024\\_VIII\\_27\\_szamu\\_dontese](https://nmhh.hu/cikk/248221/A_Mediatanacs_6562024_VIII_27_szamu_dontese).

supervising intermediary service providers, including online platforms and search services, and enforcing the European regulation. The independent Lakmusz-HDMO consortium (Hungarian member of the EDMO – European Digital Media Observatory) has experienced that the President of the Authority is not cooperative. The Lakmusz-HDMO consortium organised workshops to discuss with the Authority and co-regulators, among other things, the current problems of disinformation and the implementation of the European Union Code of Conduct on Disinformation. The first workshop was particularly forward-looking; the Authority and the members of the Lakmusz-HDMO consortium had similar views. However, during the organisation of the second workshop, András Koltay, President of the Authority and the Media Council, replied that “[w]e have come to the decision that the Authority can no longer participate in the workshops”. In this way, the Digital Service Coordinator is explicitly obstructing the implementation of the EU project for which he is responsible.

In 2024, the Authority’s budget was HUF 57.8 billion (€ 146 million). The Parliament approves the Media Council’s budget as part of the Authority’s integrated budget. The Media Council’s operating budget in 2024 was HUF 554 million (€ 1.4 million).<sup>325</sup> These amounts are theoretically suitable to guarantee high-level professional work, however, in the case of the Authority and the Media Council these serve as the price of the loyalty.

### **3. Conditions and procedures for the appointment and dismissal of the head/members of the collegiate body of media regulatory authorities and bodies**

The framework for the appointment of the president of the National Media and Infocommunications Authority (Media Authority) and the Media Council (the regulatory body of the Authority) and other connected bodies has not changed.

The President of the Authority is appointed by the President of Hungary for nine years upon the proposal of the Prime Minister. Upon appointment, the President becomes the nominee for the presidency of the Media Council and is elected by the Parliament with a two-thirds supermajority for 9 years; the Parliament’s role is limited to a mere right to reject the nominee. Somewhat more substantive parliamentary control is present in the election of the four other members of the Council (each for nine years), which is based on the proposal of the Parliament’s Cultural Committee, in which the two-thirds majority of the members are of the governing parliamentary group Fidesz-KDNP, but opposition delegates are still present.

The Authority published the *“Evaluation of Media Freedom Reports Published in 2024”*<sup>326</sup> (hereinafter: Evaluation) in which it addresses the concerns articulated in the international media freedom reports concerning the Hungarian media landscape and the Authority since 2010. According to the Authority, “[t]he appointment of the members of the Media Council and its chairman is subject to strict procedural and conflict of interest rules”. Although the Media Council acknowledged the significance of the two-thirds parliamentary mandate, it denied its control despite the ruling party’s unilateral decision in appointments: “[a]ccordingly, while the

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<sup>325</sup> Act LXXV of 2023 on the Consolidated Budget of the National Media and Infocommunications Authority for 2024

<sup>326</sup> The report is available here in English:

[https://english.nmhh.hu/dokumentum/249961/evaluation\\_of\\_media\\_freedom\\_reports\\_published\\_in\\_2024.pdf](https://english.nmhh.hu/dokumentum/249961/evaluation_of_media_freedom_reports_published_in_2024.pdf).

*two-thirds parliamentary mandate does indeed allow for a wider scope of decision-making, it does not follow that any non-governmental body is under the control of the government”.*

The Public Service Public Foundation's<sup>327</sup> duty is to ensure the legislative requirements over the public service media. Its Board,<sup>328</sup> the operating body, consists of six members elected by the Parliament (three nominated by the governing parties and three by the opposition parties,<sup>329</sup> for nine years<sup>330</sup>), the president of the Authority, and another delegate of the Authority.<sup>331</sup> Membership ceases with conflict of interest, a dispensation (in case the person is undergoing conservatorship), or exclusion (if the person culpably fails to perform the role for more than six months, or if convicted and sentenced to imprisonment, or if professionally disqualified regarding the person's role in the Board or deprivation of civic rights).<sup>332</sup> If a vacancy arises in the same parliamentary term or a different one with the same parliamentary composition, either the governing majority or the opposition which nominated the previous member has the right to nominate.<sup>333</sup> From August 2022, if a vacancy arises in a different parliamentary term that changes the composition, the Parliament's Cultural Committee nominates, considering the changes.<sup>334</sup> In both cases, after nomination, the Parliament elects the new members for a term lasting until the expiration of the other elected members' term. If the delegated president's or the delegated member's status ceases, the Authority delegates another president/member in 15 days for a term lasting until the expiration of the other elected members' term. The current Public Service Media Foundation board members were elected in 2019<sup>335</sup> by the Parliament, with an additional member elected in 2021<sup>336</sup> as one of the former members died.

#### **4. Existence and functions of media councils or other self-regulatory bodies**

The situation has remained almost unchanged since our latest contribution to the Rule of Law Report was submitted.<sup>337</sup> Act CLXXXV of 2010 on Media Services and on the Mass Media (hereafter: Media Law) created a co-regulation system as an alternative to the Media Council's control (the Media Council is the media authority in Hungary). The Media Law authorised media market players to set up co-regulatory bodies<sup>338</sup> which have the authority – with exclusive jurisdiction – to implement rules relating to media content. The Media Law provides that the Media Council may conclude administrative agreements with the co-regulation

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<sup>327</sup> See: <https://www.kszka.hu/dokumentumok/torvenyi-hatter/alapito-okirat>, <http://www.kszka.hu/uploads/2020/10/kozzszolgalmi-kodex-20210601.pdf>.

<sup>328</sup> The Board approves the financial plans of the Foundation and its media services, protects the media services' independence, and approves modifications to its Code, removes the CEOs of the service providers who violate the requirements of public service, and is authorized to initiate the Media Council's regulatory procedure.

<sup>329</sup> Act CLXXXV of 2010 on Media Services and Mass Media, Article 86(2)

<sup>330</sup> Act CLXXXV of 2010 on Media Services and Mass Media, Article 86(10)

<sup>331</sup> Act CLXXXV of 2010 on Media Services and Mass Media, Article 86(6)

<sup>332</sup> Act CLXXXV of 2010 on Media Services and Mass Media, Article 88(4)-(7)

<sup>333</sup> Act CLXXXV of 2010 on Media Services and Mass Media, Article 87(2)

<sup>334</sup> Act CLXXXV of 2010 on Media Services and Mass Media, Article 87(3)-(4)

<sup>335</sup> Resolution 38/2019. (XI. 5.) OGY on Electing the Members of the Board of the Public Service Media Foundation

<sup>336</sup> Resolution 14/2021. (V. 19.) OGY on Amending Resolution 38/2019. (XI. 5.) OGY on Electing the Members of the Board of the Public Service Media Foundation

<sup>337</sup> *Contributions of Hungarian CSOs to the European Commission's Rule of Law Report*, January, 2024 [https://mertek.eu/wp-content/uploads/2024/01/HUN\\_CS0\\_contribution\\_EC\\_RoL\\_Report\\_2024.pdf](https://mertek.eu/wp-content/uploads/2024/01/HUN_CS0_contribution_EC_RoL_Report_2024.pdf), pp. 55-57.

<sup>338</sup> Act CLXXXV of 2010 on Media Services and on the Mass Media, Articles 190-202

bodies. Based on these agreements, the co-regulation body handles a specified range of cases within the official authority's jurisdiction and performs other functions relating to media administration and media policy. In this framework the responsibility of co-regulatory bodies is to decide upon complaints concerning the activities of service providers, to arbitrate disputes between media enterprises and to monitor the activities of providers.

Four organisations have sprung up as part of the co-regulation framework since 2011: the Hungarian Newspaper Publishers' Association, the Association of Hungarian Content Providers, the Association of Hungarian Electronic Broadcasters and the Advertising Self-Regulatory Board.

The co-regulation system never really took off, however, and it was obvious that no one felt confident that it would be worthwhile to resort to this forum for settling disputed issues. The co-regulation procedure is not independent of the authorities since – based on the underlying legal agreement – the Media Council provides the co-regulatory bodies with financial support. Nor is it independent of the market, since the market players delegate members to serve on these bodies. Furthermore, the market players can also keep track of who lodged complaints against them. Hence, it was in no one's interest to launch such proceedings. The market players feel that it is better to keep the peace and avoid a scenario where they would have to delve into each other's disputes, and also that it would not be a good idea to alert the Authority to problems. Civic organisations and citizens also do not report issues, either because they do not know the system or because they do not want to legitimise a regulatory practice in which the Media Council plays a role.

In assessing the effectiveness of the co-regulatory system, it is very telling that relevant pages on the websites of two industry organisations are blank or visibly incomplete. There is no indication that any kind of proceedings have been conducted in the case of the Association of Hungarian Content Providers and the Association of Hungarian Electronic Broadcasters. The Hungarian Newspaper Publishers' Association and the Advertising Self-Regulatory Board publish monitoring documents about certain issues.

The co-regulation system is a clear example of how an otherwise good, rule-of-law-compliant system in Hungary has become so empty that it is failing to fulfil its original purpose.

Self-regulatory bodies are weak and have no significant role in the Hungarian media. The Association of Hungarian Journalists (MÚOSZ) is a journalists' organisation with long traditions, but the average age of members is quite high, and the organisation is not very active. A new organisation (Médiaforum) was established in the autumn of 2024, but there is no information on its functioning yet.

## **B. Safeguards against government or political interference and transparency and concentration of media ownership**

### **5. Measures taken to ensure the fair and transparent allocation of state advertising**

The issues raised in the previous Rule of Law Reports still prevail.

It is well documented that state advertisers favour pro-government companies and avoid independent media. This practice renders fair competition impossible and distorts the market.<sup>339</sup> State sources finance politically favoured media outlets, and this helps several pro-government media enterprises to flourish, or at least survive the economically difficult years. These media companies are unquestionably loyal to the Government: the editorial practice has to serve the interest of the ruling parties if they want to preserve their most important revenue source. At the same time independent media outlets have become extremely vulnerable because of the unfair competition.<sup>340</sup> The market-distorting effect of state advertising spending is still prevalent, as recent research shows.<sup>341</sup>

The state advertising spending is built on public procurement. The communication activity of the public sector is carried out under one framework agreement with the National Communications Office (Nemzeti Kommunikációs Hivatal, NKOH). In the last years the New Land Media and Lounge Design consortium won the communication public procurement tenders. They have the same owner, Gyula Balásy, a pro-government businessman.

The communication public procurement system is very tricky. State institutions should conduct their communication activities, including state advertising, through the NKOH. This means that public institutions (e.g. ministries, state-owned companies, public institutions) can only contract with media agencies that have previously won a public procurement tender and have concluded a framework agreement with the NKOH. Since 2018 the NKOH has had a framework agreement only with the Balásy-consortium. The obligated contracting authorities (public institutions) can enter into a contract with this one, which can either be concluded after consultation or simply order the service. The contracting authority is obliged to base its award on the prices of a single tenderer. In fact, given the complexity of communication tasks, the pricing of individual tasks depends on the price that a single bidder quotes for a specific task.

So instead of encouraging the competition among the framework agreement partners, NKOH obliged all public institutions to contract with the Balásy-consortium. The consortium has a monopoly in state communication, and it has a price-setting role.

Since 2015, when the NKOH started its work, the state has spent HUF 1,360 billion (€ 3.4 billion) on communication.<sup>342</sup> This amount is constantly increasing month by month. Detailed analysis of the 2012–2023 communication spendings proved that *“Balásy's companies are getting an increasing share of the procurement pie within politically connected (crony) companies. Furthermore, Balásy's companies receive 84 percent of the contracts tendered by*

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<sup>339</sup> Attila Bátorfy – Ágnes Urbán, State advertising as an instrument of transformation of the media market in Hungary, *East European Politics*, 2020, 36:1, <https://doi.org/10.1080/21599165.2019.1662398>, pp. 44-65.

<sup>340</sup> Mertek Media Monitor and its partners turned to the European Commission with a state aid complaint. See: <https://mertek.eu/en/2020/09/07/ec-complaints/>.

<sup>341</sup> Mertek Media Monitor, *Egy magára hagyott médiarendszer – A magyar média: ostromolva, támogatás nélkül. Lány Cenzúra 2023 [A Media System Abandoned: the Hungarian Media Under Siege and Without Support. Soft Censorship 2023]*, 2024, [https://mertek.eu/wp-content/uploads/2024/11/Mertek\\_fuzetek\\_38.pdf](https://mertek.eu/wp-content/uploads/2024/11/Mertek_fuzetek_38.pdf)

<sup>342</sup> See e.g.: <https://g7.hu/kozelet/20240219/1360-milliardot-koltott-az-allam-a-rogan-fele-kommunikaciora-2015-ota/>.

the [NKOH] without market competition. All of these features indicate an extremely high level of corruption risk.”<sup>343</sup>

NKOH is part of the Prime Minister’s Cabinet Office and Antal Rogán is responsible for the NKOH. At the very beginning of 2025, the US Department of the Treasury’s Office of Foreign Assets Control (OFAC) sanctioned Antal Rogán for his involvement in corruption in Hungary, based on the Global Magnitsky Human Rights Accountability Act. The announcement underlines that he controls NKOH and “(t)hroughout his tenure as a government official, Rogan has orchestrated Hungary’s system for distributing public contracts and resources to cronies loyal to himself and the Fidesz political party”.<sup>344</sup>

## 6. Safeguards against state/political interference

The issues raised in the previous Rule of Law Reports still prevail.

Article 7 of the so-called Media Constitution<sup>345</sup> protects the independence of journalists in the following way: journalists are entitled to professional independence from the owner of the media content provider and from the person supporting the media content provider or placing a commercial announcement in the media content, as well as to protection against pressure from the owner or the person supporting the media content to influence the media content (editorial and journalistic freedom). A journalist cannot be penalised under employment law or any other legal penalty for refusing to comply with an order that would curtail their editorial and journalistic freedom. In practice, however, this rule has no practical significance and no journalist has ever taken legal action on this ground.

In February 2024, on the pro-government news portal Index, the most important parts of an article disappeared: when the new opposition figure Péter Magyar gave a long interview to the Partizán YouTube channel, Index wrote a long summary, but then subsequently deleted the most important parts.<sup>346</sup> There is no information on what reaction this provoked within the editorial staff and how it affected journalistic work.

As also pointed out by previous Rule of Law Reports, there are serious governance and transparency problems around the public service media.<sup>347</sup> The Hungarian public media operate in the framework of a very complex and confusing institutional structure. The Media Service Support and Asset Management Fund (hereafter: Fund) performs practically all of the public media’s content acquisition and show production and it is also the legal employer of the public service media employees. At the same time, however, the editorial responsibility for the content lies with another organisation, the Duna Médiaszolgáltató Nonprofit Zrt. (hereafter: Duna).

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<sup>343</sup> Corruption Research Center Budapest, *Two Communication Companies in the Hungarian Public Procurement Market 2012–2023*, 2024, [https://www.crcb.eu/wp-content/uploads/2024/02/2024\\_research\\_notes\\_01\\_190224\\_03.pdf](https://www.crcb.eu/wp-content/uploads/2024/02/2024_research_notes_01_190224_03.pdf)

<sup>344</sup> See: <https://home.treasury.gov/news/press-releases/jy2773>.

<sup>345</sup> Act CIV of 2010 on the Freedom of the Press and the Fundamental Rules of Media Content

<sup>346</sup> See: <https://telex.hu/belfold/2024/02/12/index-hu-magyar-peter-varga-judit-volt-ferje-posztjainak-feldolgozasa-rogan-antal-tiborc-istvan-kritika>.

<sup>347</sup> Mertek Media Monitor and its partners turned to the European Commission with a state aid complaint, see: <https://mertek.eu/en/2020/09/07/ec-complaints/>. The complaint was closed in 2024 without any result.

According to the Media Law, Duna is the public service media provider and it is more or less appropriately subject to external control mechanisms (Board of Public Service Public Foundation, Public Service Body, Public Service Fiscal Council), but in reality, the oversight is merely a façade since it has no resources. And then there is the Fund, which disposes of taxpayer funds without being subject to any meaningful independent control. The Fund is subject to the review of a single organisation: the Media Council. The budget of Duna for 2024 was HUF 2.35 billion (€ 5.9 million), while the budget of the Fund was HUF 142 billion (€ 355 million).<sup>348</sup> This is obviously a hacking of public service media transparency requirements.

The Media Council decides on the extension of radio licences in an arbitrary manner. In 2023, the Authority continued to support the expansion of Fidesz-affiliated radio stations. Based on the analysis of the Authority's decisions, there were 24 radio frequency tenders in 2023; three of them were inconclusive. Out of the remaining 21 tenders, 15 frequencies were allocated to an operator close to the government (nine radio stations are owned by pro-government investors, six radios are owned by a church) and only six frequencies were allocated to other operators. The 2024 analysis is not yet available, but the trends are similar.

## **7. Transparency of media ownership and public availability of media ownership information, including on direct, indirect and beneficial owners**

Besides the Central European Press and Media Foundation (Közép-Európai Sajtó és Média Alapítvány, KESMA), several commercial media companies are owned by pro-government investors, like TV2 commercial television, Radio1 network and Index news portal. The ruling party controls other elements of the media ecosystem, e.g. the media agency market, sales houses, printing facilities, distribution systems, and so on.<sup>349</sup>

The transparency of ownership is not a major problem in the Hungarian media landscape. The owners can be checked in the company registry and offshore background is not typical.

There are no real ownership constraints in the Hungarian media legislation, it is allowed to build a big media empire. Article 171 of the Media Law<sup>350</sup> provides that the Hungarian Competition Authority (HCA) is obliged to obtain the position statement of the Media Council for the approval of the concentration of enterprises if the enterprises or the affiliates of two groups of companies bear editorial responsibility and their primary objective is to distribute media content to the general public via an electronic communications network or a printed media product. The official position statement of the Media Council shall bind the HCA. The Media Council shall not have the right to reject granting an official licence when the level of merger between independent opinion sources after the merger will ensure the right for diversity of information within the particular market segment for the media content service.

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<sup>348</sup> Act LXXV of 2023 on the Consolidated Budget of the National Media and Infocommunications Authority for 2024

<sup>349</sup> Mertek Media Monitor, *Egy magára hagyott médiarendszer – A magyar média: ostromolva, támogatás nélkül. Lány Cenzúra 2023 [A Media System Abandoned: the Hungarian Media Under Siege and Without Support. Soft Censorship 2023]*, 2024, [https://mertek.eu/wp-content/uploads/2024/11/Mertek\\_fuzetek\\_38.pdf](https://mertek.eu/wp-content/uploads/2024/11/Mertek_fuzetek_38.pdf)

<sup>350</sup> Act CLXXXV of 2010 on Media Services and Mass Media, Article 171

Until now the Media Council has issued reasoned opinions in only three of the seven cases, of which it granted regulatory clearance for the merger in one case. The most important feature of the technical content of the opinions is that they are unsubstantiated and inconsistent.<sup>351</sup>

The Government has a possibility to avoid the investigation of the Media Council and the HCA. When KESMA was transformed into a media empire in 2018, the Prime Minister signed an order declaring the transactions to be a matter of “national strategic importance in the public interest”. It is a tool to avoid the investigation of authorities.

## C. Framework for journalists' protection, transparency and access to documents

### 8. Rules and practices guaranteeing journalists' independence and safety, including as regards protection of journalistic sources and communications, referring also, if applicable, to follow-up given to alerts lodged with the Council of Europe's Platform to promote the protection of journalism and safety of journalists

An alert, specifically Alert No. 246/2024<sup>352</sup> was made when the Sovereignty Protection Office launched an investigation against independent publisher Átlátszó. The Government has yet to address the alert. Following the SPO's report, in a town council meeting, a mayor read from the report as he was reading some “interesting facts” after Átlátszó was mentioned, despite no relevance to the meeting.<sup>353</sup> The SPO published a report in which it accused independent media of being “pro-war”.<sup>354</sup>

The independent news outlet Magyar Hang was investigated by Hungary's secret service. Three of its employees were subjected to interrogation and polygraph tests more than a week after the outlet mistakenly published false news – an error for which they apologized the following day.<sup>355</sup> The legal basis for the procedure is still unknown.

