

2023 Rule of Law Report - targeted stakeholder consultation

Fields marked with * are mandatory.

Introduction

The annual Rule of Law Report lies at the centre of the European rule of law mechanism, which acts as a preventive tool, deepening multilateral dialogue and joint awareness of rule of law issues. So far, three editions of the Rule of Law Report have been published in 2020, 2021 and 2022.

In the preparation of the first three editions of the Rule of Law Report, the Commission has relied on a diversity of relevant sources, including from Member States, country visits, and stakeholders' contributions collected through the targeted stakeholder consultation [1]. The information provided has informed the Commission's country-specific assessments in preparing the Report. Building on the positive experience from the first three editions of the Rule of Law Report, the Commission is now inviting stakeholders to provide written contributions for the preparation of the 2023 Rule of Law Report through this targeted consultation.

The contribution to be provided should include (1) information on measures taken to implement the recommendations addressed to the Member State in the 2022 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter and (2) any other significant developments since January 2022 [2] falling under the 'type of information' outlined in the next section.

The input should be short and concise and summarise information related to one or more of the areas referred to in the template. You are invited to focus on the areas that relate to the scope of work and expertise of your organisation. Existing reports, statements, legislation or other documents may be referenced with a link (no need to provide the full text). Stakeholders are encouraged to make references to any contributions already provided in a different context or to Reports and documents already published. Contributions should focus on significant developments both as regards the legal framework and its implementation in practice.

If you wish to submit information concerning several Member States, you will have to fill-in the questionnaire separately for each Member States (due to the size of the questionnaire). There is no limit to the number of contributions submitted by a single participant. In such cases, you are not required to repeat the information in the section "about you" that is non-mandatory nor the information on horizontal developments.

Please provide your contribution by **20 January 2023**. Should you have any requests for clarifications or encounter difficulties in filling in the questionnaire, you can contact the Commission at the following email

address: rule-of-law-network@ec.europa.eu.

[1] For the consultation for the 2022 Report, see https://ec.europa.eu/info/publications/2022-rule-law-report-targeted-stakeholder-consultation_en

[2] Unless the information was already submitted in the consultation for the previous Rule of Law Reports.

Type of information

The topics are structured according to four pillars: I. Justice system; II. Anti-corruption framework; III. Media pluralism; and IV. Other institutional issues related to checks and balances. The replies could include aspects set out below under each pillar. This can include challenges, current work streams, positive developments and best practices:

Legislative developments

- Newly adopted legislation
- Legislative drafts currently discussed in Parliament
- Legislative plans envisaged by the Government

Policy developments

- Implementation of legislation
- Evaluations, impact assessment, surveys
- White papers/strategies/actions plans/consultation processes
- Follow-up to reports/recommendations of Council of Europe bodies or other international organisations
- Important administrative measures
- Generalised practices

Developments related to the judiciary / independent authorities

- Important case law by national courts
- Important decision/opinions from independent bodies/authorities
- State of play on terms, nominations and expired mandates for high-level positions (e.g. Supreme Court, Constitutional Court, Council for the Judiciary, heads of independent authorities included in the scope of the questionnaire[1])

Any other relevant developments

- Respondents are free to add any further information, which they deem relevant; however, this should be short and to the point.

If there are no changes, it is sufficient to indicate this and the information covered in the contributions for the previous Rule of Law Reports should not be repeated.

[1] Such as: media regulatory authorities and bodies, national human rights institutions, equality bodies, ombudsman institutions, supreme audit institutions and, where they exist, transparency authorities.

About you

* I am giving my contribution as

- ☐ Academic/research institution
- ☐ Business association
- ☒ Civil society organisation/NGO
- ☐ International organisation
- ☐ Judicial association or network
- ☐ Media organisation or association
- ☐ Public authority or network of public authorities
- ☐ Other

* Organisation name

250 character(s) maximum

Eötvös Károly Institute

Main Areas of Work

- ☒ Justice System
- ☐ Anti-corruption
- ☐ Media Pluralism
- ☒ Other

If "Other", please specify

constitutionalism

Please insert an URL towards your organisation's main online presence or describe your organisation briefly:

500 character(s) maximum

<http://ekint.org/en/about>

Transparency register number

Check if your organisation is in the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making

* Country of origin

Please add the country of origin of your organisation

- ☐ Afghanistan
- ☐ Albania

- ☐ Algeria
- ☐ Andorra
- ☐ Angola
- ☐ Antigua and Barbuda
- ☐ Argentina
- ☐ Armenia
- ☐ Australia
- ☐ Austria
- ☐ Azerbaijan
- ☐ Bahamas
- ☐ Bahrain
- ☐ Bangladesh
- ☐ Barbados
- ☐ Belarus
- ☐ Belgium
- ☐ Belize
- ☐ Benin
- ☐ Bhutan
- ☐ Bolivia
- ☐ Bosnia and Herzegovina
- ☐ Botswana
- ☐ Brazil
- ☐ Brunei Darussalam
- ☐ Bulgaria
- ☐ Burkina Faso
- ☐ Burundi
- ☐ Cabo Verde
- ☐ Cambodia
- ☐ Cameroon
- ☐ Canada
- ☐ Central African Republic
- ☐ Chad
- ☐ Chile
- ☐ China
- ☐ Colombia
- ☐ Comoros
- ☐ Congo
- ☐ Costa Rica
- ☐ Côte D'Ivoire
- ☐ Croatia
- ☐ Cuba
- ☐ Cyprus
- ☐ Czechia
- ☐ Democratic Republic of the Congo
- ☐ Denmark
- ☐ Djibouti
- ☐ Dominica

- ☐ Dominican Republic
- ☐ Ecuador
- ☐ Egypt
- ☐ El Salvador
- ☐ Equatorial Guinea
- ☐ Eritrea
- ☐ Estonia
- ☐ Eswatini
- ☐ Ethiopia
- ☐ Fiji
- ☐ Finland
- ☐ France
- ☐ Gabon
- ☐ Gambia
- ☐ Georgia
- ☐ Germany
- ☐ Ghana
- ☐ Greece
- ☐ Grenada
- ☐ Guatemala
- ☐ Guinea
- ☐ Guinea Bissau
- ☐ Guyana
- ☐ Haiti
- ☐ Honduras
- ☒ Hungary
- ☐ Iceland
- ☐ India
- ☐ Indonesia
- ☐ Iran
- ☐ Iraq
- ☐ Ireland
- ☐ Israel
- ☐ Italy
- ☐ Jamaica
- ☐ Japan
- ☐ Jordan
- ☐ Kazakhstan
- ☐ Kenya
- ☐ Kiribati
- ☐ Kuwait
- ☐ Kyrgyzstan
- ☐ Laos
- ☐ Latvia
- ☐ Lebanon
- ☐ Lesotho
- ☐ Liberia

- ☐ Libya
- ☐ Liechtenstein
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Madagascar
- ☐ Malawi
- ☐ Malaysia
- ☐ Maldives
- ☐ Mali
- ☐ Malta
- ☐ Marshall Islands
- ☐ Mauritania
- ☐ Mauritius
- ☐ Mexico
- ☐ Micronesia
- ☐ Monaco
- ☐ Mongolia
- ☐ Montenegro
- ☐ Morocco
- ☐ Mozambique
- ☐ Myanmar
- ☐ Namibia
- ☐ Nauru
- ☐ Nepal
- ☐ Netherlands
- ☐ New Zealand
- ☐ Nicaragua
- ☐ Niger
- ☐ Nigeria
- ☐ North Korea
- ☐ North Macedonia
- ☐ Norway
- ☐ Oman
- ☐ Pakistan
- ☐ Palau
- ☐ Panama
- ☐ Papua New Guinea
- ☐ Paraguay
- ☐ Peru
- ☐ Philippines
- ☐ Poland
- ☐ Portugal
- ☐ Qatar
- ☐ Republic of Moldova
- ☐ Romania
- ☐ Russian Federation
- ☐ Rwanda