The Constitutional Court rejected<sup>356</sup> the constitutional complaint of the publisher of the news outlet HVG on 5 November 2024. HVG's journalist published an article in 2018 with the title “Magyar ember nem lop, csak kalandozik” (“The Hungarian man does not steal, he just wanders”). The article aimed to highlight how the police failed to investigate the case of Prime Minister Viktor Orbán's son-in-law, István Tiborcz, whose company, Elios, caused 13 billion forints in damages in a systemic corruption case. The journalist drew a historical parallel, in which he compared the case to the Hungarian invasions of Europe (“magyar kalandozások”, which translates to “Hungarian wanderings”). Two anonymous men felt personally offended by the references and pursued legal action.<sup>357</sup> The first-instance court found a violation of

<sup>351</sup> Mertek Media Monitor, *Media Landscape after a Long Storm – the Hungarian Media Politics Since 2010*, 2021, <https://mertek.eu/wp-content/uploads/2021/12/MertekFuzetek25.pdf>

<sup>352</sup> See: <https://fom.coe.int/en/alerte/detail/107641772;globalSearch=false>.

<sup>353</sup> See e.g.: <https://atlatszo.hu/orszagszerte/2024/12/06/felolvasott-a-szuverenitasvedelmi-hivatal-atlatszorol-irt-jelentesebol-a-polgarmester/>.

<sup>354</sup> See: <https://www.mapmf.org/alert/32707?f.from=2024-01-01&f.country=Hungary>.

<sup>355</sup> See: <https://www.mapmf.org/alert/32756?f.from=2024-01-01&f.country=Hungary>.

<sup>356</sup> Constitutional Court, Decision 3418/2024. (XI. 28.) AB

<sup>357</sup> See e.g.: [https://hvg.hu/itthon/20241108\\_alkotmanybirosag-itelet-tota-w-arpad](https://hvg.hu/itthon/20241108_alkotmanybirosag-itelet-tota-w-arpad).

personality rights, namely “community dignity”,<sup>358</sup> stating that the author had projected his offensive criticism of the government onto the entire Hungarian national community. The court argued that while the title and core message of the article could have been interpreted as criticism of public discourse, the average reader would not have recognized this.

Specific journalists or media outlets are still being banned from government press conferences.<sup>359</sup>

A recent ruling by the ECtHR in the case *Csikós v. Hungary*,<sup>360</sup> highlighted that Hungary is still not in compliance with the ECHR regarding regulations on authorizing state surveillance. It found that there are no adequate protections to prevent the use of spyware against journalists.<sup>361</sup> Despite this, Hungarian authorities have not considered these practices illegal. In cases where the Hungarian Civil Liberties Union (HCLU) represented journalists targeted by the Pegasus spyware, the National Authority for Data Protection and Freedom of Information (NAIH, Hungary’s DPA, i.e. data protection authority) stated that it could not confirm whether wiretapping had occurred, but if it did, it was deemed lawful. HCLU challenged this decision. While the Metropolitan Court of Budapest ruled in decision no. 105.K.701.218/2023/16. that NAIH failed in its constitutional duty by not recognising the targeted individuals as journalists,<sup>362</sup> the Supreme Court upheld the NAIH's decision no. NAIH-3409-1/2023. as lawful.

Journalists critical of the Government are facing repercussions,<sup>363</sup> and smear campaigns are still present.<sup>364</sup>

A relatively new phenomenon is that Prime Minister Viktor Orbán filed press rectification lawsuits against media outlets.<sup>365</sup>

## 9. Law enforcement capacity, including during protests and demonstrations, to ensure journalists' safety and to investigate attacks on journalists

There is still no dedicated law enforcement capacity to prevent or investigate attacks on journalists, and neither criminal law nor law enforcement practice treats journalists as a group that requires enhanced protection.

There have been multiple cases where police have obstructed the work of the press. The police banned the press from reporting on eviction procedures.<sup>366</sup> Furthermore, in one instance the police and the Counter-Terrorism Centre repeatedly asked Telex whether their

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<sup>358</sup> Act V of 2013 on the Civil Code, Article 2:54(5)

<sup>359</sup> See e.g.: <https://media1.hu/2024/06/14/kormanyinfo-kitiltas-magyar-hang-gulyasagy/>, <https://444.hu/2024/05/24/rendoroket-hivtak-a-telex-munkatarsaira-szijjarto-kalocsai-lakossagi-foruman>.

<sup>360</sup> Application no. 31091/16, Judgment of 28 November 2024

<sup>361</sup> See e.g.: <https://telex.hu/kulfold/2024/11/29/europa-tanacs-ejeb-jogallamisag-lehallgatas-ujsgiro-buntetes>.

<sup>362</sup> See: <https://tasz.hu/cikkek/birosag-mondta-ki-hogy-az-adatvedelmi-hatosag-nem-vedte-meg-az-allampolgarokat-a-pegasus-ugyben/>.

<sup>363</sup> Such as when János Zsugyel, the editor-in-chief of an ecumenical journal, was dismissed from his role after the publication of articles critical of the Orbán government. See: <https://www.mapmf.org/alert/32564?f.from=2024-01-01&f.country=Hungary>.

<sup>364</sup> Multiple authors of independent news outlets were named and implicitly accused to be serving the interests of foreign powers because of being part of the cross-border journalism project “The Eastern Frontier Initiative” (TEFI), which is funded by the European Commission. See: <https://www.mapmf.org/alert/32063>.

<sup>365</sup> See: <https://www.mapmf.org/alert/32741?f.from=2024-01-01&f.country=Hungary>.

<sup>366</sup> See e.g.: <https://444.hu/kepek/2024/07/19/lezartak-egy-egesz-lepcsorozat-es-kizartak-a-saitot-hogy-zavartalanul-rakhassanak-utcara-egy-nyugdijas-ferfit-csepelen>.

camera in use had been a stolen camera and attempted to inspect it – the action’s aim was keeping the press away from the Foreign Minister’s forum during the 2024 election campaign.<sup>367</sup> On 18 November 2024, Media1 editor-in-chief Dániel Szalay was obstructed by two police officers while reporting from the General Aviation Terminal at Budapest’s Ferihegy Airport. He was there to cover the landing of a private jet carrying top executives from the RTL Group and Bertelsmann Group.

444.hu was targeted with a distributed denial-of-service (DDoS) attack on 8 June 2024.<sup>368</sup> Klubrádió, Átlátszó and Media1.hu were facing DDoS attacks from 9 August to 16 August 2024.<sup>369</sup>

## 10. Access to information and public documents by public at large and journalists

Access to data regarding public funds remains restricted based on the constitutional amendment that narrowed down the definition of public funds.<sup>370</sup> The Parliament is still in failure to comply with the legislative duty ordered in a 2020 Constitutional Court decision<sup>371</sup> that set a due date of 31 December 2020, to amend the Act of Parliament regulating freedom of information (FOI) procedures<sup>372</sup> since the current law does not guarantee judicial remedy in case public information is not held by a public authority but by an organisation which entered into financial relations with a public body.<sup>373</sup> Currently, this omission results in the lack of legal remedies for those requesting such public data, as courts dismiss these cases without examining the case on the merits. The Constitutional Court rejected complaints invoking the lawmaker’s omission.<sup>374</sup>

There have been several instances where lawmakers amended freedom of information laws in response to journalists’ inquiries, such as in 2023, when journalist Tibor Lengyel and K-Monitor sued the Prime Minister’s Government Office. K-Monitor sought government decisions from 2010–2012 and details on public funds spent on recent public interest asset management foundations. In all three cases, the court ruled that the Government must release the decisions. Following these lawsuits, the Government amended the law on government administration. Starting in March 2024, new rules have been in effect regarding the documentation of government meetings. If disclosing a government decision threatens public

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<sup>367</sup> See e.g.: [https://hvg.hu/itthon/20240625\\_telex-szijiarto-tek-rendorseg-feljelentes](https://hvg.hu/itthon/20240625_telex-szijiarto-tek-rendorseg-feljelentes).

<sup>368</sup> See: <https://www.mapmf.org/alert/31638?f.from=2024-01-01&f.country=Hungary>.

<sup>369</sup> See: <https://www.mapmf.org/alert/32034?f.from=2024-01-01&f.country=Hungary>.

<sup>370</sup> Article 39(3) of the Fundamental Law: “Public funds shall be the revenues, expenditures and claims of the State.”

<sup>371</sup> Constitutional Court, Decision 7/2020. (V. 13.) AB

<sup>372</sup> It is on the list of the legislative tasks of the Parliament arising from the decisions of the Constitutional Court: <https://www.parlament.hu/az-orszaggyules-donteseire-vonatkozó-alkotmánybirosági-határozatok>.

<sup>373</sup> The Constitutional Court declared in its Decision 7/2020. (V. 13.) AB that the right to freedom of information extends to all public data and judicial remedies must exist to fulfil this fundamental right vis-à-vis all persons handling public data. The Constitutional Court’s decision obliges the legislature to create legal remedies for the violation of Article 27(3a) of Act CXII of 2011 on the Right to Informational Self-Determination and the Freedom of Information.

<sup>374</sup> See the complaints here:

<https://alkotmanybirosag.hu/ugyadatlap/?id=BEDD497BC0BE11F5C1258A78006046E5>,  
<https://alkotmanybirosag.hu/ugyadatlap/?id=8B5A751B64D25D15C1258ACA00604656>.

interest, the respective ministry can refuse disclosure or limit access for up to 20 years, considering whether withholding information outweighs the benefits of transparency.<sup>375</sup>

Átlátszó won a FOI lawsuit against the Hungarian National Asset Management (Magyar Nemzeti Vagyonkezelő, MNV) regarding the purchase price of the Prime Minister's favourite newspaper, Nemzeti Sport, which was purchased by the state.<sup>376</sup> In a different case, Átlátszó asked the institution responsible for managing Hungary's public service media, the MTVA (which stands for Media Service Support and Asset Management Fund, in Hungarian: Médiaszolgáltatás-támogató és Vagyonkezelő Alap) for information on agreements signed between MTVA and Chinese state-controlled media structures. As MTVA refused to fulfil the FOI request, Átlátszó sued the public media group.<sup>377</sup>

For months, the Office of the President of the Republic has not responded to journalists' inquiries regarding the leaders of the subdivisions under President Tamás Sulyok, elected on 5 March 2024.<sup>378</sup>

## 11. Lawsuits and convictions against journalists and measures taken to safeguard against manifestly unfounded and abusive lawsuits

The emergence of GDPR-based SLAPPs still poses a significant threat to independent journalism, obstructing their work and imposing substantial administrative, financial, and legal burdens on both publishers and journalists, even if the challenged article was addressing matters of public interest and produced using data from public databases or otherwise public data. In Hungary, wealthy individuals with political connections often exploit and weaponize the provisions of the GDPR to prevent the press from reporting on their significant business enrichment, which are often backed by public funds.<sup>379</sup>

As Hungary did not adopt a journalistic exemption when implementing the GDPR, the balance between the right to privacy and freedom of the press is left to the discretion of the authorities. This has led to controversial and inconsistent jurisprudence that overlooks the press' constitutional duty. However, in 2024, amidst several decisions following the previous narrative, some progressive rulings were issued by both NAIH and the Kúria.

A billionaire, a family member of Hungarian entrepreneur and unofficial government advisor Árpád Habony, initiated a DPA procedure after Magyar Narancs – by republishing an article from Blikk – reported on his actions. The man resisted police during his removal from a festival for drunken misbehaviour, threatened the police with his influence, and broke his arm during the incident.<sup>380</sup> Decision no. NAIH-8720-8/2024 acknowledged that the case was of high public interest, with the individual being an ad hoc public figure, thus having a heightened

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<sup>375</sup> K-Monitor, *A bíróságok döntéseit felülírva szűkíti az átláthatóságot a Kormány [The Government is Reducing Transparency by Overruling Court Decisions]*, 18 January 2024,

[https://k.blog.hu/2024/01/18/a\\_birosagok\\_donteseit\\_felulirva\\_szukiti\\_az\\_atlathatosagot\\_a\\_kormany](https://k.blog.hu/2024/01/18/a_birosagok_donteseit_felulirva_szukiti_az_atlathatosagot_a_kormany)

<sup>376</sup> See: <https://www.mapmf.org/alert/32709?f.from=2024-01-01&f.country=Hungary>.

<sup>377</sup> See: <https://www.mapmf.org/alert/31832?f.from=2024-01-01&f.country=Hungary>.

<sup>378</sup> See: <https://www.mapmf.org/alert/31758?f.from=2024-01-01&f.country=Hungary>.

<sup>379</sup> See: <https://tasz.hu/cikkek/adatvedelmi-alapu-sajto-elleni-perek-magyarorszagon-elkeszult-a-tasz-jelentese/>.

<sup>380</sup> See e.g.: <https://magyarnarancs.hu/kozlemeny/a-naih-nal-panaszolta-be-lapunkat-a-habony-rokon-de-elutasitottak-a-beadvanyat-271539>.

duty to tolerate disclosures, including personal information. NAIH found that the processing of data was lawful.

Another case emerged when Forbes published its 2020 annual wealth list. A billionaire criticized Forbes for reporting on the criminal proceedings against him, claiming it was an unlawful disclosure of his criminal record. He also complained that the magazine used outdated data to compile the list. The case was referred to the Kúria, which ruled in 2022 that the procedure should be repeated. In 2024, the Kúria ruled in its decision no. Pfv.IV.20.387/2024/5. that Forbes did not infringe the businessman's right to the protection of personal data.<sup>381</sup>

In the case described in Alert No. 12/2020,<sup>382</sup> Forbes magazine was prohibited from listing one of Hungary's wealthiest families, the Barabás family, in its annual ranking due to GDPR objections from the businessmen. The first instance court issued a preliminary injunction (PI) stating that Forbes is prohibited to control their data apart from storing them, and the case was taken to the ECtHR by the HCLU.<sup>383</sup> On 4 March 2024, the Budapest-Capital Regional Court ruled largely in favour of Forbes (decision no. 25.P.21.067/2023/21),<sup>384</sup> confirming its legal basis for data control and repealed the PI. Forbes reported this as a victory,<sup>385</sup> but members of the Barabás family initiated proceedings before the DPA (which are ongoing) and a press rectification lawsuit, claiming Forbes only partially won and argued that the PI is still in effect as the appeal delayed its entry into force, thus Forbes is still prohibited from publishing on the family. Forbes lost the lawsuit on the first instance in decision no. 10.P.21.051/2024/6. of the Budapest-Capital Regional Court. HCLU filed an appeal, but the Budapest-Capital Regional Court of Appeal upheld the first instance judgement in its decision no. 10.P.21.051/2024/6.

Forbes' annual wealth list ignited a novel lawsuit in 2024 initiated by the Barabás family.<sup>386</sup> They claimed that the PI ordered in 2019 was still in effect, thus Forbes was prohibited from publishing their personal data. They initiated the court to order a new PI, which the court rejected and argued that the first PI was still in effect. HCLU filed an appeal. Decision no. 2.Pkf.25.826/2024/2. of the Budapest-Capital Regional Court of Appeal ruled in favour of Forbes and agreed that the PI was repealed. Meanwhile initiating multiple procedures, the family objected to each data control and to each notification made by Forbes.

No progress has been made in Hungary regarding the implementation of the Anti-SLAPP Directive.

## 12. Any other developments related to media pluralism and freedom

According to the Media Pluralism Monitor's 2024 Hungary Country Report,<sup>387</sup> access to information has become more difficult. The main reasons are the dominance of pro-

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<sup>381</sup> See: <https://tasz.hu/cikkek/tasz-siker-bige-laszlo-ugyeben-a-kuria-is-megerositette-hogy-nem-rejtozkodhet-a-milliardos/>.

<sup>382</sup> See: <https://fom.coe.int/en/alerte/detail/58705920;globalSearch=true>.

<sup>383</sup> Application no. 22950/23

<sup>384</sup> See: <https://tasz.hu/cikkek/tasz-sikerek-biztato-iteletek-a-forbes-gazdaglistas-pereiben/>.

<sup>385</sup> See: <https://forbes.hu/uzlet/hell-energy-barabas-csalad-per/>.

<sup>386</sup> See: <https://www.mapmf.org/alert/32095?f.from=2024-01-01&f.country=Hungary>.

<sup>387</sup> Konrád Bleyer-Simon – Gábor Polyák – Ágnes Urbán, *Monitoring media pluralism in the digital era: application of the media pluralism monitor in the European member states and in candidate countries in 2023. Country report:*

government media in the traditional media market, the unfair distribution of state advertising, and the transformation of most independent online media to subscription-based models due to financial challenges. As a result, the audience with access to independent sources of information is shrinking.

This is particularly relevant to the spread of disinformation, as Hungary remains unique within the European Union in having government-organised media as the main source and disseminator of fake news and conspiracy theories.<sup>388</sup> As a result, the Hungarian population is exceptionally susceptible to fake news and conspiracy theories, according to a survey conducted in Hungary, Czechia, Slovakia and partly Bulgaria in 2024.<sup>389</sup> The survey found that scepticism toward facts and objective reality is alarmingly high in Hungary, with more than two-thirds of the population questioning the credibility of information presented as fact.

Government conspiracy theories invoking national sovereignty and stoking fears of alleged Western influence are particularly strong in Hungary, with people expecting interference from both Russia and the United States. At the same time, trust in the European Union has not yet been eroded, despite the Government's rhetoric that "Brussels" is trying to interfere in Hungarian political affairs and is allegedly planning to install a "puppet government" under the leadership of the newly emerged opposition politician Péter Magyar.

Under the guise of defending national sovereignty, it has become common practice in the Orbán regime to label independent journalists and outlets as foreign agents. The Sovereignty Protection Office has become a key actor in this effort, giving the attacks an official, neutral and legal appearance. For now, the SPO serves mainly propaganda purposes, but it is seeking regulatory powers.

Over the past year, the Hungarian government has continued to fail to take effective steps to counter the spread of disinformation, mostly of Russian origin, aimed at destabilizing the European Union. At the same time, the Government has used the pretext of fighting disinformation to crack down on its critics. The most recent example is the aforementioned investigation by the Constitution Protection Office against the independent weekly Magyar Hang and opposition leader Péter Magyar for a false report, which could easily turn into a witch hunt against the remaining free press.

In stark contrast, no such action has been taken regarding fake news and conspiracy theories disseminated by government-organised media. Similarly, no national security investigation has been launched into Russian-origin disinformation about the war in Ukraine<sup>390</sup> or the smear

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Hungary, Centre for Media Pluralism and Media Freedom, 2024, [https://cadmus.eui.eu/bitstream/handle/1814/77004/Hungary\\_EN\\_mpm\\_2024\\_cmpf.pdf?sequence=5&isAllowed=y](https://cadmus.eui.eu/bitstream/handle/1814/77004/Hungary_EN_mpm_2024_cmpf.pdf?sequence=5&isAllowed=y)

<sup>388</sup> Political Capital, *Has the peace fight won? – Weekly analysis of the domestic spread of pro-Kremlin war narratives*, 2023, [https://politicalcapital.hu/library.php?article\\_read=1&article\\_id=3191](https://politicalcapital.hu/library.php?article_read=1&article_id=3191)

<sup>389</sup> HDMO–CEDMO–BROD, *Conspiracy beliefs, disinformation, and factual relativism in East-Central Europe: Insights from a comparative survey in 2024*, [https://politicalcapital.hu/pc-admin/source/documents/HDMO-CEDMO-BROD\\_survey\\_2024\\_ENG.pdf](https://politicalcapital.hu/pc-admin/source/documents/HDMO-CEDMO-BROD_survey_2024_ENG.pdf)

<sup>390</sup> Political Capital, *Disinformation wonderland in the Hungarian government-controlled online media: Origo's articles on Putin and Zelensky*, 2024, [https://politicalcapital.hu/news.php?article\\_read=1&article\\_id=3192](https://politicalcapital.hu/news.php?article_read=1&article_id=3192)

campaign against Hungarian civil society organisations and journalists that was orchestrated by the Israeli private intelligence firm Black Cube.<sup>391</sup>

The obstruction of the independent press and the dissemination of government disinformation and conspiracy theories ultimately serve the purpose of obscuring Hungary's deteriorating economic situation and the Orbán regime's weak governance and accountability. As Hugh Williamson, Europe and Central Asia director at Human Rights Watch, said in a statement releasing Human Rights Watch's 2024 Media Freedom Report on Hungary: *"The clear objective of hollowing out media freedom is to prevent the public from holding the government accountable."*<sup>392</sup>

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<sup>391</sup> See: <https://www.politico.eu/article/viktor-orban-israeli-intelligence-firm-targeted-ngos-during-hungarys-election-campaign-george-soros/> and <https://english.atlatzo.hu/2023/11/11/this-is-how-black-cube-ambushed-civilians-for-a-government-smear-campaign-ahead-of-the-2022-hungarian-parliamentary-elections/>.