- ☐ Saint Kitts and Nevis
- ☐ Saint Lucia
- ☐ Saint Vincent and the Grenadines
- ☐ Samoa
- ☐ San Marino
- ☐ Sao Tome and Principe
- ☐ Saudi Arabia
- ☐ Senegal
- ☐ Serbia
- ☐ Seychelles
- ☐ Sierra Leone
- ☐ Singapore
- ☐ Slovakia
- ☐ Slovenia
- ☐ Solomon Islands
- ☐ Somalia
- ☐ South Africa
- ☐ South Korea
- ☐ South Sudan
- ☐ Spain
- ☐ Sri Lanka
- ☐ Sudan
- ☐ Suriname
- ☐ Sweden
- ☐ Switzerland
- ☐ Syrian Arab Republic
- ☐ Tajikistan
- ☐ Tanzania
- ☐ Thailand
- ☐ Timor-Leste
- ☐ Togo
- ☐ Tonga
- ☐ Trinidad and Tobago
- ☐ Tunisia
- ☐ Turkey
- ☐ Turkmenistan
- ☐ Tuvalu
- ☐ Uganda
- ☐ Ukraine
- ☐ United Arab Emirates
- ☐ United Kingdom
- ☐ United States of America
- ☐ Uruguay
- ☐ Uzbekistan
- ☐ Vanuatu
- ☐ Venezuela
- ☐ Viet Nam

- ☐ Yemen
- ☐ Zambia
- ☐ Zimbabwe

First name

Surname

Email Address of the organisation (this information will not be published)

* Publication of your contribution and privacy settings

You can choose whether you wish for your contribution to be published and whether you wish your details to be made public or to remain anonymous.

- ☐ Anonymous - Only your type of respondent, country of origin and contribution will be published. Organisation name, URL, transparency register number, first name and surname given above will not be published. **To maintain anonymity, please refrain from mentioning the name of your organisation and any details from which your organisation can be identified in the rest of your contribution.**
- ☒ Public - Your personal details (name, organisation name, transparency register number, country of origin) will be published with your contribution).
- ☐ No publication - Your contribution will not be published. Elements of your contribution may be referred to anonymously in documents produced by the Commission based on this consultation.

☒ I agree with the personal data protection provisions.

[Specific privacy statement targeted stakeholder consultation 2023 rule of law report.pdf](#)

Questions on horizontal developments

In this section, you are invited to provide information on general horizontal developments or trends, both positive and negative, covering all or several Member States. In particular, you could mention issues that are common to several Member States, as well as best practices identified in one Member State that could be replicated. Moreover, you could refer to your activities in the area of the four pillars and sub-topics (an overview of all sub-topics can be found below), and, if you represent a Network of national organisations, to the support you might have provided to one of your national members.

Overview topics for contribution

[list of topics 2023 Report.pdf](#)

Please provide any relevant information on horizontal developments here

5000 character(s) maximum

Questions for contribution

The following four pillars (I.-IV.) are sub-divided into topics (A., B., etc.) and sub-topics (1., 2., 3., etc.). For each of the topics and sub-topics, you are invited to provide (1) information on measures taken to implement the recommendations addressed to the Member States in the 2022 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter of the 2022 Rule of Law Report and (2) any other significant developments since January 2022^[1]. Please include a link to and reference relevant legislation/documents (in the national language and/or where available, in English) if relevant. Significant developments can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices.

If there are developments you consider relevant under each of the four pillars that are not mentioned in the sub-topics, please add them under the section "other - please specify". Only significant developments should be covered.

Information provided in reply to the first question under each pillar, related to the follow-up to the recommendations, does not need to be repeated in subsequent parts of the questionnaire, but can be cross-referenced in the subsequent questions, where relevant. All other questions are not limited to the recommendations, but as in previous years, cover the entire scope of the Report.

[1] Unless already covered in the input for the previous Rule of Law Reports.