<sup>392</sup> See: <https://www.hrw.org/news/2024/02/13/hungary-media-curbs-harm-rule-law>.



## IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

### 1. Information on measures taken to follow-up on the recommendations received in the 2024 Report regarding the system of checks and balances

The 2024 Rule of Law Report's recommendation on civil society reads: *"Remove obstacles affecting civil society organisations and foster a safe and enabling civic space, including by repealing legislation that hampers their capacity of working, in particular the immigration tax."* No progress was made in any of these areas, pieces of existing restrictive legislation were not repealed. To the contrary: the decade-long trend of shrinking civic space has continued in 2024, too, evidenced by many smaller cases of intimidation and hindering of active citizenship, further limits on participation and consultation, etc. Besides, the Sovereignty Protection Act was added to the "toolbox" of obstructing civic space, creating a new institution, the Sovereignty Protection Office in 2024, tasked to investigate and report on any critical organisations and persons with very broad competences. The reports and analyses the SPO issued so far have been replete with disinformation, factual errors and distortions concerning their subjects.<sup>393</sup>

### A. The process for preparing and enacting laws

#### 2. Framework, policy and use of impact assessments and evidence based policy-making, stakeholders'/public consultations, and transparency and quality of the legislative process both in the preparatory and the parliamentary phase

The finding of the 2024 Rule of Law Report that *"[t]he quality of law-making and the frequent changes in legislation remain a significant cause for concern"*<sup>394</sup> remains valid.

The transparency and quality of the whole legislative process and the efficiency of public consultations remain a source of concern, the latter despite the amendment of Act CXXXI of 2010 on Public Participation in Preparing Laws adopted in 2022.<sup>395</sup> Firstly, as detailed in our

<sup>393</sup> See e.g.: Transparency International Hungary, *Hungary's Sovereignty Protection Office acts unlawfully*, 21 November 2024, <https://transparency.hu/en/news/hungarys-sovereignty-protection-office-acts-unlawfully/>.

<sup>394</sup> European Commission, *2024 Rule of Law Report – Country Chapter on the rule of law situation in Hungary*, [https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6\\_en?filename=40\\_1\\_58071\\_coun\\_chap\\_hungary\\_en.pdf](https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6_en?filename=40_1_58071_coun_chap_hungary_en.pdf), p. 32.

<sup>395</sup> Act XXX of 2020 on the Amendments of Act CXXX of 2010 on Law-making and on Act CXXXI of 2010 on Public Participation in Preparing Laws in the Interest of Reaching an Agreement with the European Commission

previous contributions,<sup>396</sup> regulatory flaws undermine the capacity of the amendments to ensure effective public consultation: e.g. laws adopted in breach of public consultation rules can still become/remain part of the legal system, and the range of exceptions when draft laws do not have to or must not be subject to public consultation remains wide. Secondly, the impact of the amended rules is limited, and the practice of public consultation remains deeply flawed.

It still occurs that significant laws are not published for public consultation, which happened in 2024 e.g. in the case of the 13<sup>th</sup> Amendment to the Fundamental Law. In other instances, in an attempt to circumvent the obligation of public consultation, the Government introduces laws to the Parliament that are clearly part of government policy via governing majority MPs (e.g. the Sovereignty Protection Act)<sup>397</sup> or via parliamentary committees (e.g. the 14<sup>th</sup> Amendment to the Fundamental Law).<sup>398</sup> Another avenue used is the Legislative Committee of the Parliament, a super committee the composition of which reflects that of the Parliament and which can introduce amendments to any bill directly prior to the plenary vote – this avenue was utilised to introduce significant changes to the laws on the judiciary in December 2024<sup>399</sup> (see Chapter I.), in which instance the mandatory consultation with the NJC was also circumvented.<sup>400</sup>

Ministries almost never provide a longer consultation period than the statutory minimum, irrespective of the length and complexity of the draft law: according to K-Monitor's data, between 1 October 2022 and 4 October 2024, out of the 1,730 draft laws published, the consultation period was longer than eight days in only six instances.<sup>401</sup> The way in which draft laws are published only formally meets the legal requirements, e.g. the titles and summaries of the published legislative packages rarely indicate clearly the subject matter of the proposals. It is a recurring practice that draft laws are published for consultation with a one-sentence reasoning: this occurred in 2024 e.g. in the case of the laws authorising the Government to extend the state of danger<sup>402</sup> and an omnibus law that extended the asylum system that the CJEU had found to be in violation of EU law,<sup>403</sup> while a draft law amending

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<sup>396</sup> *Contributions of Hungarian CSOs to the European Commission's Rule of Law Report*, January 2023, [https://helsinki.hu/en/wp-content/uploads/sites/2/2023/01/HUN\\_CS0\\_contribution\\_EC\\_RoL\\_Report\\_2023.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2023/01/HUN_CS0_contribution_EC_RoL_Report_2023.pdf), p. 56.

<sup>397</sup> See the Parliament's website: <https://tinyurl.com/2ubk24ud>.

<sup>398</sup> See the Parliament's website: <https://tinyurl.com/5xwvfarp>.

<sup>399</sup> See the amendment introduced by the Legislative Committee to Bill T/10012 on the Foundations for Hungary's 2025 Central Budget: <https://www.parlament.hu/irom42/10012/10012-0007.pdf>.

<sup>400</sup> The NJC considered this legislative process "to be a complete and deliberate abrogation of the legislative consultative powers of the NJC, as laid down in the cardinal law, which, apart from being manifestly contrary to the State's commitment to make the legislative process of high quality, predictable and transparent, seriously violates the principles of the rule of law and the fundamental rules of the democratic legislative process". Public statement of the National Judicial Council, 19 December 2024, <https://obt-jud.hu/hu/birosagi-szervezetrendszer-reformjaval-kapcsolatos-jogalkotasi-folyamatrol>.

<sup>401</sup> K-Monitor, *Public Consultation – There Would Be a Need for It*, 29 November 2024, [https://k.blog.hu/2024/11/29/public\\_consultation\\_-\\_there\\_would\\_be\\_a\\_need\\_for\\_it](https://k.blog.hu/2024/11/29/public_consultation_-_there_would_be_a_need_for_it)

<sup>402</sup> See the relevant documents here: <https://kormany.hu/dokumentumtar/2022-evi-xlii-torveny-modositasarol>, <https://kormany.hu/dokumentumtar/tarsadalmi-egyezettetes-veszelyhelyzet-hosszabbitas>. The one-sentence reasonings are available here:

<https://cdn.kormany.hu/uploads/document/5/5f/5f2/5f2a2ebc12e1c2dec86f6f3d691eb96f3de9135a.pdf>, <https://cdn.kormany.hu/uploads/document/9/98/98f/98f1488603cff904d7ff32562aae21e711959491.pdf>.

<sup>403</sup> See the relevant documents here: <https://kormany.hu/dokumentumtar/a-kozbiztonsag-mege-es-a-migr-ell-kuzdelem-erdekeben-szukseges-torvenyek-mod>. The one-sentence reasoning is available here: <https://cdn.kormany.hu/uploads/document/b/b0/b06/b06ffc72454de3204c322ca5e05b0ab1bde29ae8.pdf>.

rules on public interest asset management foundations was published with a two-sentence reasoning.<sup>404</sup> The majority of opinions submitted are rejected by the Government: according to K-Monitor's data, between 1 October 2022 and 4 October 2024, at least 88% of the opinions were rejected, and without any real reasoning, e.g. that *"the draft law implements the decision of the Government"* or that the opinion *"is contrary to the opinion of the legislator"*.<sup>405</sup>

According to the respective reports published by the Government Control Office (GCO) pertaining to the last three months of 2022<sup>406</sup> and to 2023,<sup>407</sup> legislative targets were formally achieved, i.e. at least 90% of all government decrees, ministerial decrees and bills submitted by the Government to the Parliament were subject to public consultation. However, the reports do not contain detailed information on why certain draft laws were not put to public consultation (i.e. which exemptions they supposedly fell under). Moreover, the GCO refused to disclose upon a freedom of information request its methodology and the information ministries submitted to the GCO.<sup>408</sup> Thus, the efficiency of the review carried out by the GCO cannot be meaningfully assessed.

The quality of the impact assessments of the draft laws and the summaries published about them in the course of the public consultation is often inadequate. The new methodology for impact assessments, which should have been adopted by the end of 2023 under an RRP milestone, has not been adopted as of 31 October 2024.<sup>409</sup> Another RRP milestone (due by the end of 2022) foreseeing the capacity development of the Office of the Parliament to help MPs and parliamentary committees to prepare impact assessments and conduct stakeholder consultations for the bills proposed by them and their possibility to request such assistance have not been achieved either.<sup>410</sup>

Using the legal opportunity created by the Government in 2023, public hearings without the public, i.e. held through electronic means (whereby opinions may be submitted via e-mail or

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<sup>404</sup> See the relevant documents here: <https://kormany.hu/dokumentumtar/a-kozfeladatot-ellato-kozerdeku-vagyonkezelelo-alapitvanyokrol-szolo-torveny>. The two-sentence reasoning is available here: <https://cdn.kormany.hu/uploads/document/c/c9/c9d/c9d5d758dd9b7947db016bd5fb9df2d91aeb4b7e.pdf>.

<sup>405</sup> K-Monitor, *Public Consultation – There Would Be a Need for It*, 29 November 2024, [https://k.blog.hu/2024/11/29/public\\_consultation\\_-\\_there\\_would\\_be\\_a\\_need\\_for\\_it](https://k.blog.hu/2024/11/29/public_consultation_-_there_would_be_a_need_for_it).

<sup>406</sup> Available at: <https://cdn.kormany.hu/uploads/document/1/1b/1b8/1b89f211f360f193009ad1f7d9d92999a858d2c07.pdf>.

<sup>407</sup> Available at: <https://cdn.kormany.hu/uploads/document/0/0c/0cb/0cb223be52ca99cda3194c9b012343cc6f4518c5.pdf>.

<sup>408</sup> The Hungarian Helsinki Committee's freedom of information request of 14 August 2024 is available here: [https://kimittud.hu/request/tarsadalmi\\_egyeztetes](https://kimittud.hu/request/tarsadalmi_egyeztetes). The GCO's response of 21 September 2024 is available here: [https://helsinki.hu/wp-content/uploads/2024/11/KEHI-valasz\\_tarsadalmi-egyeztetes\\_20240921.pdf](https://helsinki.hu/wp-content/uploads/2024/11/KEHI-valasz_tarsadalmi-egyeztetes_20240921.pdf).

<sup>409</sup> Information shared with the Hungarian Helsinki Committee by the legal representative of the Cabinet Office of the Prime Minister at a trial hearing on 31 October 2024, held after the Hungarian Helsinki Committee challenged the Cabinet Office's refusal to comply with its related freedom of information request. See the Hungarian Helsinki Committee's request of 26 August 2024 and the Cabinet Office's response of 10 September 2024 here: [https://kimittud.hu/request/hatasvizsgalati\\_modszertan?nocache=incoming-36139#incoming-36139](https://kimittud.hu/request/hatasvizsgalati_modszertan?nocache=incoming-36139#incoming-36139).

<sup>410</sup> The Hungarian Helsinki Committee's freedom of information request of 26 August 2024 and the response of the Office of the Parliament of 9 September 2024 is available here: [https://kimittud.hu/request/torvenyjavaslatokkal\\_kapcsolatos#incoming-36121](https://kimittud.hu/request/torvenyjavaslatokkal_kapcsolatos#incoming-36121). According to the response of the Office of the Parliament of 9 September 2024 to the Hungarian Helsinki Committee's freedom of information request, "nobody has asked the Office of the Parliament for help in preparing an impact assessment or conducting a consultation". The Office did not reply to the questions as to the existence of the regulatory, operational and budgetary preconditions to do so.

left on an answering machine) are becoming widespread especially in cases of planned investments likely to generate local protest due to their potential environmental impacts.<sup>411</sup>

### 3. Rules and use of fast-track procedures and emergency procedures

#### (1) Rules of fast-track procedures

Parliamentary Resolution 10/2014. (II. 24.) OGY on Certain Provisions of the Rules of Procedure establishes three main fast-track parliamentary procedures: the “discussion with urgency” (“*sürgős tárgyalás*”),<sup>412</sup> the “exceptional procedure” (“*kivételes eljárás*”),<sup>413</sup> and the “derogation from the provisions of the Rules of Procedure” (“*a határozati házszabályi rendelkezésektől való eltérés*”).<sup>414</sup>

A discussion with urgency may be initiated by the stakeholder submitting the bill, but if the bill was submitted by an MP, the initiative for a discussion with urgency shall be supported by at least 25 MPs. The Parliament shall decide on ordering a discussion with urgency with a two-thirds majority of the MPs present. A discussion with urgency may be ordered by the Parliament not more than six times in any six-month period. The initiator may propose, among others, that the general debate on the bill would begin on the day of the sitting specified by the proposal, but not earlier than two days after the day on which the bill is submitted (instead of the ordinary six days); and that the time limit for the submission of proposed amendments to the bill be shorter than the time limit provided for in the ordinary rules. A discussion with urgency shall be ordered in a way that at least six days must elapse between ordering it and the final vote on the bill.

An exceptional procedure may be initiated by the stakeholder submitting the bill, but if the bill was submitted by an MP, the initiative for an exceptional procedure shall be supported by at least one-fifth of the MPs. The Parliament shall decide on ordering an exceptional procedure with a majority of the votes of all the MPs. An exceptional procedure may be ordered up to four times every six months, and there are certain topics regarding which no exceptional procedure may be conducted: the adoption or amendment of the Fundamental Law, international treaties, cardinal provisions, the Parliament’s Rules of Procedure, and the laws on the central budget and its execution. When ordering an exceptional procedure, the Parliament decides on the various procedural deadlines. Bills debated in an exceptional procedure can be adopted even the day after their submission.

A derogation from the provisions of the Rules of Procedure may be ordered by the vote of at least four-fifths of the MPs present, upon the proposal of the House Committee. No derogation may be ordered with respect to the adoption or amendment of the Fundamental Law, international treaties, and the Parliament’s Rules of Procedure. Since no minimum time limits are set out, the derogation from the provisions of the Rules of Procedure can mean that the bill is adopted the same day as it is submitted.

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<sup>411</sup> E.g. in Debrecen: <https://debreciner.hu/cikk/nem-vehetnek-reszt-szemelyesen-a-debreceniek-az-ujabb-akkumulatorgyar-kozmeghallgatasan-eve-power-debreciner>.

<sup>412</sup> Parliamentary Resolution 10/2014. (II. 24.) OGY on Certain Provisions of the Rules of Procedure, Article 60

<sup>413</sup> Parliamentary Resolution 10/2014. (II. 24.) OGY on Certain Provisions of the Rules of Procedure, Articles 61-64

<sup>414</sup> Parliamentary Resolution 10/2014. (II. 24.) OGY on Certain Provisions of the Rules of Procedure, Article 65

## (2) The use of fast-track procedures in 2024

Both amendments to the Fundamental Law adopted in 2024 (the 13<sup>th</sup> and 14<sup>th</sup> amendments to the Fundamental Law, which is in force since 2012) were adopted in an ordinary legislative procedure.

From among the 92 Acts of Parliament promulgated in 2024, only one was adopted in a discussion with urgency procedure, Act LXXX of 2024 on Amending Act IX of 2021 on Public Interest Asset Management Foundations. (This was supposed to ensure compliance with conditions of accessing EU funds under the conditionality mechanism, but the European Commission found that it had not been sufficient to address risks of conflicts of interests in the boards of the foundations.<sup>415</sup>) Three Acts of Parliament were adopted in an exceptional procedure.<sup>416</sup> One Act of Parliament was adopted via derogation from the provisions of the Rules of Procedure: Act LXVIII of 2024 on Amending Act C of 2012 on the Criminal Code, which tightened statute of limitations rules as an instant reaction to developments in a high-profile individual case.<sup>417</sup>

From among the 29 parliamentary resolutions promulgated in 2024, none were adopted in a discussion with urgency procedure or via derogation from the provisions of the Rules of Procedure, and only one resolution was adopted in an exceptional procedure.<sup>418</sup>

Finally, it has to be highlighted that under the continued state of danger, the Government has a virtually unlimited possibility to override Acts of Parliament practically overnight – see the details in Question IV.4. below.

## 4. Rules and application of states of emergency, including judicial review and parliamentary oversight

(1) The Government continues to have excessive emergency regulatory powers under the continued “state of danger” (“veszélyhelyzet”) and continues to use its mandate to issue emergency government decrees extensively and in an abusive manner,<sup>419</sup> with the respective legal framework and practice being in stark contrast with the requirements set out by the

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<sup>415</sup> See the respective press release of the European Commission of 16 December 2024 here: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_24\\_6465](https://ec.europa.eu/commission/presscorner/detail/en/ip_24_6465). For more details, see: Amnesty International Hungary – Hungarian Civil Liberties Union – Hungarian Helsinki Committee – K-Monitor – Transparency International Hungary, *Assessment of compliance by Hungary with conditions to access European Union funds*, November 2024, [https://helsinki.hu/en/wp-content/uploads/sites/2/2024/12/HU\\_EU\\_funds\\_assessment\\_Q3\\_2024.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2024/12/HU_EU_funds_assessment_Q3_2024.pdf), pp. 13-15. and pp. 45-48.

<sup>416</sup> Act II of 2024 on Amending Certain Laws Related to Public Service, Act XXIX of 2024 on Amending Certain Laws Affecting the Operation of the State, Act LXXXVI of 2024 on Amending Act II of 2022 on the List of Ministries of Hungary

<sup>417</sup> See e.g.: <https://24.hu/belfold/2024/12/17/till-gyilkossag-btk-modositas/>.

<sup>418</sup> Source of numbers in this and the preceding paragraph: search on the Parliament’s website (<https://www.parlament.hu/web/quest/iromanyok-lekerdezese>).

<sup>419</sup> For a comprehensive overview, see: Hungarian Helsinki Committee, *Government gains excessive powers from forever renewable state of danger*, 24 February 2023, [https://helsinki.hu/en/wp-content/uploads/sites/2/2023/02/HHC\\_Hungary\\_state\\_of\\_danger\\_24022023.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2023/02/HHC_Hungary_state_of_danger_24022023.pdf).

Venice Commission.<sup>420</sup> This undermines legal certainty, results in human rights violations, and has a negative impact on business environment and investment protection.

As detailed in our previous contributions, the Government first acquired excessive emergency powers with a view to the pandemic in the spring of 2020, when it declared the state of danger, a special legal order regime included in the Fundamental Law. The Government has been maintaining a “rule by decree” system ever since, with only a few months of intermission, since 2022 using the war in Ukraine as a pretext for keeping its excessive regulatory powers. The constitutional and statutory framework governing special legal order regimes was amended as of November 2022, and these amendments cemented the very problematic practices developed during the pandemic in relation to the state of danger:<sup>421</sup> the Government continues to have a *carte blanche* mandate, also to suspend or restrict most fundamental rights beyond the extent permissible under ordinary circumstances; there is no automatic and regular parliamentary oversight over individual emergency decrees; and the effective constitutional review of emergency decrees is not ensured.

The Government extended the state of danger declared with a reference to the war in Ukraine two times in 2024 with the statutory maximum of 180 days<sup>422</sup> upon the authorization of the governing majority. The state of danger is currently extended until 18 May 2025.

In both instances, the draft law aiming to authorize the Government to extend the state of danger was put to public consultation with the same one-sentence reasoning.<sup>423</sup> Civil society organisations shared their concerns regarding the legal rules and the practice in the form of opinions submitted in the framework of the public consultations,<sup>424</sup> but the Government did not take these or other opinions challenging the extension of the state of danger in its current format into account.<sup>425</sup>

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<sup>420</sup> Cf.: European Commission for Democracy Through Law (Venice Commission), *Report – Respect for Democracy, Human Rights and the Rule of Law During States of Emergency: Reflections*, CDL-AD(2020)014, 19 June 2020, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2020\)014-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2020)014-e).