Member State covered in contribution [only one choice possible]

If you wish to submit information concerning several Member States, please fill in the questionnaire separately for each Member State. There is no limit to the number of contributions submitted by a single participant.

- ☐ Austria
- ☐ Belgium
- ☐ Bulgaria
- ☐ Croatia
- ☐ Cyprus
- ☐ Czechia
- ☐ Denmark
- ☐ Estonia
- ☐ Finland
- ☐ France
- ☐ Germany
- ☐ Greece
- ☒ Hungary
- ☐ Ireland
- ☐ Italy
- ☐ Latvia
- ☐ Lithuania

- ☐ Luxembourg
- ☐ Malta
- ☐ Netherlands
- ☐ Poland
- ☐ Portugal
- ☐ Romania
- ☐ Slovak Republic
- ☐ Slovenia
- ☐ Spain
- ☐ Sweden

I. Justice System

Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding the justice system (if applicable)

3000 character(s) maximum

Until the date of closure of the present CSO contribution [18 January 2022] no steps have been taken by the Hungarian government and the Parliament to address the recommendations formulated by the European Commission (EC) with respect to the independence of the judiciary in the 2022 Rule of Law Report – Country Chapter on the rule of law situation in Hungary (2022 Rule of Law Report). Special concerns can be raised with respect to the non-execution of Judgment C-564/19 of the Court of Justice of the European Union (CJEU) which maintains the likelihood of prompting Hungarian courts to refrain from referring questions for a preliminary ruling to the CJEU. None of the specific recommendations were addressed to (i) strengthen the role of the National Judicial Council (NJC) while safeguarding its independence, to effectively counter-balance the powers of the President of the National Office for the Judiciary (NOJ President); (ii) adapt the rules related to the Kúria to remove judicial appointments outside the normal procedure; (iii) strengthen the eligibility criteria for the Kúria President and (iv) strengthen control by judicial bodies over the Kúria President.

Note that the present CSO contribution does not cover the draft law on the judiciary that was put to public consultation on 18 January 2023.

A. Independence

Appointment and selection of judges, prosecutors and court presidents (incl. judicial review)

(The reference to 'judges' concerns judges at all level and types of courts as well as judges at constitutional courts)

3000 character(s) maximum

All concerns raised in the 2020, 2021 and 2022 CSO contributions remain relevant.

As a main rule, judicial appointments are granted via an ordinary application procedure that includes certain guarantees against arbitrary appointments. At the same time, the legislation provides for several loopholes through which administrative leaders, the NOJ President or the President of the Kúria (Hungary's apex court), can block or circumvent an ordinary application procedure.

On the one hand, the possibility to declare the application procedure unsuccessful without a legal remedy allows political appointees (both the NOJ President and the Kúria President are elected by the parliamentary majority) to block any judicial appointment, creating the effect of a "glass ceiling" in judicial careers and exerting a palpable chilling effect amongst potential candidates.

On the other hand, the same political appointees hold formal and informal rights that can be (due to the lack of effective control and accountability) misused to circumvent the ordinary application procedure creating the effect of a "glass elevator" for hand-picked candidates.

In 2022, several such loopholes were actively utilised, distorting the merit-based judicial career system. As signalled by the NJC 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. Both administrative leaders created a loophole by opening several positions in one package and then manipulating the outcome of the application procedure by considering the applications in an arbitrary order. While the illusion of a regular application procedure was maintained, judicial appointments were not granted in a transparent, foreseeable and objective manner. In 2021, the Kúria President granted five appointments to the Kúria while the NOJ President granted four appointments to the bench utilising the same loophole. As revealed by the data published, Barnabás Hajas, a former state secretary without any prior judicial experience also became a judge at the Kúria as a consequence of this unlawful practice.