<sup>421</sup> A detailed analysis of the changes, covering also the special order regimes beyond the state of danger, is available here: Gábor Mészáros: *Exceptional Governmental Measures without Constitutional Restraints*, [https://helsinki.hu/en/wp-content/uploads/sites/2/2023/01/Meszaros\\_special\\_legal\\_order\\_02112022.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2023/01/Meszaros_special_legal_order_02112022.pdf). A summary paper is available here: Hungarian Helsinki Committee, *Hungary: Perpetuated States of Exception Undermine Legal Certainty and Human Rights*, 2 April 2024, [https://helsinki.hu/en/wp-content/uploads/sites/2/2024/04/HHC\\_Hungary\\_states\\_of\\_exception\\_20240402.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2024/04/HHC_Hungary_states_of_exception_20240402.pdf).

<sup>422</sup> Via Government Decree 86/2024. (IV. 17.) and Government Decree 330/2024. (XI. 14.).

<sup>423</sup> See the relevant documents here: <https://kormany.hu/dokumentumtar/2022-evi-xlii-torveny-modositasarol>, <https://kormany.hu/dokumentumtar/tarsadalmi-egyeztetes-veszelyhelyzet-hosszabbitas>. The one-sentence reasonings are available here:

<https://cdn.kormany.hu/uploads/document/5/5f/5f2/5f2a2ebc12e1c2dec86f6f3d691eb96f3de9135a.pdf>, <https://cdn.kormany.hu/uploads/document/9/98/98f/98f1488603cff904d7ff32562aae21e711959491.pdf>.

<sup>424</sup> The opinions submitted jointly by Amnesty International Hungary, the Eötvös Károly Institute, the Hungarian Civil Liberties Union and the Hungarian Helsinki Committee in February 2024 and October 2024 are available here: [https://helsinki.hu/wp-content/uploads/2024/02/AI-EKINT-MHB-TASZ\\_velemen\\_y\\_veszelyhelyzet\\_20240229.pdf](https://helsinki.hu/wp-content/uploads/2024/02/AI-EKINT-MHB-TASZ_velemen_y_veszelyhelyzet_20240229.pdf), [https://helsinki.hu/wp-content/uploads/2024/10/AI-MHB-TASZ\\_velemen\\_y\\_veszelyhelyzet\\_20241010.pdf](https://helsinki.hu/wp-content/uploads/2024/10/AI-MHB-TASZ_velemen_y_veszelyhelyzet_20241010.pdf).

<sup>425</sup> See the summary reasonings published concerning the opinions submitted in February 2024 and October 2024 here:

<https://cdn.kormany.hu/uploads/document/6/65/65a/65ad1a0e9fdcf4eccbae3473d5983d41bf05eda7.pdf> (this does not even list the opinion submitted by the CSOs), <https://cdn.kormany.hu/uploads/document/c/c4/c44/c447f3a99d4057b26ceba4cef108ad57bb26bf6d.pdf>.

The Government continues to use its mandate to issue emergency decrees extensively, although there is a downward trend: in 2022, 42% of all government decrees (267 out of 637) were adopted as emergency decrees;<sup>426</sup> in 2023, 29.5% (203 out of 688); while in 2024, 19.4% (96 out of 494).<sup>427</sup>

The practice of regularly adopting emergency decrees for purposes not related to the cause of the state of danger (previously the pandemic, presently the war) continues as well.<sup>428</sup> Examples for this from 2024 include Government Decree 361/2024. (XI. 28.), which indefinitely prolonged the so-called “embassy system” as of 1 January 2025. The embassy system was introduced in May 2020, and it sets a compulsory precondition for those seeking asylum to first submit a statement of intent at the Hungarian embassy in Belgrade or Kyiv. The system was introduced under the guise of the state of danger declared due to the pandemic and has been extended on an annual basis ever since. In June 2023, the CJEU found in Case C-823/21 that the embassy system was in breach of EU law.<sup>429</sup> Another emblematic example is Government Decree 267/2024. (IX. 10.), which changed the rules of factoring agreements in a way that puts the capital city Budapest, which continues to be led by the opposition after the local elections that took place in June 2024, in a very difficult financial situation.<sup>430</sup>

(2) The legal framework allows for the proliferation of different states of crisis, i.e., quasi states of exception that are not regulated in the Fundamental Law but only on a statutory level can be applied parallel to the special legal order regimes included in the Fundamental Law. A striking example for this is the “state of crisis due to mass migration” (“*tömeges bevándorlás okozta válsághelyzet*”), which was introduced into the Hungarian law in 2015, and which can be declared and extended by the Government every six months without any meaningful control. The Government declared a state of crisis due to mass migration for the whole of Hungary in March 2016, and has repeatedly extended it ever since, often in periods when its statutory conditions were not even in place. It was extended the last time in September 2024, without the statutory conditions being met, until 6 March 2025.<sup>431</sup> During the state of crisis due to mass migration, special rules apply to third-country nationals irregularly entering and/or staying in Hungary and to those seeking asylum, and certain provisions of the Asylum Act are suspended. Such derogations include that push-backs (i.e. collective expulsions) are

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<sup>426</sup> See: <https://www.wolterskluwer.com/hu-hu/news/2022-jogalkotasi-statisztika>.

<sup>427</sup> Source of numbers for 2023 and 2024: the Hungarian Helsinki Committee’s calculations.

<sup>428</sup> For examples from 2022, see: Hungarian Helsinki Committee, *Government gains excessive powers from*

*forever renewable state of danger*, 24 February 2023, [https://helsinki.hu/en/wp-content/uploads/sites/2/2023/02/HHC\\_Hungary\\_state\\_of\\_danger\\_24022023.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2023/02/HHC_Hungary_state_of_danger_24022023.pdf), pp. 6-7. For examples from 2023, see: *Contributions of Hungarian CSOs to the European Commission's Rule of Law Report*, January 2024, [https://helsinki.hu/en/wp-content/uploads/sites/2/2024/01/HUN\\_CS0\\_contribution\\_EC\\_RoL\\_Report\\_2024.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2024/01/HUN_CS0_contribution_EC_RoL_Report_2024.pdf), pp. 73-76.

<sup>429</sup> For more details, see: Amnesty International Hungary – Hungarian Civil Liberties Union – Hungarian Helsinki Committee – K-Monitor – Transparency International Hungary, *Assessment of compliance by Hungary with conditions to access European Union funds*, November 2024, [https://helsinki.hu/en/wp-content/uploads/sites/2/2024/12/HU\\_EU\\_funds\\_assessment\\_Q3\\_2024.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2024/12/HU_EU_funds_assessment_Q3_2024.pdf), pp. 48-49.

<sup>430</sup> See e.g.: <https://telex.hu/gazdasag/2024/09/11/kormanyrendelet-onkormanyzati-ceg-faktoralas-tiltas-budapest-50-milliard-bkk>, <https://24.hu/belfold/2024/09/11/felulirta-a-kormany-a-polgari-jog-egyik-alapelvet/>.

<sup>431</sup> Government Decree 265/2024. (IX. 2.) on Amending Government Decree 41/2016. (III. 9.) on the Declaration of the State of Crisis due to Mass Migration Throughout the Territory of Hungary and on the Rules Related to the Declaration, Existence and Termination of the State of Crisis

legalised from the entire territory of Hungary<sup>432</sup> – a practice which the CJEU found to be in violation of EU law in Case C-808/18.

## 5. Regime for constitutional review of laws

Concerns raised in previous CSOs contributions about the independence of the Constitutional Court (CC) remain valid.<sup>433</sup> In December 2024, the ruling majority amended the eligibility criteria for CC judges, broadening the pool of potential candidates by removing the requirement that 20 years of legal professional experience must necessarily be acquired in a job requiring a law degree.<sup>434</sup> Although the explanatory memorandum referred to European examples where professional experience is linked to legal fields rather than to a job with a law degree,<sup>435</sup> the amendment came just months before the governing parties could nominate three new justices to the CC.<sup>436</sup>

In 2024, the CC's jurisprudence remained fully aligned with the Government's interests. Transparency International Hungary, joined by 31 CSOs via an amicus brief,<sup>437</sup> filed a constitutional complaint with the CC against the Sovereignty Protection Act. The CC needed only five months to render a decision, rejecting the claims on all accounts.<sup>438</sup> The CC's judgment arrived before the CJEU could rule on the same act in the infringement proceedings launched by the European Commission.<sup>439</sup> Interestingly, in earlier similar situations, when infringement proceedings were pending before the CJEU regarding laws also challenged before the CC, the CC decided to suspend the proceedings until the CJEU delivered its judgment,<sup>440</sup> but it did not hesitate to put the stamp of constitutionality on the Sovereignty Protection Act. While the CC's decision dealt at length with the concepts of sovereignty and constitutional self-identity, it failed to address the merits of the complaint. It held that the Sovereignty Protection Office cannot impose any legal consequences or sanctions, let alone criminal ones, so its activity does not affect freedom of expression. Similarly, the CC stressed that the SPO does not qualify as a public authority, and has no power to enforce its reports,

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<sup>432</sup> Act LXXXIX of 2007 on State Borders, Article 5(1b)

<sup>433</sup> See for instance *Contributions of Hungarian CSOs to the European Commission's Rule of Law Report*, January 2024, [https://helsinki.hu/en/wp-content/uploads/sites/2/2024/01/HUN\\_CS0\\_contribution\\_EC\\_RoL\\_Report\\_2024.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2024/01/HUN_CS0_contribution_EC_RoL_Report_2024.pdf)

<sup>434</sup> Act LXVII of 2024 amending Act CLI of 2011 on the Constitutional Court and Act CLXIV of 2011 on the Status of the Prosecutor General, Prosecutors and other Prosecution Employees and on the Career of Prosecutors. The amendment repealed Article 6(2) of the Act on the Constitutional Court.

<sup>435</sup> The explanatory memorandum is available at: <https://www.parlament.hu/irom42/09998/09998.pdf>.

<sup>436</sup> Two seats became vacant in early 2025, while the third seat has not been filled since Tamás Sulyok, the CC's president, was elected President of the Republic in February 2024.

<sup>437</sup> See: <https://helsinki.hu/civilek-a-szuverenitasvedelmi-torveny-megsemmisitseert/>.

<sup>438</sup> Constitutional Court, Decision 20/2024. (XI. 28.) AB. The judge-rapporteur in the case was Imre Juhász, elected President of the CC by the governing majority shortly before delivering the judgment. The complaint alleged the violation of several provisions of the Fundamental Law, namely freedom of expression and information, the right to a fair administrative procedure, and the right to a fair trial and effective remedy.

<sup>439</sup> See Case C-829/24, *Commission v Hungary*, pending before the CJEU.

<sup>440</sup> Decision 3198/2018. (VI. 21.) AB, Decision 3199/2018. (VI. 21.) AB and Decision 3200/2018. (VI. 21.) AB regarding the 2017 Lex NGO and the Lex CEU respectively which were found in breach of EU law by the CJEU in 2020. However, the CC did not revisit the cases right after the delivery of the CJEU judgments but waited for the relevant laws to be amended and terminated the proceedings later on the grounds that the relevant legal frameworks, challenged in the original submissions, had substantially changed. [See: Constitutional Court, Decisions 3318/2021. (VII. 23.) AB, 3319/2021. (VII. 23.) AB and 3410/2022. (X. 21.) AB.]

consequently, neither the right to a fair administrative procedure nor the right to effective remedy apply.<sup>441</sup>

In 2024, the CC continued to block referendum initiatives capable of jeopardising the Government's interests. Some of these judgments also demonstrate that the CC exercises its constitutional review power arbitrarily, and even "reviews the merits of final rulings of ordinary courts in politically sensitive cases", as found in the 2024 Rule of Law Report.<sup>442</sup> The CC annulled the Kúria's decision on validating the question for a local referendum on Budapest being the host of the 2036 Olympic Games.<sup>443</sup> The CC argued, as in previous years, that by validating the referendum question, the Kúria unduly extended the concept of clarity of referendum questions and provided a *contra legem* interpretation, violating the right to a fair trial.<sup>444</sup> The CC's judgment reiterated *obiter dicta* that under the current circumstances, voters cannot influence the decision on the Olympic Games via referendum.<sup>445</sup> Contrary to that, the CC was reluctant to review the judicial decision refusing to validate a local referendum on establishing a battery processing plant in Sósút, which the Government aimed to declare, amidst fierce local protests, an investment of strategic importance for the national economy. The CC found its lack of jurisdiction on the grounds that in general, the clarity of referendum questions is not a constitutional issue subject to constitutional review.<sup>446</sup> Furthermore, the CC upheld the ban on holding a referendum on decriminalising certain instances of assisted suicide, an issue sparking a lively public debate due to the case of Dániel Karsai, a well-known constitutional lawyer suffering from ALS.<sup>447</sup>

The CC remains reluctant to confront the Government also in electoral matters.<sup>448</sup> The CC found a complaint on state neutrality inadmissible, hence failing to examine the overlap between state and governing party advertisements, creating an uneven playing field also during the 2024 EP and municipal elections.<sup>449</sup>

The CC also dismissed a complaint challenging the so-called solidarity contribution,<sup>450</sup> a financial obligation imposed on the opposition-led Municipality of Budapest in 2023.<sup>451</sup> The judge referring the case to the CC argued that the solidarity contribution, which surpasses the municipality's central budgetary support, is confiscatory, violates the European Charter of Local Self-Government requiring financial resources for municipalities commensurate with

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<sup>441</sup> For a brief analysis of the judgment, see: <https://transparency.hu/en/news/constitutional-courts-decision-on-spo/>.

<sup>442</sup> European Commission, 2024 Rule of Law Report – Country Chapter on the rule of law situation in Hungary, [https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6\\_en?filename=40\\_1\\_58071\\_coun\\_chap\\_hungary\\_en.pdf](https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6_en?filename=40_1_58071_coun_chap_hungary_en.pdf), p. 35.

<sup>443</sup> Constitutional Court, Decision 24/2024. (XII. 30.) AB

<sup>444</sup> The referendum question was as follows: "Do you agree that the Municipality of Budapest should submit a bid to host the 2036 Summer Olympic and Paralympic Games?"

<sup>445</sup> In 2017, the Government withdrew its bid for the 2024 Olympic Games after Momentum, a political party, collected 266,151 signatures in its "Nolimpia" campaign to block the hosting of the Games via a local referendum.

<sup>446</sup> Constitutional Court, Decision 3199/2024. (V. 31.) AB

<sup>447</sup> Constitutional Court, Decisions 3219/2024. (VI. 25.) AB and 3220/2024 (VI. 25.) AB

<sup>448</sup> See Decision 3275/2024. (VII. 24.) AB

<sup>449</sup> Constitutional Court, Decision 3217/2024. (VI. 13.) AB. However, the CC annulled the Kúria's judgment for not addressing the question of equal opportunity of candidates when a candidate of the governing parties challenged the opposition's local campaign in Szombathely [Constitutional Court, Decision 3210/2024. (VI. 13.) AB].

<sup>450</sup> The solidarity contribution, introduced in 2017, is imposed on wealthier local governments in order to support financially weaker municipalities.

<sup>451</sup> Constitutional Court, Decision 18/2024. (XI. 11.) AB

their responsibilities, and the right to a fair administrative procedure. The CC dismissed all claims despite raising several concerns in its reasoning.<sup>452</sup>

The CC upheld the Kúria's ban on a solidarity rally regarding the Israeli-Palestine conflict without engaging with the substantive human rights issue.<sup>453</sup> The CC declared the constitutional complaint inadmissible by claiming that the challenged decision, which found the risk to public security or public order plausible, did not raise a substantial violation of the Fundamental Law or a fundamental constitutional question.<sup>454</sup>

## B. Independent authorities

### 6. Independence, resources, capacity and powers of national human rights institutions (NHRIs), of ombudsman institutions, of equality bodies and of supreme audit institutions

The finding by the 2024 Rule of Law Report that “[c]oncerns regarding the independence and effective functioning of the Commissioner for Fundamental Rights [CFR] remain”<sup>455</sup> is still valid. As recalled by the 2024 Rule of Law Report, the GANHRI Sub-Committee on Accreditation (SCA) downgraded the CFR as Hungary's national human rights institution (NHRI) from an A to a B status since its inactivity in a number of areas (e.g. the rights of ethnic minorities, LGBTI people, human rights defenders, refugees and migrants, media pluralism, civic space and judicial independence) evidenced a lack of independence. In addition, it deemed the CFR's selection and appointment process not sufficiently broad and transparent.<sup>456</sup>

The deficiencies pointed out by the SCA as a reason for the downgrading continue to exist. The selection and appointment rules have not been amended, with a new appointment process due in 2025. Concerns regarding the merits of the CFR's work have not been addressed either: publicly available information evidences that it still does not effectively promote and protect all human rights and vulnerable groups. Out of the 82 reports published by the CFR in 2024, none dealt with the rights of LGBTI people or refugees and migrants, despite the various rights violations suffered by these groups,<sup>457</sup> and none of these reports focused on the situation of

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<sup>452</sup> It invoked, for instance, the report of the State Audit Office which found Budapest's budgetary situation financially unsustainable and highlighted its concerns about the Hungarian State Treasury imposing the contribution on Budapest without a formalized decision.

<sup>453</sup> Constitutional Court, Decision 3191/2024. (V. 31.) AB. Hungarian authorities systematically banned pro-Palestine protests after the Prime Minister spoke out on public radio against such demonstrations, calling them pro-terrorist events.

<sup>454</sup> Article 29 of Act CLI of 2011 on the Constitutional Court states that constitutional complaints against judicial decisions must be declared admissible if a conflict with the Fundamental Law significantly affects the judicial decision, or the case raises fundamental constitutional issues.

<sup>455</sup> European Commission, *2024 Rule of Law Report – Country Chapter on the rule of law situation in Hungary*, [https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6\\_en?filename=40\\_1\\_58071\\_coun\\_chap\\_hungary\\_en.pdf](https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6_en?filename=40_1_58071_coun_chap_hungary_en.pdf), pp. 33-34.

<sup>456</sup> Global Alliance of National Human Rights Institutions (GANHRI), *Report and Recommendations of the Virtual Session of the Sub-Committee on Accreditation (SCA)*, 14-25 March 2022, [https://www.ohchr.org/sites/default/files/2022-04/SCA-Report-March-2022\\_E.pdf](https://www.ohchr.org/sites/default/files/2022-04/SCA-Report-March-2022_E.pdf), pp. 43-47.

<sup>457</sup> See e.g. ILGA Europe's Rainbow Map (<https://rainbowmap.ilga-europe.org/countries/hungary/>) on the situation of LGBTI people; and the Hungarian Helsinki Committee's statement submitted to the 2024 OSCE Warsaw Human Dimension Conference on the systemic rights violations committed against migrants and asylum-seekers, available at: [https://helsinki.hu/en/wp-content/uploads/sites/2/2024/11/OSCE-Warsaw-Human-Dimension-Conference\\_Refugees\\_HU-CSO-input\\_02102024.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2024/11/OSCE-Warsaw-Human-Dimension-Conference_Refugees_HU-CSO-input_02102024.pdf).

human rights defenders, media pluralism or judicial independence either,<sup>458</sup> despite the wide-ranging problems prevalent in these areas as described in other chapters of this contribution. The statements and news pieces available on the CFR's website do not cover any of the above topics or vulnerable groups either (with only a few scattered references to people fleeing Ukraine as a result of the war).<sup>459</sup> In the CFR's 2023 annual report,<sup>460</sup> the word "LGBTQ+" is mentioned only in relation to a visit by a Council of Europe representative, and even though the report touches upon the situation of those fleeing Ukraine and the CFR's related activities, it does not address the systemic issues affecting refugees and migrants coming from other countries. The Sovereignty Protection Act, severely affecting civil society and the media, is not mentioned by the report either. The report shows that the CFR did not submit a constitutional review request to the Constitutional Court in 2023.

As reported earlier, in recent years there has been a trend to merge all specialised human rights protection institutions into the CFR's Office: as of 2021, Hungary's equality body under EU law, the Equal Treatment Authority, was merged into the CFR's Office;<sup>461</sup> the same happened to the Independent Law Enforcement Complaints Board in 2020; and in 2022, the CFR's Office was designated as Hungary's independent mechanism established under the UN CRPD. Moreover, the CFR's Office was designated as Hungary's national preventive mechanism (NPM) under the OPCAT as of 2015; and was given a central role in overseeing public interest disclosures (whistleblowing) in 2023.<sup>462</sup> This level of concentration of mandates is highly problematic due to the lack of functional independence of the CFR alone, but research carried out by Háttér Society and the Hungarian Helsinki Committee in 2024<sup>463</sup> also demonstrates how this resulted in weakened human rights protection in the following affected areas:

- Deficient monitoring of places of detention: the current capacities remain insufficient for the NPM to carry out its statutory tasks; the CFR often fails to respond to complaints submitted by civil society organisations related to the NPM's mandate in time or at all; and even though the NPM carried out a significant number of visits, the visits and the reports about them suffered from deficiencies.
- Diminished level of protection against discrimination: the fact that no director or deputy director has been appointed for the respective directorate on equal treatment within the CFR's Office, that some complaints are not investigated under the Equal Treatment Act but under the much softer CFR procedure, and most importantly the drastic drop in the number of cases shows that the merger raises serious concerns

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<sup>458</sup> The reports of the CFR are available in Hungarian here: <https://www.ajbh.hu/jelentesek-inditvanyok-allasfoglalasok>.

<sup>459</sup> The CFR's public statements are available here in Hungarian: <https://www.ajbh.hu/kozlemenyek>; the collection of news pieces is available here: <https://www.ajbh.hu/hirek-esemenyek>.

<sup>460</sup> *Report on the Activities of the Commissioner for Fundamental Rights of Hungary and its Deputies in 2023*, [https://www.ajbh.hu/documents/14315/8220512/AJBH\\_annual\\_report\\_2023.pdf/3580b116-0faf-4966-c991-d4e735e09299?version=1.0&t=1734948427245](https://www.ajbh.hu/documents/14315/8220512/AJBH_annual_report_2023.pdf/3580b116-0faf-4966-c991-d4e735e09299?version=1.0&t=1734948427245)

<sup>461</sup> For more details, see: *Country report – Non-discrimination – Hungary, 2021*, <https://www.equalitylaw.eu/downloads/5732-hungary-country-report-non-discrimination-2022-1-63-mb>, pp. 100-115.

<sup>462</sup> Act XXV of 2023 on Complaints, Public Interest Disclosures and Rules Related to Reporting Abuses

<sup>463</sup> Háttér Society – Hungarian Helsinki Committee, *The last piece of the puzzle? – Assessing the performance of Hungary's national human rights institution*, 2024, [https://helsinki.hu/en/wp-content/uploads/sites/2/2024/12/HHC\\_Assessment\\_of\\_Hungarian\\_NHRI\\_2024.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2024/12/HHC_Assessment_of_Hungarian_NHRI_2024.pdf)

about the enforcement of the principle of equal treatment. In addition, the hierarchisation of protected characteristics can be observed, with sexual orientation, gender identity, race/ethnicity, and political opinion being sidelined.

- Weakened protection against police abuse: the CFR's Office does not provide the issue with sufficient public visibility, its data collection efforts in the area are very limited, the additional powers provided to it are not applied at all, the proceedings have become much longer, and the number of complaints has significantly dropped.

The deficiencies identified by the research clearly show that significant institutional, procedural and practical changes would be necessary to enhance or at least restore the previous level of human rights protection in the above areas.

## **7. Statistics/reports concerning the follow-up to recommendations by NHRIs, ombudsman institutions, equality bodies and supreme audit institutions in the past two years**

As referred to above, the CFR (the Ombudsperson), as Hungary's NHRI, also performs the tasks of an equality body under EU law since 2021.

As far as the follow-up to the CFR's recommendations are concerned, its 2022 annual report includes the following: *"In the 226 issued reports, the Ombudsman formulated a total of 169 recommendations, to several addressees in some cases. Of these, our proposals were accepted by the addressees of the recommendations in 153 cases, while they were rejected in 9 cases. When the data of this report were closed, there was an ongoing professional coordination or exchange of opinions in 60 cases."*<sup>464</sup>

The CFR's 2023 annual report states the following in this regard: *"In the 187 reports issued on 327 cases, the Ombudsman formulated a total of 193 recommendations, to several addressees in some cases. Of these, our proposals were accepted by the addressees of the recommendations in 298 cases, while they were rejected in 16 cases. When the data of this report were closed, there was an ongoing professional coordination or exchange of opinions in 10 cases."*<sup>465</sup>

## **C. Accessibility and judicial review of administrative decisions**

### **9.<sup>466</sup> Judicial review of administrative decisions: short description of the general regime**

The general system of judicial review of administrative decisions has not changed in 2024: the review takes place on three different ordinary court levels and on four different instances.

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<sup>464</sup> Report on the Activities of the Commissioner for Fundamental Rights of Hungary and its Deputies in 2022, [https://www.ajbh.hu/documents/14315/7850978/AJBH\\_annual\\_report\\_2022.pdf/f87945f3-3abb-8ae7-c5d4-f427964f2acc?version=1.0&t=1705311325562](https://www.ajbh.hu/documents/14315/7850978/AJBH_annual_report_2022.pdf/f87945f3-3abb-8ae7-c5d4-f427964f2acc?version=1.0&t=1705311325562), pp. 48-50.

<sup>465</sup> Report on the Activities of the Commissioner for Fundamental Rights of Hungary and its Deputies in 2023, [https://www.ajbh.hu/documents/14315/8220512/AJBH\\_annual\\_report\\_2023.pdf/3580b116-0faf-4966-c991-d4e735e09299?version=1.0&t=1734948427245](https://www.ajbh.hu/documents/14315/8220512/AJBH_annual_report_2023.pdf/3580b116-0faf-4966-c991-d4e735e09299?version=1.0&t=1734948427245), p. 44.

<sup>466</sup> Note that no response was provided to Question IV.8. on the "Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)".

(i) First instance judicial review is carried out by eight designated regional courts.<sup>467</sup> Exceptionally, in certain cases defined by law, such as electoral and referendum cases and freedom of assembly cases,<sup>468</sup> the Kúria acts as first instance court.<sup>469</sup> (ii) Second instance judicial review of administrative decisions is carried out by the Metropolitan Court of Appeal (with respect to decisions delivered by regional courts) and the Kúria (with respect to decisions delivered by the Metropolitan Court of Appeal).<sup>470</sup> (iii) Extraordinary review of final and binding judgments is exclusively carried out by the Kúria.<sup>471</sup> In addition, and constituting a fourth instance of review, (iv) the Kúria's uniformity complaint chamber holds powers to review and overrule the final and binding decisions delivered by other chambers of the Kúria. The chamber may also issue uniformity decisions establishing mandatory interpretations of the law for lower tier courts and administrative organs.<sup>472</sup>

The jurisprudence of the uniformity complaint chamber is of key importance for the outcome of individual administrative cases and the jurisprudence of all Hungarian courts in administrative matters. Despite the key importance of its adjudicative activity, the new provisions introduced by the judicial reform in 2023<sup>473</sup> on the composition of the uniformity complaint chambers do not adequately guarantee the required level of autonomy and professionalism in its decision-making. The Kúria President holds strong formal and informal powers in the uniformity complaint proceeding<sup>474</sup> and the size of the chamber is not defined by law with sufficient clarity.<sup>475</sup> No adjustment of the chamber's composition depending on the subject matter of the case is legally required, posing a risk that cases will not be adjudicated in a professional manner.

In practice, the uniformity complaint chamber may overturn a long-standing administrative jurisprudence of the Kúria with a uniformity decision delivered even if it is not composed in majority of judges assigned to administrative cases.

As a general rule, judicial review does not suspend the execution of administrative decisions.<sup>476</sup> However, parties seeking judicial review may request the court for interim measures, including suspension of execution or pretrial collection of evidence.<sup>477</sup>

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<sup>467</sup> Act CLXXXIV of 2010 on the Names of the Courts, their Seats and their Territorial Jurisdiction, Annex 4

<sup>468</sup> Act I of 2017 on Public Administration Procedure, Article 12(3)

<sup>469</sup> Act I of 2017 on Public Administration Procedure, Article 7(1)

<sup>470</sup> Act I of 2017 on Public Administration Procedure, Article 7(2)

<sup>471</sup> Act I of 2017 on Public Administration Procedure, Article 7(3)

<sup>472</sup> After being published in the National Gazette, the application of these uniformity decisions is compulsory for all ordinary courts.

<sup>473</sup> Act X of 2023 on the Amendment of Certain Laws on Justice related to the Hungarian Recovery and Resilience Plan

<sup>474</sup> The Kúria President holds the right to become the presiding judge in a uniformity complaint case, and because this chamber is composed solely of senior court officials (the Kúria Secretary General, chairs and vice-chairs of departments, presiding judges), he/she holds the administrative powers to appoint judges who may become members of the chamber. Through this privileged role, the Kúria President holds a strong formal and informal power in the adjudication of individual cases and in shaping the mandatory interpretation of the law.

<sup>475</sup> The provisions leave a wide margin for manoeuvre in practice. As a main rule, it is a 40-judge chamber, but alternatively it can adjudicate in two 20-judge sub-chambers as well. The legislation fully leaves it to the decision of departments of judges (although not quite clear whether their agreement should be unanimous in this matter) to decide on the application of the main rule, or the exception. The rules do not address the situation where the number of these senior officials exceeds 40 or is less than 40.

<sup>476</sup> Act I of 2017 on Public Administration Procedure, Article 39(6)

<sup>477</sup> Act I of 2017 on Public Administration Procedure, Article 50(2)

Since 1 March 2020, appeals against first instance decisions of administrative authorities have to be challenged before the court instantly. Moreover, from 1 March 2022, the law opened the way to some first instance administrative cases to be decided solely by the Metropolitan Regional Court of Appeal (although so far, only one type of case has been set by the law),<sup>478</sup> further limiting access to court in those cases.

Judges dealing with administrative cases shall explicitly be assigned for this task within the ordinary court system.<sup>479</sup> Assignments are granted based on the proposal of court presidents, but the final decision is taken by full discretion of the NOJ President (or the Kúria President with respect to judges serving at the Kúria).<sup>480</sup> The assignment can be terminated by the NOJ President or the Kúria President any time without the consent of the assigned judge, however, in such a case the NJC's consent must be obtained<sup>481</sup> and the decision must be justified.<sup>482</sup> Neither the criteria nor the terms of an assignment or the termination thereof are set out by law. The use of assignment for an entire branch of adjudication could lead to misuse of powers, since the failure or refusal to assign a judge to an administrative judicial post may prevent the filling of the judicial post which has been awarded via a formal application procedure. Further guarantees are required against misuse of powers, including criteria for assignment in law and extending the right of consent of the NJC so that it covers the decision on assignment, in addition to its termination.

## 10. Rules and practices related to the application by all courts, including constitutional jurisdictions, of the preliminary ruling procedure (Art. 267 TFEU)

(1) As also acknowledged by the 2024 Rule of Law Report the compatibility of the Hungarian uniformity complaint system with the EU law raises concerns.<sup>483</sup> In 2020, a new uniformity complaint system was introduced in Hungary, which in its current form can be applied to block the binding direct effect of EU law and judgments of the CJEU and the ECtHR as follows. Uniformity decisions shall be deemed as quasi laws within the Hungarian legal system, and therefore, judges and courts are subordinated to them to the same extent as to legal norms.<sup>484</sup> Although the possibility to challenge uniformity decisions before the CC is granted by the law, according to the practice of the CC *“the fact that a judge disagrees with the uniformity decision and tries to justify a different interpretation of the law which he or she considers to be correct does not justify the CC's action”*.<sup>485</sup> This practice was welcomed by the Kúria President in his annual report at the Parliament, who claimed that *“[t]he more controversial a legal interpretation [provided by the uniformity complaint panel] is – and accordingly the more difficult it is for the uniformity complaint panel to pass the uniformity decision – the greater the chance that it will*

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<sup>478</sup> Article 12(2) of Act I of 2017 on Public Administration Procedure only channels to the Metropolitan Regional Court of Appeal matters related to appointing which administrative authority shall process the administrative case. Other cases may be determined by other laws in the future.

<sup>479</sup> Act CLXII of 2011 on the Legal Status and Remuneration of Judges, Article 30

<sup>480</sup> Assigned judges shall grant their consent to the assignment. [Act CLXII of 2011 on the Legal Status and Remuneration of Judges, Article 30(3)]

<sup>481</sup> Act CLXI of 2011 on the Organisation and Administration of Courts, Article 30(7a)

<sup>482</sup> Act CLXI of 2011 on the Organisation and Administration of Courts, Article 77(2)

<sup>483</sup> European Commission, *2024 Rule of Law Report – Country Chapter on the rule of law situation in Hungary*, [https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6\\_en?filename=40\\_1\\_58071\\_coun\\_chap\\_hungary\\_en.pdf](https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6_en?filename=40_1_58071_coun_chap_hungary_en.pdf), p. 7.

<sup>484</sup> Fundamental Law of Hungary, Article 25(3)

<sup>485</sup> Constitutional Court, Decision 3218/2023. (V. 5.) AB, para. 34. and Decision 3390/2023. (VII. 27.) AB, para. 28.

be challenged before the Constitutional Court. That is why the Constitutional Court's decision was very significant, in which it ruled in a specific case that other courts do not have any means to challenge the Kúria's decision on a point of law."<sup>486</sup>

In a uniformity decision delivered in 2021,<sup>487</sup> the Kúria declared that the rulings of the CJEU should not have *erga omnes* effect vis-à-vis third parties.<sup>488</sup> In connection with this, the Kúria emphasised<sup>489</sup> that if a new interpretation of EU law by the CJEU conflicts with the obligatory interpretation having previously been adopted by the Kúria, Kúria judges must request the Kúria's uniformity complaint chamber to cancel the binding force of its previous uniformity decision in a separate procedure,<sup>490</sup> and may not simply put aside on their own accord the Kúria's obligatory interpretation. This is in clear violation of the primacy of the EU *acquis* as stipulated amongst others in the *Costa v. ENEL* judgment of the Court.

In addition to the above, the Venice Commission found the uniformity complaint system to be in clear violation of the principle of judicial independence and recommended Hungary to modify the uniformity complaint system,<sup>491</sup> because it found that it creates a hierarchical organisation within the judiciary in the sense that it subordinates judges to higher instances in their judicial decision-making activity. In its current form, the uniformity complaint system does not allow lower tier courts to deviate from the uniformity decisions under any circumstances. Once a uniformity decision is taken by the Kúria, it is obligatory to all judges within the system and no deviation is allowed from it, not even by other chambers of the Kúria. In case of lower tier courts a uniformity decision can only be delivered, repealed or modified based on the motion of court leaders, making the possibility to create an obligatory interpretation based on management decisions.<sup>492</sup>

(2) Despite holding the power to review final and binding judgments of ordinary courts, the CC has never turned to the CJEU with a preliminary reference. Even in cases where the compatibility of the Hungarian legislation with the *acquis* was questioned by the European Commission, the CC avoided initiating a dialogue under Article 267 TFEU with the CJEU by suspending the proceedings.<sup>493</sup>

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<sup>486</sup> See the minutes of the hearing of the Kúria President at the Parliament: <https://tinyurl.com/2r2kv2am>.

<sup>487</sup> Jpe.II.60.027/2021/8., <https://kuria-birosag.hu/hu/jogegysegi-panasz/jpeii6002720218-szamu-hatarozat>

<sup>488</sup> According to the Kúria, "decisions of the CJEU in preliminary rulings are only binding on the parties concerned and have relative effect. This means that a decision on the interpretation of EU law does not, as a rule, have *erga omnes* effect beyond the case, nor does it extend to all the parties [in all proceedings]."

<sup>489</sup> See the Kúria's public statement relating to the CJEU's judgment in the Case C-537/22, *Global Ink Trade*: <https://kuria-birosag.hu/hu/sajto/magyarorszag-i-korlatozott-precedens-rendszer-osszhangban-van-az-europai-unio-jogaval>.

<sup>490</sup> Based on Act CLXI of 2011 on the Organisation and Administration of the Courts, Articles 32(1)(b) and 33(1)(b).

<sup>491</sup> European Commission for Democracy through Law (Venice Commission), *Hungary – Opinion on the amendments to the Act on the organisation and administration of the Courts and the Act on the legal status and remuneration of judges adopted by the Hungarian parliament in December 2020*, CDL-AD(2021)036, 16 October 2021, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2021\)036-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)036-e), paras 35-49.

<sup>492</sup> Based on Act CLXI of 2011 on the Organisation and Administration of the Courts, Article 27(2).

<sup>493</sup> See Decisions 22/2016. (XII. 15.) AB, 2/2019. (III. 5.) AB and 32/2021. (XII. 20.) AB of the CC. The respective orders on suspension have been deleted from the website of the CC; see the relevant press release here: <https://alkotmanybirosag.hu/kozlemeny/az-alkotmanybirosag-az-europai-alkotmanyos-parbeszed-jegyeben-felfuggesztette-eljarasat-a-nemzeti-felsooktatasi-torvenyt-es-a-civil-torvenyt-erinto-ugyekben/>.

(3) Despite legislative modifications of Act XC of 2017 on the Code of Criminal Procedure (CPC)<sup>494</sup> required under the horizontal enabling conditions, Judgment C-564/19<sup>495</sup> of the CJEU remains partially unimplemented and may prompt Hungarian judges to refrain from referring questions for a preliminary ruling to the CJEU. While procedural obstacles to making a preliminary reference were abolished, the modifications adopted failed to address the effects of the binding precedential decision by the Kúria,<sup>496</sup> according to which referring a question to the CJEU is unlawful under Hungarian law if the question referred is not relevant to and necessary for the resolution of the dispute concerned. In order to exclude the direct effect of the precedential decision of the Kúria, all relevant procedural codes<sup>497</sup> should be modified expressly declaring that requesting a preliminary ruling from the CJEU is a right of Hungarian judges, the exercise of which falls within their judicial discretion and cannot constitute a breach of the law.<sup>498</sup>

## **11. Implementation of final judgments by the public administration and State institutions and follow-up given to supranational judgments, including decisions from the European Court of Human Rights, as well as available remedies in case of non-implementation**

### **(1) Non-execution of domestic court decisions**

It continues to be an issue that domestic court judgments obliging state bodies to disclose public data are often not complied with, and court decisions issued e.g. in press rectification and personality rights lawsuits launched against government-affiliated media are often not executed either (or only after repeated sanctions are imposed on the media outlets by the courts overseeing the execution of judgments). As detailed in our previous contributions,<sup>499</sup> one of the systemic problems contributing to this is the lack of effective and genuinely coercive enforcement tools: the sanction regime for non-execution has no deterrent/dissuasive effect, and the enforcement proceedings are excessively long. Civil society organisations argued that this amounts to the non-implementation of the ECtHR judgment in the *Kenedi v. Hungary* case.<sup>500</sup> Subsequently, the Department for the Execution of Judgments requested the Hungarian authorities to submit a revised action plan/report on the adoption of targeted general measures, considering that “*it appears that the violations in the [...] case cannot be considered an isolated incident*”.<sup>501</sup> The Government submitted a new action

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<sup>494</sup> With effect of 13 February 2024, Article 490 of Act XC of 2017 on the Code of Criminal Procedure is modified to eliminate the wording that expressly confirmed the Kúria precedent, nevertheless it does not exclude the applicability of the Kúria precedent.

<sup>495</sup> Judgment C-564/19 (EU:C:2021:949), as a result of a request for a preliminary ruling from the Pesti Központi Kerületi Bíróság (Hungary) lodged on 24 July 2019 in the criminal proceedings against IS

<sup>496</sup> Decision Bt.III.838/2019/11. of the Kúria. See in Hungarian here:

[https://helsinki.hu/wpcontent/uploads/2022/11/Bt.838\\_2019\\_11.pdf](https://helsinki.hu/wpcontent/uploads/2022/11/Bt.838_2019_11.pdf).

<sup>497</sup> Besides the CPC, all other procedural laws, including civil and administrative, should be amended, as the current precedent also applies beyond the CPC, to all branches of adjudication.