In addition to the above, the series of judicial appointments by ad hominem legislation continued. On 1 January 2022, a new piece of legislation entered into force inserting a new Administrative Court of Appeal (ACA) in the administrative court system. According to the legislation, judges who complied with specific preconditions could request their transfer to the new ACA within the very tight period of 10 calendar days. According to the information provided by the NOJ President, only four concrete judges (0.14% of the total number of judges) could meet the statutory criteria for being transferred to the new court. This might raise concerns as to a potential intervention by the legislative branch in judicial appointments.

Irremovability of judges, including transfers, (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)

3000 character(s) maximum

Several concerns raised in the 2020, 2021 and 2022 CSO contributions remain relevant. These include: (i) the general rule that if a court leader is unlawfully dismissed 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; (ii) the fact that the legislation allows the NOJ President to second judges without their consent for one year every three years; (iii) the possibility to transfer judges outside the judiciary to other state organs, which, according to the Venice Commission “could be used to institute a practice of bypassing the ordinary processes of promoting judges”; (iv) the right of the NOJ President to terminate unilaterally the assignment of judges dealing with administrative cases without meaningful justification, within a short term.

The legal framework of secondment of judges in Hungary is prone to misuse of powers. Decisions on the secondment of judges are fully left to the discretion of administrative leaders, jeopardizing the independence of the judiciary and leading to a mass application of secondments. The legislation does not provide for criteria narrowing the discretion of the NOJ President (and the court presidents respectively), opening a path to abusive application of the discretionary powers. The lack of procedural guarantees allow misuse of the legal grounds, inter alia by creating a disguised probationary period at higher court positions, including the Kúria. Data show that secondments may also divert the outcome of an application procedure and facilitate the appointment of judges who were priorly seconded. The decisions on secondments lack sufficient democratic accountability and therefore arbitrary application of the law and abusive practices cannot be contested. In 2022, the NJC was forced to issue an official warning towards the NOJ President for blocking the exercise of supervisory functions by the NJC via denying access for members of NJC to the background documents related to secondments.

The wide-spread practice of secondments to the Kúria on the legal ground of professional development raises specific concerns. During the past two years, altogether ten judges were appointed to the Kúria after being “tested” as seconded judges, out of which at least three judges directly benefited from the secondment during the application procedure by tailor-made criteria built in the call for applications. Secondment as a court administration measure also contributed to blocking the normal course of the proceeding in two high-profile criminal cases.

Promotion of judges and prosecutors (incl. judicial review)

3000 character(s) maximum

As a main rule, judicial promotions and leadership positions shall be granted in the framework of an ordinary application procedure, but the legislation allows for a wide range of exceptions. 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 eliminating the guarantees attached to a transparent application procedure. No judicial remedy is available against appointments made without an appointment procedure.

Concerns with respect to the elimination of an application procedure after the termination of a transfer outside the judiciary remain unaddressed.

Even in case of an ordinary application procedure, the outcome of the procedure can be manipulated by several means. Applications for judicial leadership positions (such as the position of head of panel or deputy-college leadership positions) are assessed by the sole discretion of the president of the relevant court. Judge peers hold the right to form a non-binding opinion 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 chamber president at the Metropolitan Court of Appeal became public as an outstanding example of disregarding the votes of judge peers.

Besides formal appointments, the legislation provides for a variety of informal means to promote a judge. Informal appointments include (i) assignment as an administrative judge (ii) granting temporary leadership positions and (iii) in case of the Kúria, special judicial positions assigned via the case allocation scheme of the Kúria. Informal appointments are fully carried out on the basis of a non-transparent decision.

An outstanding example for an informal appointment to one of the highest judicial leadership positions at the top tier was the de facto assignment of a deputy-college leader at the Kúria for eight months. 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. Later, an “extra” deputy-college leadership position was created and filled in by the judge who was priorly selected and informally assigned by the Kúria President. Resolutions on informal appointments (promotions) are taken in a completely non-transparent manner. Neither the criteria nor the terms of an appointment or the termination thereof are set out by law and the assignment can be withdrawn without the judge’s agreement any time, preventing the judge from continuing to adjudicate in the same position, also entailing the possibility of undue pressure and interference with the parties’ right to their lawful judge.