<sup>498</sup> See the argumentation of the Kúria President put forward at the 5-6 December 2023 meeting of the NJC here: <https://obt2018.hu/download/az-obt-2023-december-5-es-6-napjan-megtartott-ulesenek-jegyzokonyve/>, p. 20.

<sup>499</sup> *Contributions of Hungarian CSOs to the European Commission’s Rule of Law Report*, January 2023, [https://helsinki.hu/en/wp-content/uploads/sites/2/2023/01/HUN\\_CS0\\_contribution\\_EC\\_RoL\\_Report\\_2023.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2023/01/HUN_CS0_contribution_EC_RoL_Report_2023.pdf), pp. 64-65.

<sup>500</sup> The communication submitted by the Hungarian Civil Liberties Union, the Hungarian Helsinki Committee, K-Monitor and Transparency International Hungary to the Committee of Ministers of the Council of Europe in May 2024 is available here: [https://helsinki.hu/en/wp-content/uploads/sites/2/2024/05/Kenedi\\_v\\_Hungary\\_Rule\\_9\\_23052024.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2024/05/Kenedi_v_Hungary_Rule_9_23052024.pdf).

<sup>501</sup> <https://hudoc.exec.coe.int/eng?i=004-11114>

report in the case in October 2024,<sup>502</sup> but the Committee of Ministers of the Council of Europe (CoE) did not find this satisfactory: in a decision issued in December 2024, it “called on the authorities to adopt additional targeted general measures (i) to address the reoccurring reluctance of state authorities to comply with the domestic courts’ orders granting access to documents, and (ii) to ensure that effective and genuinely coercive enforcement tools are available for the implementation of such orders”, and “decided to transfer this case to the enhanced supervision procedure to avoid any further delay”.<sup>503</sup>

Decisions of the Constitutional Court are not always implemented either. As of 14 January 2024, there were 14 decisions in which the Constitutional Court declared that a legislative omission resulted in the violation of the Fundamental Law, but the Parliament had failed to remedy the situation. The court-set deadline expired in 13 of these cases, the oldest one in 2013.<sup>504</sup>

## (2) Non-execution of European court judgments

Hungary’s record of implementing ECtHR judgments remains poor. As also included in the 2024 Rule of Law Report, on 1 January 2024, Hungary had 45 leading ECtHR judgments pending implementation, and the rate of leading judgments from the past 10 years that remain pending was at 76% (compared to 71% in 2023).<sup>505</sup> This was the highest within the EU and the third highest among current CoE countries.<sup>506</sup> On 14 January 2025, the number of pending leading judgments was 47.<sup>507</sup> Pending leading cases concern crucial human rights issues, including unchecked secret surveillance, freedom of expression of judges, excessive length of judicial proceedings, whole life imprisonment, police ill-treatment, and discrimination of Roma children in education.<sup>508</sup> In 2024, 14 Hungarian cases under enhanced procedure were on the agenda of CM-DH meetings. The Committee of Ministers of the CoE found implementation insufficient in all of them, and issued interim resolutions in two cases: in the *Gazsó v. Hungary* group of cases concerning excessive length of proceedings, and in the *László Magyar v. Hungary* group of cases concerning whole life imprisonment.<sup>509</sup> In addition,

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<sup>502</sup> DH-DD(2024)1203, [https://hudoc.exec.coe.int/?i=DH-DD\(2024\)1203E](https://hudoc.exec.coe.int/?i=DH-DD(2024)1203E)

<sup>503</sup> CM/Del/Dec(2024)1514/H46-41, <https://search.coe.int/cm/eng?i=0900001680b296a8>

<sup>504</sup> The list of the respective Constitutional Court decisions is available here: <https://www.parlament.hu/az-orszagguyeles-donteseire-vonatkozo-alkotmanybirosagi-hatarozatok>.

<sup>505</sup> European Commission, 2024 Rule of Law Report – Country Chapter on the rule of law situation in Hungary, [https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6\\_en?filename=40\\_1\\_58071\\_coun\\_chap\\_hungary\\_en.pdf](https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6_en?filename=40_1_58071_coun_chap_hungary_en.pdf), p. 36.

<sup>506</sup> See: <https://www.einnetwork.org/countries-overview>.

<sup>507</sup> See: HUDOC-EXEC, <http://tinyurl.com/uxxk954r>.

<sup>508</sup> See, respectively: *Szabó and Vissy v. Hungary*, <http://hudoc.exec.coe.int/eng?i=004-10745>; *Baka v. Hungary*, <http://hudoc.exec.coe.int/eng?i=004-10859>; *Gazsó v. Hungary* group of cases, <http://hudoc.exec.coe.int/eng?i=004-10875>; *László Magyar v. Hungary* group of cases, <https://hudoc.exec.coe.int/eng?i=004-10897>; *Gubacsi v. Hungary* group of cases, <https://hudoc.exec.coe.int/eng?i=004-10515>; *Horváth and Kiss v. Hungary*, <http://hudoc.exec.coe.int/eng?i=004-10905>.

<sup>509</sup> The cases on the agenda: *Bakirdzi and E.C. v. Hungary* (decision CM/Del/Dec(2024)1492/H46-16, <https://search.coe.int/cm?i=0900001680aec1fc>), *Horváth and Kiss / Szolcsán v. Hungary* (decision CM/Del/Dec(2024)1492/H46-17, <https://search.coe.int/cm?i=0900001680aec1fe>), *Varga and Others and István Gábor Kovács v. Hungary* group (decision CM/Del/Dec(2024)1492/H46-18, <https://search.coe.int/cm?i=0900001680aec201>), *Baka v. Hungary* (decision CM/Del/Dec(2024)1501/H46-15, <https://search.coe.int/cm?i=0900001680b0495d>), *Gazsó v. Hungary* group (decision CM/Del/Dec(2024)1501/H46-16, <https://search.coe.int/cm?i=0900001680b04961> and interim resolution CM/ResDH(2024)119, <https://search.coe.int/cm/eng?i=0900001680b05d03> – see also under Question I.15. of the current contribution in more detail), *Szabó and Vissy v. Hungary* group (decision CM/Del/Dec(2024)1501/H46-

as mentioned above, the *Kenedi v. Hungary* case (concerning the non-execution of freedom of information judgments) was transferred to the enhanced supervision procedure in December 2024.<sup>510</sup> There is still no separate national structure to bring together various actors to coordinate the implementation of ECtHR judgments; meaningful parliamentary oversight is still lacking.<sup>511</sup>

In the past few years, severe problems have emerged with regard to the execution of the judgments of the CJEU as well, amounting to non-compliance. A recent study published in 2024 found in this regard that out of the 19 rule of law related rulings issued between 1 January 2019 and 1 January 2024 that were examined, 10 have been complied with only partially by Hungary, while two have not been complied with at all.<sup>512</sup> The failure to execute the CJEU's judgment in Case C-808/18, which in practice means that push-backs of third-country nationals to Serbia continue *en masse* to this day, prompted the CJEU to impose a substantial fine on Hungary in June 2024, pointing out that the failure to comply with the judgment constitutes an unprecedented and extremely serious infringement of EU law.<sup>513</sup> However, the Hungarian government has not taken any steps to date to rectify the problem – to the contrary, one of the topics featured in a so-called “national consultation” campaign carried out in 2024 sought to build narrative support for the continued non-compliance with the judgment.<sup>514</sup>

## D. The enabling framework for civil society

### 12. Measures regarding the framework for civil society organisations and human rights defenders

#### (1) Freedom of association

The general legislation (Act V of 2013 on the Civil Code and Act CLXV of 2011 on the Freedom of Association, Public Benefit Status and the Operation and Financing of Civil Society Organisations) governing the establishment, operation and dissolution of CSOs (associations, foundations and civic groups) did not change in 2024 for either better or worse, and conforms to relevant human rights standards. According to the latest official statistical data, in 2023 approximately 53,700 associations and foundations were active, with a slight (<200) increase

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17, <https://search.coe.int/cm?i=0900001680b04963>), *Ilias and Ahmed and Shahzad v. Hungary groups* (decision CM/Del/Dec(2024)1507/H46-11, <https://search.coe.int/cm?i=0900001680b191c4>), *László Magyar v. Hungary group* (interim resolution CM/ResDH(2024)202, <https://search.coe.int/cm/eng?i=0900001680b18fc3>), *Rana v. Hungary group* (CM/Del/Dec(2024)1507/H46-13, <https://search.coe.int/cm?i=0900001680b191c8>), *Alhowais and Shahzad (No. 2) v. Hungary* (decision CM/Del/Dec(2024)1514/H46-18, <https://search.coe.int/cm?i=0900001680b29672>), *Gubacsi v. Hungary group* (decision CM/Del/Dec(2024)1514/H46-19, <https://search.coe.int/cm?i=0900001680b29675>).

<sup>510</sup> CM/Del/Dec(2024)1514/H46-41, <https://search.coe.int/cm?i=0900001680b296a8>

<sup>511</sup> For a detailed description of the issue, see: Hungarian Helsinki Committee, *Non-Execution of Domestic and International Court Judgments in Hungary*, December 2021, [https://helsinki.hu/en/wp-content/uploads/sites/2/2021/12/HHC\\_Non-Execution\\_of\\_Court\\_Judgments\\_2021.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2021/12/HHC_Non-Execution_of_Court_Judgments_2021.pdf), pp. 50-54.

<sup>512</sup> Democracy Reporting International – European Implementation Network, *Justice Delayed and Justice Denied: Non-Implementation of European Courts Judgments and the Rule of Law*, 2024 Edition, <https://static1.squarespace.com/static/55815c4fe4b077ee5306577f/t/66ed8049848b160f452bad6f/1726840921344/Justice+Delayed%2C+Justice+Denied+2024+Edition.pdf>

<sup>513</sup> See: <https://curia.europa.eu/jcms/upload/docs/application/pdf/2024-06/cp240099en.pdf>.

<sup>514</sup> See the list of questions and the possible responses on the Government's website: <https://kormany.hu/hirek/hetfotol-indul-a-nemzeti-konzultacio-ime-a-kerdesek>.

in the number of the former compared to the previous year.<sup>515</sup> CSOs are obliged to publish their annual report in the online registry maintained by the court. There were no reports of forced dissolutions of CSOs. A uniformity decision issued by the Kúria in November 2024 (16/2024. JEH) introduced a change in the registration fees for foundations, exempting only those that either have a public benefit status or oblige themselves to obtain it within two years. Further, the initial proposal for a court reform (see in detail in Chapter I.) by the Government included the possibility to transfer the registration of legal persons, including CSOs from the courts to an administrative body, likely the Ministry of Justice. By the end of the year no more concrete details emerged in this matter.

## (2) Freedom of peaceful assembly

Assembly law and related regulations did not change in 2024. The police are generally cooperative during both the notification and the execution of peaceful assemblies, though the blanket ban on Palestine solidarity demonstrations remained in effect, and the decision was even upheld by the Kúria and the Constitutional Court.<sup>516</sup> Still, in August 2024 one such small event took place peacefully, held under the guise of “World's Indigenous Peoples Day Protest”. In 2024 there were generally fewer assemblies than in preceding years.

## (3) Freedom of expression and the right to privacy

No changes occurred in the legislation of freedom of expression and privacy, and no cases of surveillance or outright censorship came to light either. At the same time, independent media and civil society work under increasingly difficult circumstances, with some reported incidents of excessive police measures (e.g. when officers tried to confiscate the camera of the crew of online news portal Telex at a public forum of a Fidesz MP<sup>517</sup>), smear campaigns, and defamation cases initiated by government officials.<sup>518</sup>

## 13. Rules and practices having an impact on the effective operation and safety of civil society organisations and human rights defenders

In 2024, the implementation of the Sovereignty Protection Act construed the major threat to and chilling effect on CSOs, independent media and activists. After some initial delay, the Sovereignty Protection Office foreseen by the Sovereignty Protection Act was established during the spring, now with a total workforce of over a hundred, in spite of the infringement procedure launched in February 2024 by the European Commission concerning its legal basis. Its first “investigations” targeted the investigative news portal Átlátszó,<sup>519</sup> Transparency International Hungary,<sup>520</sup> Átlátszónet Foundation,<sup>521</sup> and a local CSO, Göd-ÉRT Association, each of which received a request with a long list of documents and information to be

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<sup>515</sup> Central Statistical Office, [https://www.ksh.hu/stadat\\_files/gsz/hu/gsz0014.html](https://www.ksh.hu/stadat_files/gsz/hu/gsz0014.html)

<sup>516</sup> See e.g.: <https://ataszjelenti.444.hu/2024/05/15/ha-a-bekeparti-miniszterelnok-megtiltja-a-beketuntetest-arranem-vonatkozik-a-jog>.

<sup>517</sup> See e.g.: <https://helsinki.hu/a-telex-ujsgairoi-megpanaszoltak-a-rendorseg-onkenyes-intezkedeseit/>.

<sup>518</sup> See e.g.: <https://24.hu/belfold/2024/10/01/orban-viktor-24hu-per-itelotabla-uj-eljaras>.

<sup>519</sup> See: <https://english.atlatszo.hu/2024/06/25/the-sovereignty-protection-office-launched-an-investigation-against-atlatszo/>.

<sup>520</sup> See: <https://transparency.hu/en/news/spo-targets-ti-hungary/>.

<sup>521</sup> See: <https://english.atlatszo.hu/2024/09/14/ngo-that-revealed-samsungs-pollution-targeted-by-sovereignty-protection-office/>.

submitted to the SPO.<sup>522</sup> (It shall be highlighted that Transparency International Hungary is a member of one of the domestic Monitoring Committees monitoring the use of EU funds and the public procurement performance measurement framework, and both Transparency International Hungary and Átlátszó are members of the Anti-Corruption Task Force established as one of the conditions to access certain EU funds.) All of them denied full cooperation, directing the SPO to their publicly available data.<sup>523</sup> As the SPO has no sanctioning powers, the investigated organisations suffered no direct consequences, but the SPO already published its “findings” regardless on Átlátszó<sup>524</sup> and Transparency International Hungary,<sup>525</sup> containing accusations and misinformation verging on conspiracy theories. At the same time, according to the Sovereignty Protection Act, the investigated organisations have no legal remedies available against these untruthful or misleading statements. Transparency International Hungary turned to the Constitutional Court to challenge the law which on 15 November 2024 ruled against the motion and upheld the constitutionality of the Sovereignty Protection Act<sup>526</sup> (see under Question IV.5. above). The case will likely continue at the ECtHR.

From among the SPO investigations the case of Göd-ÉRT is a special one: this local CSO has for long been engaged in the struggle against a major car battery factory north of Budapest, and was partner in a project led by Átlátszónet Foundation, aimed at creating a network of similar groups around the country, supported by a grant from the EU’s Citizens, Equality, Rights and Values (CERV) programme. At the municipal elections in June they nominated candidates for the local assembly (successfully), and the SPO raised the suspicion of them using foreign funding for the election campaign, though the association withdrew from the programme and ceased its partnership with Átlátszónet Foundation prior to the start of the campaign. This case sends a strong signal to local organisations aiming to engage and participate in public matters locally.

Finally, just before Christmas, the SPO also published an “analysis” concerning the grant-making activities of Ökotárs Foundation.<sup>527</sup>

Beside the intimidating impacts of the SPO’s operations, occasional smear campaigns in the pro-government media could also be observed, though probably with lower intensity than in the previous years, as attention was mainly focused on the new political challenger of the Government, Péter Magyar. One of the main targets of the campaigns was the Free Media re-

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<sup>522</sup> Ibid.

<sup>523</sup> See: <https://atlatszo.hu/kozugy/2024/07/08/se-politikai-part-se-jelolo-szervezet-nem-vagyunk-kozhatalmat-sem-gyakorlunk-ezert-nem-mukodunk-egyutt-a-szuverenitasvedelmi-hivatallal/>, <https://transparency.hu/hirek/ti-hu-szyh-valasz/>, <https://transparency.hu/hirek/szuverenitasvedelmi-hivatal-megismetelt-valasz/>, <https://atlatszo.hu/orszagszerte/2024/09/12/a-god-ert-egyesuletet-is-kipecezte-a-szuverenitasvedelmi-hivatal/>, <https://www.godert.hu/uncategorized/vizsgalatot-inditott-ellenunk-a-szuverenitasvedelmi-hivatal/>.

<sup>524</sup> The report is available here in Hungarian: <https://szuverenitasvedelmihivatal.hu/dokumentumok/az-atlatszo-tevekenysegenek-hatasa-a-magyar-szuverenitasra.pdf>. An English summary is available here: <https://szuverenitasvedelmihivatal.hu/dokumentumok/the-impact-of-atlatszos-activities-on-hungarian-sovereignty.pdf>.

<sup>525</sup> The report is available here in Hungarian: <https://szuverenitasvedelmihivatal.hu/dokumentumok/A-Transparency-International-Magyarorszag-tevekenysegenek-hatasa-a-magyar-szuverenitasra.pdf>. An English summary is available here: <https://szuverenitasvedelmihivatal.hu/dokumentumok/The-impact-of-Transparency-International-Hungarys-activities-on-Hungarian-sovereignty.pdf>.

<sup>526</sup> Constitutional Court, Decision 20/2024. (XI. 28.) AB

<sup>527</sup> The analysis is available here in Hungarian: <https://szuverenitasvedelmihivatal.hu/dokumentumok/az-okotars-tevekenysegenek-hatasa-a-magyar-szuverenitasra.pdf>.

granting programme supporting independent outlets, managed by Mérték Media Monitor and Ökotárs Foundation and funded by the US Embassy in Budapest.<sup>528</sup>

Beyond propaganda, a notable incident concerned the “Common City” (“Közös Város”) festival bringing together 23 CSOs in Debrecen (the second largest city), organised by Amnesty International Hungary and the Association of Alternative Communities, a local CSO. The original venue, owned by the University of Debrecen, cancelled the event 10 days before its date, and although the organisers found an alternative one, this also stepped back in the very last moment, with a dubious justification of technical problems and clashing programs.<sup>529</sup> It is generally becoming increasingly difficult for CSOs in countryside towns to find venues for their events locally.

Towards the end of the year, a draft government decree on the further education of teachers was published for consultation.<sup>530</sup> If accepted, this would further narrow CSOs’ (already limited) possibilities to cooperate with schools by making the National University of Public Service and the Education Office the sole provider of credits for attending trainings and events. (Currently, many CSOs provide such services to schools.)

#### **14. Organisation of financial support for civil society organisations and human rights defenders**

The financial conditions of civil society did not change significantly in 2024. The total income of associations and foundations in 2023, according to the most recent official statistics, grew somewhat compared to the year before: it was HUF 1,345 billion as opposed to 1,270 (€ 3.36 vs. € 3.3 billion), and its composition remained the same: roughly 40% public and 22% private funding, the remaining being business and other income. The majority of CSOs work on a small annual budget (less than HUF 5 million, € 12,500) and therefore on a mostly voluntary basis, which seriously limits their capacities. This is visible especially in the countryside, where CSOs must increasingly make up for missing or insufficient services (in social care, education, etc.) of the institutional system.

The awarding of public funding continues to lack transparency, and appears to be politically biased. As it was stated many times before, CSOs viewed as critical – those engaged in human rights, democracy, gender issues, independent arts, etc. – are usually simply not able to secure public funding, therefore they continue to rely on international sources, especially the re-granting programmes funded by CERV, the USAID as well as philanthropic donors, which remained active in 2024, too.

The main victim of systematic de-funding campaigns continued to be the Oltalom Charitable Association and the related Hungarian Evangelical Fellowship (HEF). The latest development in their harassment came in late August 2024, when the licences of several of their schools, visited mostly by disadvantaged children were suddenly withdrawn by the Government

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<sup>528</sup> See e.g.: <https://pestisracok.hu/most-epp-ennyi-penzt-kapott-a-baloldali-fuggetlen-media-az-amerikai-kulugytol/>.

<sup>529</sup> See e.g.: <https://debreciner.hu/cikk/koz-os-varost-debrecen-civil-fesztival-amnesty-international-papp-laszlo-polgarmester-debrecen-debreciner-20240927>.

<sup>530</sup> See: <https://cdn.kormany.hu/uploads/document/1/16/163/163c3289f85a4e698689ee3faddbf4a026bebe34.pdf>.

allegedly because of their unpaid taxes and utility bills<sup>531</sup> – accrued primarily because of the missing public funding they have been deprived of for years (because HEF was stripped of its church status and its related funding in 2011, and because it has not been recognized as an incorporated church afterwards, meaning that it cannot access grants obtainable only by incorporated churches).

Otherwise, crowdsourcing remained an important income for many CSOs. The total amount of the income tax 1% designations to CSOs grew by HUF 2 billion to 17.3 billion (€ 43.25 million) compared to the previous year, though the number of taxpayers using this opportunity decreased slightly, by 3%.<sup>532</sup> While more traditional charities remain the main beneficiaries, Partizán, an independent, political media in the form of a YouTube channel topped the list, collecting HUF 415 million (more than € 1 million) from this source.

The 25% immigration tax remains in effect, though not implemented. There is no tax benefit for individual donations and only a very limited one (20% of the corporate tax) for companies.

## E. Initiatives to foster a rule of law culture

### 15. Developments related to initiatives to foster a rule of law culture

No government measures were introduced in 2024 to foster a rule of law culture. Also, the centralised, compulsory curriculum of public education continues to incorporate very few elements of civic education. Instead of “fostering” it, the Government took, as in the previous years, various non-legislative steps that eroded rule of law culture in Hungary, as shown below.

The Government did not organise any meaningful national level discussion about the 2024 Rule of Law Report.

Referring to the 2024 Rule of Law Report (and more specifically referring to the termination of administrative Chamber K.II., the Kúria’s case allocation, and the suspension of the publication of the Kúria’s official court reports in February 2024), the Kúria released a public statement<sup>533</sup> on the Kúria’s official website on 25 July 2024, stating that “*as in previous years, the report contains a number of erroneous conclusions, misstatements and malicious comments about the Kúria, based mainly on misleading information provided by CSOs that contributed to the report*”.

Moreover, the Prosecutor General’s Office also made a public statement<sup>534</sup> in which it stated that “*the Rule of Law Report’s allegations about the prosecution service are untrue and misleading*”.

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<sup>531</sup> See e.g.: <https://telex.hu/belfold/2024/08/27/ivanyi-gabor-magyarorszag-i-evangeliumi-testverkozosseg-budapest-fovaros-kormanyhivatala-fenntarto-oktatas>.

<sup>532</sup> See: <https://www.nonprofit.hu/hirek/Friss-1-eredmenyek-kevesebb-felajanlo-de-nagyobb-osszegek-a-civileknek->

<sup>533</sup> Kúria, Az Európai Bizottság 2024. július 24-én nyilvánosságra hozta a 2024. évi jogállamisági jelentését [On 24 July 2024, the European Commission published its Rule of Law Report 2024], 25 July 2024, <https://kuria-birosag.hu/hu/sajto/az-europai-bizottsag-2024-julius-24-en-nyilvanossagra-hozta-2024-evi-jogallamisagi-jelenteset>

<sup>534</sup> Prosecutor General’s Office, Magyarország Ügyészségének reagálása az Európai Bizottság éves jogállamiság jelentésének ügyészséget érintő valótlan állításaira – a Legfőbb Ügyészség sajtóközleménye [Hungary’s Prosecution

In November–December 2024, the Government pursued a new so-called “national consultation” on new Hungarian economic policies.<sup>535</sup> (“National consultations” are not adequate tools to ensure meaningful public consultations on key issues. They tend to ask manipulative questions on issues politically important for the Government, and not necessarily those important to have public discussions about. Responses are counted in a methodologically neither sound nor controlled manner, therefore, they are not suitable to replace meaningful public consultation, and rather serve as propaganda tools.<sup>536</sup>) In this latest national consultation questionnaire, the Government asked questions about EU institutions including the European Commission (“Brussels”) and also the CJEU, regarding the CJEU judgment imposing a daily € 1 million fine,<sup>537</sup> seeking to build narrative support for the continued non-compliance with the judgment and effectively undermining public trust in CJEU judgments.

The investigations and reports of the Sovereignty Protection Office repeatedly framed EU activities, EU funding and engagement with the EU’s rule of law toolbox as threats to the sovereignty of Hungary, undermining rule of law culture. For example, the questions<sup>538</sup> the SPO sent to Transparency International Hungary concerned, among others, their contributions to the European Commission’s Rule of Law Report and an EU-funded project on whistleblower protection.<sup>539</sup> Questions received by the GÖD-Ért Association and Átlátszónet Foundation concerned an EU-funded project jointly implemented by them that the SPO alleged to pose a threat to the sovereignty of Hungary.<sup>540</sup> The SPO’s analysis published in relation to Ökotárs in December 2024<sup>541</sup> states for example that “*the so-called Rule of Law Reports*” are used against EU member states “*that are politically and socially at odds with the interests of US pressure groups*”, and that “*as of 2021, the Citizens, Equality, Rights and Values (CERV) programme, coordinated by the European Commission [...] has created an opportunity for US interest groups to channel internal EU resources to their political pressure groups in Hungary and across Europe through the occupation of the European Commission*”. Furthermore, in its response to a letter by the Anti-Corruption Task Force, the SPO reiterated that in its view, foreign-funded political pressure groups exploited the Anti-Corruption Task Force to further pressurise the Government of Hungary.<sup>542</sup> These examples show how the SPO’s activities create an

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*Service reacts to the untrue allegations concerning the Prosecution Service in the European Commission's annual Rule of Law Report – press release of the Prosecutor General's Office*, 25 July 2025,

<https://ugyeszseg.hu/magyarorszag-ugyeszsegenek-reagalasa-az-europai-bizottsag-eves-jogallamisag-jelentesenek-ugyeszseget-erinto-valotlan-allitasaira-a-legjobb-ugyeszseg-sajtokozlomenye/>

<sup>535</sup> See: <https://kormany.hu/hirek/hetfotol-indul-a-nemzeti-konzultacio-ime-a-kerdesek>.

<sup>536</sup> Agnes Batory – Sara Svensson, *The use and abuse of participatory governance by populist governments*, *Policy & Politics*, 2019, 47(2), pp. 227-244.

<sup>537</sup> Judgment of the CJEU, Case C-123/22, *European Commission v Hungary*, 13 June 2024, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62022CJ0123>

<sup>538</sup> The SPO’s letter is available here in Hungarian: [https://transparency.hu/wp-content/uploads/2024/06/TI\\_Hu\\_szuverenitasvedelmi\\_hivatal\\_level\\_240618.pdf](https://transparency.hu/wp-content/uploads/2024/06/TI_Hu_szuverenitasvedelmi_hivatal_level_240618.pdf)

<sup>539</sup> See the description of the project here: <https://www.transparency.org/en/projects/speak-up-europe>.

<sup>540</sup> See: <https://english.atlatszo.hu/2024/09/14/ngo-that-revealed-samsungs-pollution-targeted-by-sovereignty-protection-office/>.

<sup>541</sup> The analysis is available here in Hungarian: <https://szuverenitasvedelmihivatal.hu/dokumentumok/az-okotars-tevekenysegenek-hatasa-a-magyar-szuverenitasra.pdf>.

<sup>542</sup> See the respective Resolution 16/2024. (IX. 17.) of the Anti-Corruption Task Force (initiated by CSO members and approved at the plenary session of 17 September 2024 by unanimity vote of CSO members and by full abstention of government-delegated members) here: [https://kemcs.hu/wp-content/uploads/2024/09/jegyzokonyv\\_20240917\\_alairt.pdf](https://kemcs.hu/wp-content/uploads/2024/09/jegyzokonyv_20240917_alairt.pdf), and the SPO’s response here: <https://szuverenitasvedelmihivatal.hu/hirek/valasz-a-kemcs-17-2024-hatarozatarra>.

environment where CSOs can be deterred for example from applying for EU funds, since they can perceive receiving EU funds as a risk, exacerbating the chilling effect of the Sovereignty Protection Act.<sup>543</sup>

## 16. Any other developments related to the system of checks and balances

Legislation and discriminatory practices in Hungary continue to create a hostile environment for LGBTI individuals, contradicting broader European values of equality and non-discrimination that are deeply intertwined with the rule of law. While public opinion is increasingly supportive of LGBTI rights,<sup>544</sup> the Government continues to implement restrictive measures that undermine these advancements.

In April 2024, a government decree<sup>545</sup> introduced the new notion of “defining element” when regulating products portraying or “promoting” “deviation from gender identity corresponding to sex at birth, gender reassignment, homosexuality”. Also, a new rule was introduced prescribing that if a product visibly presents “deviation from gender identity corresponding to sex at birth, gender reassignment, homosexuality”, it cannot be displayed in shop windows or put on public display.<sup>546</sup> If a book contains these features as a “defining element”, the publisher must inform retailers about its content and retailers retain the right to pursue claims against publishers (if relevant) under consumer or commercial law.<sup>547</sup>

By adding that the regulations must be applied when “divergence from self-identity corresponding to sex at birth, sex change or homosexuality” is the “defining element” of the product, the legislation does not provide sufficient guidance to those charged with its execution. It remains vague and ambiguous when LGBTI-related content is the “defining element” of a product.<sup>548</sup> Meanwhile, the Propaganda Law (Act LXXIX of 2021)<sup>549</sup> contains a blanket prohibition on making the above-mentioned content accessible to children, not just the product having this attribute as a “defining element”. Due to these inconsistencies, the provisions in question are not formulated with sufficient precision, therefore lack the

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<sup>543</sup> See in this regard the result of a survey conducted among Hungarian civil society organisations:

<https://helsinki.hu/wp-content/uploads/2024/06/Consequences-of-the-Sovereignty-Protection-Act.pdf>.

<sup>544</sup> Research conducted by the Median Public Opinion and Market Research Institute in November 2024 showed that 49% of Hungarian society supports same-sex marriage. See: Háttér Society, *Az LMBTQI témák magyarországi megítélése [The perception of LGBTQI issues in Hungary]*, 2024, <https://hatter.hu/kiadvanyaink/az-lmbtqi-temak-magyarorszag-i-megitelese-2024-november>.

<sup>545</sup> Government Decree 210/2009. (IX. 29.) on the Conditions for Conducting Commercial Activities, Article 20/A

<sup>546</sup> Government Decree 210/2009. (IX. 29.) on the Conditions for Conducting Commercial Activities, Article 20/A(2)

<sup>547</sup> Government Decree 210/2009. (IX. 29.) on the Conditions for Conducting Commercial Activities, Article 20/A(5)

<sup>548</sup> The Venice Commission stressed that overly broad and potentially ambiguous terms or concepts like “propagation” and “portrayal” or “homosexuality” lack precision, which is essential for legal texts, and that they may lead to different and potentially diverging interpretations. See: European Commission for Democracy Through Law (Venice Commission), *Opinion on the Compatibility with International Human Rights Standards of Act LXXIX Amending Certain Acts for the Protection of Children*, CDL-AD(2021)050, 13 December 2021, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2021\)050-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)050-e), paras 44-48.

<sup>549</sup> Act LXXIX of 2021 on Taking More Severe Action Against Paedophile Offenders and Amending Certain Acts for the Protection of Children

normative clarity required by international and constitutional standards and undermine legal certainty.<sup>550</sup>

Hungarian courts face the threat that the ruling majority may pass legislation that contradicts court judgments, effectively nullifying the outcome of court decisions. As an example, the Hungarian Consumer Protection Authority fined<sup>551</sup> Líra bookstore for selling a book which “portrayed homosexuality” without properly wrapping it. The Metropolitan Regional Court annulled<sup>552</sup> the decision on 9 February 2024 due to a comma error<sup>553</sup> made by the legislator. The above-mentioned amendment in April 2024 also added the missing comma to the sentence, correcting the provisions based on which the regional court’s ruling had been delivered. On 17 October 2024, the Kúria ruled<sup>554</sup> that the regional court reached an incorrect legal conclusion because it did not consider the purpose of the law.<sup>555</sup> According to the Kúria, it was clear what the decree’s purpose was, even though the comma was missing.

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<sup>550</sup> The requirement “prescribed by law” contained in Article 19(3) of the International Covenant on Civil and Political Rights, Article 10(2) of the European Convention of Human Rights, and Article 52(1) of the EU Charter of Fundamental Rights.

<sup>551</sup> Decision of the Metropolitan Government Office Consumer Protection Authority, BP/2200/03940-5/2023

<sup>552</sup> Judgment of the Metropolitan Regional Court, 105.K.702.795/2023/15, 8 February 2024

<sup>553</sup> Without the comma, the law meant that books depicting homosexuality should be packaged, but only if sold separately.

<sup>554</sup> Judgment of the Kúria, Kfv.VI.37.280/2024/8, 17 October 2024

<sup>555</sup> See e.g.: <https://telex.hu/belfold/2024/10/17/lira-birsag-fovarosi-kormanyhivatal-kuria-konyv-foliazas>.

## V. SINGLE MARKET DIMENSION

### 1. Safeguards to ensure legal certainty, the stability of the legal framework and non-discrimination

(1) As elaborated in our responses to the questions in the original Rule of Law Report questionnaire on the process for preparing and enacting laws, the finding of the 2024 Rule of Law Report that “[t]he quality of law-making and the frequent changes in legislation remain a significant cause for concern”<sup>556</sup> remains valid. For example, Act LV of 2023 on the Central Budget of Hungary for 2024 was amended 37 times in 2024 (on average, every 9 days and 21 hours). The respective laws on the central budget were amended excessively also in previous years: 55 times in 2023, 61 times in 2022, and 85 times in 2021.<sup>557</sup>

As also raised in our responses to the questions in the original Rule of Law Report questionnaire, the fact that the Government continues to have excessive emergency regulatory powers under the continued “state of danger”<sup>558</sup> undermines legal certainty, results in human rights violations, and has a negative impact on business environment and investment protection. The Government continues to use its *carte blanche* mandate to issue emergency government decrees and override Acts of Parliament extensively and in an abusive manner, i.e. for purposes not related to the cause of the state of danger (previously the pandemic, presently the war in Ukraine). As also mentioned by the 2023 Rule of Law Report,<sup>559</sup> this happened in the case of Act XXV of 2022 on the Central Budget of Hungary for 2023 as well, which was restructured in an emergency government decree issued on 29 December 2022.<sup>560</sup>

Rule of law backsliding and the lack of legal certainty inevitably undermines the trust in the legal system: as referred to by the 2024 Rule of Law Report, 23% of the companies surveyed for the 2024 EU Justice Scoreboard “perceive[d] the frequent changes in legislation or concerns

<sup>556</sup> European Commission, 2024 Rule of Law Report – Country Chapter on the rule of law situation in Hungary, [https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6\\_en?filename=40\\_1\\_58071\\_coun\\_chap\\_hungary\\_en.pdf](https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6_en?filename=40_1_58071_coun_chap_hungary_en.pdf), p. 32.

<sup>557</sup> See: [https://m.hvg.hu/gazdasag/20250120\\_koltsegvetes-budzse-atiras-kozlony-modositas-2024-ebx](https://m.hvg.hu/gazdasag/20250120_koltsegvetes-budzse-atiras-kozlony-modositas-2024-ebx).

<sup>558</sup> For a comprehensive overview, see: Hungarian Helsinki Committee, *Government gains excessive powers from forever renewable state of danger*, 24 February 2023, [https://helsinki.hu/en/wp-content/uploads/sites/2/2023/02/HHC\\_Hungary\\_state\\_of\\_danger\\_24022023.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2023/02/HHC_Hungary_state_of_danger_24022023.pdf).

<sup>559</sup> European Commission, 2023 Rule of Law Report – Country Chapter on the rule of law situation in Hungary, [https://commission.europa.eu/document/download/d69f242b-bd69-4e15-976f-870470b72b55\\_en?filename=40\\_1\\_52623\\_coun\\_chap\\_hungary\\_en.pdf](https://commission.europa.eu/document/download/d69f242b-bd69-4e15-976f-870470b72b55_en?filename=40_1_52623_coun_chap_hungary_en.pdf), p. 31.

<sup>560</sup> Government Decree 613/2022. (XII. 29.) on the Differing Rules of the Budget of Hungary for the Year 2023 due to the State of Danger

about quality of law-making process as a reason for the lack of confidence in investment protection”.<sup>561</sup>

As pointed out by a recent study titled “German Companies in Hungary. To adapt, endure, or engage?”, published in 2024,<sup>562</sup> rule of law backsliding in Hungary resulted in characteristic economic policies, such as:

*“1. Strong instrumentalization of competition law. Ministerial decrees are used to exempt company mergers and concentrations in key strategic branches from competition law requirements and judicial review. Such instrumentalization leads to considerable legal uncertainty, unpredictability, and a lack of transparency in government actions.*

*2. De facto discrimination against foreign companies by means of extensive regulatory infringements. In particular, economic pressure is exerted on companies through sector-specific special taxes, in order to force them to sell to Hungarian businesspeople. Given the length of proceedings before national or European courts, companies tend to refrain from taking legal action. In some cases, they fear that any public criticism will lead to further restrictions on their activities.”<sup>563</sup>*

As it can be seen, these economic policies are closely intertwined with the general lack of legal certainty and the lack of stability of the legal framework.

(2) The Government’s aim is to stabilise the budget, and the predictability and fairness of tax rules continue to be a cause for concern, as exemplified by the below conflict between the Hungarian government and SPAR Hungary, resulting from a special, sectoral surtax that was disproportionately imposed on the Austria-owned retailer.

In 2024, a major conflict arose between Austria-owned retailer SPAR’s subsidiary in Hungary and the Hungarian government on price and tax rules introduced by the Government. Prominent among these measures is the special retail tax, a progressive banded tax that imposes a significant burden on larger, mainly foreign-owned companies. The measures from the Government, which include a 4.5 percent tax targeting the revenues of foreign-owned retailers and a requirement to lower prices across a range of staples, remain in place even though the inflation rate has fallen sharply.<sup>564</sup> According to SPAR’s management, these taxes and regulations have cost them HUF 48 billion (€ 117 million, calculated on the exchange rate on the day of submission of the present contribution), amounting to HUF 3.4 million (€ 8 thousand, calculated on the exchange rate on the day of submission of the present contribution), per employee, all of which has driven the company’s profit in 2023 to loss. The retail chain submitted a complaint to the European Union and asked the European Commission to open infringement proceedings against Hungary for the special taxes and also for breaching the principle of non-discrimination, as the special taxes hit multinationals more

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<sup>561</sup> European Commission, 2024 Rule of Law Report – Country Chapter on the rule of law situation in Hungary, [https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6\\_en?filename=40\\_1\\_58071\\_coun\\_chap\\_hungary\\_en.pdf](https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6_en?filename=40_1_58071_coun_chap_hungary_en.pdf), pp. 32-33.

<sup>562</sup> York Albrecht, *German Companies in Hungary. To adapt, endure, or engage?*, Institute for European Politics, November 2024, [https://iep-berlin.de/site/assets/files/3853/iep\\_study\\_germancompaniesinhungary-1.pdf](https://iep-berlin.de/site/assets/files/3853/iep_study_germancompaniesinhungary-1.pdf)

<sup>563</sup> Ibid., p. 4.

<sup>564</sup> See e.g.: <https://www.ft.com/content/32d0d2be-d530-4708-ad8f-dc02ea410504>.

severely than local, smaller firms.<sup>565</sup> Finally, the CJEU ruled that the provisions to oblige retailers to sell certain specific products on prefixed prices violated the EU legislation.<sup>566</sup>

One of the multiple chapters of the conflict between SPAR and the Hungarian government involved strong criticism by SPAR CEO Hans Reisch, who claimed that Hungary's Prime Minister Viktor Orbán expressly asked SPAR to allow the premier's son-in-law, István Tiborczi to invest in the Hungarian subsidiary of the Austrian-owned retailer. This information quickly spread in the Hungarian media, a development that instigated the Prime Minister to file a series of press rectification lawsuits. An alarming development is that the Kúria, Hungary's apex court overturned the rulings by lower-level courts and ruled in favour of the Prime Minister, expecting journalists to check validity of contents prior to publication even in cases where statements are only quoted from other media outlets. This decision underlines that the Kúria experiences substantial pressure when it comes to ruling in politically sensitive cases.<sup>567</sup>

## 2. Safeguards to ensure the effective independence of supervisory and regulatory authorities with a direct impact on economic operators

Cases described below offer insight into the practice of state capture, where supervisory and regulatory bodies fail to carry out their mission, thus they serve as agents of systemic corruption.

### (1) State aid to acquire Vodafone by the 4iG company

During the autumn of 2013, the Government gave a *carte blanche* to exempt certain acquisitions from the oversight by the Competition Office by introducing the concept of "national strategic importance" to exempt certain mergers and acquisitions from cartel oversight.<sup>568</sup> In 2023, the Government adopted a decree to exempt the buyout of Vodafone Hungary telecommunication company by a consortia consisting of the Hungarian state and 4iG, a pro-government private company citing national strategic importance, so the Competition Office could not investigate the more than HUF 700 billion (€ 1.7 billion, calculated on the exchange rate on the day of submission of the present contribution) transaction. As a result, the company has acquired a monopoly position in 117 municipalities.<sup>569</sup> After a legal challenge, the court ruled in favour of a full-scale cartel oversight. However, the Competition Office firmly holds that it has no mandate to review the deal due to considerations relating to national strategic importance.<sup>570</sup>

### (2) Hungarian Electricity Company (Magyar Villamos Művek)

After its own "thorough investigation", the Competition Office concluded that it does not need to investigate whether the state-owned energy company Magyar Villamos Művek (MVM) is engaging in unfair commercial practices and supposed "fantasy savings". MVM's method of calculating and displaying savings (for the customer) from regulated electricity prices

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<sup>565</sup> See e.g.: <https://index.hu/gazdasag/2024/03/26/spar-kormany-lazar-janos-nagy-marton-vita-felvasarlas/>.

<sup>566</sup> See e.g.: [https://hvg.hu/kkv/20240912\\_Elmeszelte-a-magyar-kormanyt-az-EU-Birosaga-az-arstop-miatt-ebx](https://hvg.hu/kkv/20240912_Elmeszelte-a-magyar-kormanyt-az-EU-Birosaga-az-arstop-miatt-ebx).

<sup>567</sup> See e.g.: <https://444.hu/2024/10/16/orban-viktornak-adott-igazat-a-kuria-a-spar-ugyben-hiaba-nyert-a-pecsi-stop-also-es-masodfokon>.

<sup>568</sup> Act LVII of 1996 on the Prohibition of Unfair Market Practices and Restrictions of Competition, Article 24/A

<sup>569</sup> Government Decree 2/2023. (I. 9.)

<sup>570</sup> See e.g.: <https://www.szabadeuropa.hu/a/vodafone-gvh-nemzetstrategiai-verseny/32958676.html>.

compared to market prices may exaggerate actual savings and mislead consumers. A court has overturned the decision by the Competition Office and ordered the continuation of the investigation.<sup>571</sup>

### (3) Taylor-made tenders and inaction of Public Procurement Authority

Corporations belonging to the interest group of Lőrinc Mészáros, Hungary's top oligarch, and closest ally of Prime Minister Viktor Orbán, were involved in two questionable car tenders. A company named OPTESZ OPUS Zrt. acted as contracting authority, while the winning bidder was the Mészáros M1 Kft., both part of the empire of Lőrinc Mészáros. Essentially, one of his companies awarded contracts to another of his companies. The total net value of the two tenders amounted to HUF 5.4 billion. According to the Public Procurement Authority, there was no conflict of interests.<sup>572</sup>

### (4) B+N Referencia Zrt. wins tender in case of restricted competition

Investigative reports indicated that the future winner of a tender by the Directorate General of Public Procurement and Supply, the Government's agency tasked with supplying ministries and other government bodies, was predictable in advance, based on the public call. This suspicion was confirmed when the government-leaning B+N Referencia company, active in the facility management and cleaning industry, won the tender. The case raised serious concerns that the tender process may have been tailored to favour this specific bidder. Despite concerns, the National Investigation Bureau dismissed the complaint, citing the absence of a criminal offence.<sup>573</sup>

### (5) ZÁÉV Zrt. wins tender amid controversial exclusions

ZÁÉV Zrt., a construction company owned by Lőrinc Mészáros, won a HUF 1.6 billion contract from the public interest asset management foundation Mathias Corvinus Collegium Foundation after five competitors were disqualified for submitting low-price offers, and the remaining bids were not considered. STRABAG and other disqualified companies filed complaints. The Public Procurement Arbitration Board failed to address the issue. Although the case was reported, no investigation was commenced.<sup>574</sup>

### (6) GÉ-65 Mérnökiroda Kft. and Bereg Konstruktor Kft. win tenders amid concerns of price manipulation

The GÉ-65 Mérnökiroda Kft. and Bereg Konstruktor Kft. were awarded construction tenders, despite concerns that prices were predictably set. The amount available to the contracting authority was estimated exactly or within a few forints by the two bidding companies. On complaint, the case was investigated by the authorities, but at the end the National Investigation Bureau, a police body, rejected the case due to the absence of a criminal offence.<sup>575</sup>

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<sup>571</sup> See e.g.: [https://hvg.hu/gazdasag/20240705\\_Birosag-kotelezte-a-GVH-t-hogy-megvizsgalja-az-MVM-altal-feltuntetett-meses-rezsimegtakaritasokat](https://hvg.hu/gazdasag/20240705_Birosag-kotelezte-a-GVH-t-hogy-megvizsgalja-az-MVM-altal-feltuntetett-meses-rezsimegtakaritasokat).

<sup>572</sup> See e.g.: <https://atlatszo.hu/kozpenz/2024/12/31/ot-idei-korrupciogyanus-ugy-ami-a-hatosagok-szerint-teljesen-rendben-van/>.

<sup>573</sup> Ibid.

<sup>574</sup> Ibid.

<sup>575</sup> Ibid.

(7) Lőrinc Mészáros' former son-in-law under investigation, while Mészáros himself gets away with it

The Competition Office imposed a fine of HUF 1.2 billion for cartel activities on the company of the businessman Zsolt Homlok who was once engaged to Lőrinc Mészáros' daughter and later divorced her. In standard public procurement for railway construction Homlok's companies bid with the lowest price of HUF 18.5 billion (€ 45 million, calculated on the exchange rate on the day of submission of the present contribution). The winner, however, was the former father-in-law, Lőrinc Mészáros' V-Híd Zrt. with a bid almost twice as expensive at HUF 35.5 billion (€ 86 million, calculated on the exchange rate on the day of submission of the present contribution), however the competition authority found their activities completely lawful.<sup>576</sup>

### 3. Any other points related to the single market dimension in the context of the Rule of Law Report

(1) In recent years, a variety of corporate and investment forms that conceal the identity of the owners have gained considerable popularity in Hungary, from private equity funds to preferential shares and trusts. Private equity funds stand out among these schemes: 196 of them were operating at the end of 2024 and the value of assets invested in these funds has now reached around several thousand billion forints. According to Transparency International Hungary's recent study, Hungarian private equity funds have acquired substantial amounts of public money.<sup>577</sup> During the Covid-19 pandemic, for example, some HUF 400 billion (almost € 1 billion, calculated on the exchange rate on the day of submission of the present contribution) of public money was invested into privately managed funds, of which HUF 175 billion (€ 425 million, calculated on the exchange rate on the day of submission of the present contribution) was allocated to funds managed by companies linked to the Prime Minister's son-in-law, István Tiborcz at a 30 percent retention rate, where it is not known who the private investors in the funds are. In the meantime, these investee companies of cronies are also being taken care of by the state in other ways – as recipients of subsidies or as winners of public procurement contracts. A new investment program was launched in 2023 majorly for financing private equity funds with a budget of HUF 600 billion (almost € 1.5 billion, calculated on the exchange rate on the day of submission of the present contribution)<sup>578</sup>.

Due to an amendment to the law on ultimate beneficial owners, information relating to the identity of investors is not accessible publicly as of 1 January 2024.<sup>579</sup> Moreover, Hungary's anti-money laundering legislation lacked provisions for private equity funds until 2024. Transparency International Hungary signalled this loophole to the European Commission,

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<sup>576</sup> See e.g.: <https://24.hu/fn/gazdasag/2025/01/15/kartell-meszaros-lorinc-volt-veje-homlok-zsolt-gvh-borton-buntetes/#paywall>.

<sup>577</sup> Transparency International Hungary, *Regulatory loopholes serving illicit financial flows – Opacity of Hungarian private equity funds*, 2024, [https://transparency.hu/wp-content/uploads/2024/09/private\\_equity\\_funds\\_web-1.pdf](https://transparency.hu/wp-content/uploads/2024/09/private_equity_funds_web-1.pdf)

<sup>578</sup> Ministry of Economic Development, *Elindul a Baross Gábor Tőkeprogram, újabb 600 milliárd forint jut a gazdaságba* [The Baross Gábor Capital Programme is launched, another HUF 600 billion will be injected into the economy], <https://kormany.hu/hirek/elindul-a-baross-gabor-tokeprogram-ujabb-600-milliard-forint-jut-a-gazdasagba>

<sup>579</sup> Act CXI of 2023 on the Amendment of Act LIII of 2017 on the Prevention and Combating of Money Laundering and Financing of Terrorism, Article 40(a)

which confirmed in its response that Hungary has the obligation to hold accurate and complete beneficial ownership information for private equity funds in its national register. Therefore, in July 2024, the Commission started an infringement procedure against Hungary for the incomplete transposition into the Hungarian legal system of the bloc's anti-money laundering rules.<sup>580</sup> Thereafter, the amendment to the respective Hungarian laws<sup>581</sup> imposed the obligation of due diligence on closed-end investment funds, however only from July 2026 onwards, following the next parliamentary elections scheduled for the spring of 2026, will private equity funds already registered at the time of the amendment's entry into force be obliged to provide data on their beneficial owners.

Different areas for improvement include domestic state aids, where the control system and the transparency of fund allocation are major challenges. State-owned enterprises and state-founded foundations often redistribute resources non-transparently to enrich government cronies. The management of state assets is also problematic, with public bodies or publicly owned enterprises buying assets above market value without any reasonable justification. Deals of this kind are exemplified by the investments of companies under the ownership of the Fónix Private Equity Fund, which is managed by fund managers linked to the Prime Minister's son-in-law, István Tiborcz into real estate developments, such as the BudaPart project located at the Kopaszi dam and the Dürer-kert project, both of which the Government has committed to acquire by signing pre-emptive sale and purchase contracts worth HUF 255 billion (€ 620 million, calculated on the exchange rate on the day of submission of the present contribution) and HUF 80 billion (€ 194 million, calculated on the exchange rate on the day of submission of the present contribution, respectively).<sup>582</sup> Another case of preferential treatment for connected developers happened when the state has purchased 350,000 square meters of unnecessary office space for hundreds of billions of forints from failing, oversized real estate projects, often without due diligence or public scrutiny. This scheme has enriched politically connected developers like István Tiborcz and Attila Balázs, effectively transferring project risks to taxpayers while ensuring private profit. The state's method of registering mortgages exceeding the value of the developers' land further entrenches a system of public expense for private gain.

The Central European Opportunity Private Equity Fund's (also linked to the Prime Minister's son-in-law, István Tiborcz) interests include several solar park operating companies through Green Energy Investhor Zrt. One of the latter's subsidiaries, Tatoonie Solarpark Kft., was acquired by the state-owned energy holding MVM after the approval of the Competition Office in June 2024.<sup>583</sup> The value of the sale is unknown, as electricity-related investments were exempted from mandatory transparency rules a few years ago.<sup>584</sup>

From 2022, István Tiborcz's BDPST Equity became owner of Waberer's, the leading logistics companies in Hungary and the Central and Eastern European region. The company is a supplier to several state-owned companies. Under an agreement signed in 2024, Waberer's

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<sup>580</sup> INFR(2023)2098. See: [https://ec.europa.eu/commission/presscorner/detail/en/inf\\_24\\_3228](https://ec.europa.eu/commission/presscorner/detail/en/inf_24_3228).

<sup>581</sup> Act LVI of 2024 on Amending Certain Laws on Finance and Asset Management

<sup>582</sup> See e.g.: <https://www.valaszonline.hu/2024/05/29/580-milliardos-kormanyzati-negyed-tiborcz-zuglo-durer-budapart/>.

<sup>583</sup> See the decision of the Competition Office here:

[https://www.gvh.hu/dontesek/versenyhivatali\\_dontesek/dontesek-2024/ob-3220247](https://www.gvh.hu/dontesek/versenyhivatali_dontesek/dontesek-2024/ob-3220247).

<sup>584</sup> Act CXXII of 2009 on the More Economical Operation of Companies in Public Ownership, Article 7/I

will develop a 25,000 square metre logistics park for the Hungarian Post.<sup>585</sup> In 2024, Waberer's bought out the Hungarian state's majority stake in the rail freight company GYSEV Cargo.<sup>586</sup>

(2) Hungary's Propaganda Law (Act LXXIX of 2021)<sup>587</sup> poses multiple legal challenges within the context of the single market dimension of the rule of law. It is discriminatory, excessive, and does not meet the necessary criteria of proportionality or necessity in restricting content and services related to gender identity, sexual orientation, and sexual development.<sup>588</sup>

Legal certainty refers to the clarity and predictability of laws and their enforcement, ensuring that individuals and businesses can understand their rights and responsibilities and thus comply with legal requirements without ambiguity. The Propaganda Law creates significant legal uncertainty, particularly for businesses, media companies, and educational institutions that operate within Hungary but are part of the broader EU legal framework.<sup>589</sup> The law's ambiguous provisions on what constitutes "promotion" or "portrayal" of gender identities and sexual orientations create confusion about what content is allowed and what is prohibited.<sup>590</sup>

As regards the media, since the law's enforcement hinges heavily on the interpretation by the Hungarian Media Council, the lack of clear, consistent criteria could lead to discriminatory or arbitrary enforcement. The Media Council's updated recommendation<sup>591</sup> includes an interpretation of "propagation" and some examples of programmes that are not appropriate for audiences under the age of 18. However, according to the updated recommendation, "*it does not aim to lay down strict, rigidly interpreted rules for each classification*". The interpretation of this non-binding document cannot safeguard legal certainty, creating an unpredictable environment for service providers, especially those in cross-border industries, who may face conflicting legal obligations between Hungary and other EU member states.

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<sup>585</sup> See e.g.: <https://www.valaszonline.hu/2024/10/15/tiborc-magyar-posta-logisztikai-kozpont/>.

<sup>586</sup> See e.g.: [https://hvg.hu/kkv/20241223\\_A-Tiborc-fele-Waberers-megszerezte-a-GYSEV-fuvarleanyanak-tobbsegi-tulajdonreszet](https://hvg.hu/kkv/20241223_A-Tiborc-fele-Waberers-megszerezte-a-GYSEV-fuvarleanyanak-tobbsegi-tulajdonreszet).

<sup>587</sup> Act LXXIX of 2021 on Taking More Severe Action Against Paedophile Offenders and Amending Certain Acts for the Protection of Children

<sup>588</sup> The European Commission argues in the action brought against Hungary in the framework of the infringement procedure that the law infringes upon the free movement of services, freedom of expression, non-discrimination, and the rights of minors, violating core principles outlined in the EU treaties, the Charter of Fundamental Rights, and undermines the broader EU values of equality, tolerance, and non-discrimination (Case C-769/22, *European Commission v Hungary*, [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=oj:JOC\\_2023\\_054\\_R\\_0019](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=oj:JOC_2023_054_R_0019)).

<sup>589</sup> Amnesty International, *From freedom to censorship: the consequences of the Hungarian Propaganda Law*, Index: EUR 27/7754/2024, February 2024, <https://www.amnesty.org/en/wp-content/uploads/2024/06/EUR2777542024ENGLISH.pdf>

<sup>590</sup> The Venice Commission established that the Propaganda Law's "provisions under consideration are not formulated with sufficient precision so as to satisfy the requirement 'prescribed by law'. The terms used in these provisions such as 'propagation', 'portrayal', 'negatively influence' and 'homosexuality' are too ambiguous to reach the standard of 'foreseeability' and the provisions do not sufficiently define the circumstances in which they are applied". See: European Commission for Democracy Through Law (Venice Commission), *Opinion on the Compatibility with International Human Rights Standards of Act LXXIX Amending Certain Acts for the Protection of Children*, CDL-AD(2021)050, 13 December 2021,

[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2021\)050-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2021)050-e), para. 92.

<sup>591</sup> Media Council, *A médiatartalmak korhatár-besorolásánál irányadó szempontokra, az egyes műsorszámok közzététele előtt és közben alkalmazható jelzésekre, illetve a minősítés közlésének módjára vonatkozó jogalkalmazási gyakorlat elvi szempontjai [Principles of the criteria governing the age rating of media content, the indications that may be used before and during the publication of certain programmes and the manner in which ratings are communicated]*, [https://nmhh.hu/dokumentum/214969/klasszifikacios\\_ajanlas.pdf](https://nmhh.hu/dokumentum/214969/klasszifikacios_ajanlas.pdf)

The Media Council is obliged<sup>592</sup> by the Propaganda Law to reach out to its foreign counterparts with requests to proceed against service providers registered in another EU member state, and while the foreign media authorities have so far refrained from imposing sanctions upon the request of the Media Council, these proceedings contribute to the chilling effect of the law. The CJEU emphasised<sup>593</sup> that the Member State of origin has primary responsibility for monitoring and enforcing compliance with the Audiovisual Media Services Directive,<sup>594</sup> particularly with respect to content restrictions (for example harmful or illegal content). The receiving Member State may impose restrictions only in exceptional cases, double control (namely dual regulatory oversight by both the Member State of origin and the receiving Member State) is not allowed. Imposing an obligation on the Hungarian Media Council to request another Member State to take action against a media service provider might, in some cases, lead to indirect restrictions on the free reception or retransmission of the service.

As regards advertising, the Propaganda Law singles out advertising related to non-heteronormative and non-cisnormative identities,<sup>595</sup> which is a form of discrimination based on sexual orientation or gender identity. The prohibitions introduced by the Propaganda Law on advertising apply to cross-border online services based on the wording and scope of the relevant law. Contrary to the Media Act<sup>596</sup> which restricts its scope to media services provided and press products published by a media content provider established in Hungary, the Advertising Act's<sup>597</sup> scope does not exclude cross-border online services and in that regard for the enforcement refers to the e-commerce Act<sup>598</sup> which covers all information society services directed at Hungary. The broadly -worded and discriminatory restriction, therefore, affects foreign-based online service providers subject to the laws of their home Member States, not Hungary's national laws, even if there is a lack of examples of enforcement.

(3) The Sovereignty Protection Act, adopted in December 2023, does not only restrict fundamental rights and exerts a chilling effect on civil society, activists and the independent media, but also has implications regarding the single market. According to the action brought by the European Commission against Hungary in the framework of the infringement proceedings launched (Case C-829/24),<sup>599</sup> the Commission claims that by adopting the Sovereignty Protection Act Hungary has infringed Articles 49, 56 and 63 TFEU (i.e. provisions on the free movement of persons, services, and capital), Article 3 of Directive 2000/31/EC of the European Parliament and of the Council on electronic commerce, Articles 14, 16 and 19 of Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market, Articles 7, 8, 11, 12, 47 and 48 of the Charter of Fundamental Rights of the European Union and Articles 5, 6, 9 and 10 of Regulation (EU) 2016/679 of the European

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<sup>592</sup> Act CLXXXV of 2010 on Media Services and Mass Media, Article 179

<sup>593</sup> Judgment of the CJEU, Case C-622/17, *Baltic Media Alliance Ltd. v Lietuvos radijo ir televizijos komisija*, para 72.

<sup>594</sup> Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive)

<sup>595</sup> Act XLVIII of 2008 on the Basic Conditions and Certain Restrictions of Commercial Advertising Activities, Article 8(1a)

<sup>596</sup> Act CLXXXV of 2010 on Media Services and Mass Media

<sup>597</sup> Act XLVIII of 2008 on the Basic Conditions and Certain Restrictions of Commercial Advertising Activities

<sup>598</sup> Act CVIII of 2001 on Certain Issues of Electronic Commerce Services and Information Society Services

<sup>599</sup> See:

<https://curia.europa.eu/juris/document/document.jsf?text=&docid=294018&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=22940374>.

Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data. I.e., the Commission is of the view that the Sovereignty Protection Act violates several fundamental freedoms of the internal market.

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