Allocation of cases in courts

3000 character(s) maximum

All concerns raised in the 2020, 2021 and 2022 CSO contributions remain relevant. The possibility to modify the case allocation scheme is unlimited in time. The law grants full discretion to court presidents to establish the case allocation scheme. Modifications of the case allocation schemes are carried out on a regular basis, sometimes even from one day to the other. The law provides for a wide range of exceptional rules without establishing guarantees against their inappropriate application. Parties of a court proceeding cannot verify the proper application of the scheme or whether there was a derogation from it.

As of 1 March 2022 administrative cases are adjudicated by panels of five at the Kúria, but, if the nature of the case justifies so, two of the judges on the panel can be judges who have not been assigned as administrative judges. In addition, the presiding judge may exceptionally order that the case be adjudicated by a panel of three. These instances require a great deal of discretion regarding whether a judge not assigned to act in administrative cases shall be on the panel and who that judge should be, and whether instead of a panel of five, a panel of three shall adjudicate the case and who the three judges on the panel should be. The Kúria's case allocation scheme does not make it clear by whom and how those decisions are to be made. The law expressly authorizes the Kúria President to use the case allocation scheme as a tool to transfer judges.

The new ACA gained nationwide competence in adjudicating administrative cases on second instance with effect from 1 March 2022. While from this day parties were obliged to submit their actions and appeals to this court, the case allocation scheme of the court within which the ACA is integrated effective and published between 1 and 10 March 2022 did not even mention the existence of the new judicial forum, let alone the judges assigned to it. The subsequently published case allocation scheme indicated that the new court started its operation with two panels, but three members of both panels were the same judges.

The Constitutional Court (CC) does not have a case-allocation scheme at all. Since 2012, the CC has gained competence to review final and binding judgments delivered by ordinary courts with respect to their compliance with the Fundamental Law. The safeguards attached to the right to a lawful judge shall be applied at least in relation to the review resolutions of ordinary courts, nevertheless, the CC does not have a case allocation scheme and cases are handed down to judges as rapporteurs under non-transparent rules. The data of the most recent survey of the European Network of Councils for the Judiciary on the Independence of Judges (ENCJ Survey 2022) shows that every fifth Hungarian judge believes that during the last three years, cases have been allocated to judges other than in accordance with established rules in order to influence the outcome of the particular case.

Independence (including composition and nomination and dismissal of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

3000 character(s) maximum

The competences of the NJC have remained unchanged, thus it cannot perform its statutory role to be an effective check on the NOJ President and should be strengthened as recommended by the Venice Commission, the Council of the EU, and also by the EC in its 2020, 2021 and 2022 Rule of Law Reports. Since the last Rule of Law Report, no legislative steps have been taken to address structural issues. Consequently, without any amendment to the laws, the NJC still cannot effectively fulfil its constitutional role. The data of the ENCJ Survey 2022 show that 39% of Hungarian judges do not believe that the NJC has the appropriate mechanisms and procedures to defend judicial independence effectively.

The relationship between the NOJ President and the NJC remains problematic. In 2022 the NJC issued two official warnings calling attention to the breach of law by the NOJ President. The first official warning was issued after the NOJ President denied access to documents and information requested by the ad hoc committee established by the NJC to examine the secondment practice of the NOJ President. The second official warning was issued by the NJC after the NOJ President classified the report on the comprehensive investigation initiated to clarify the role of the President of the Metropolitan Regional Court in the Schadl-case [see more in detail section I. 19. of the present CSO contribution] without any reasonable explanation and refused to inform the members of the NJC about the investigation's outcome even in an in-camera session. The NJC called upon the NOJ President to release his resolution on the classification to the NJC and to make the underlying documents that had informed such a decision available for inspection for the NJC members. The NOJ President did not comply, therefore the NJC made an official warning. The NJC also discovered that the NOJ President presented false information to the NJC regarding his appointment practice.

The NJC proposed several times, most recently on 7 September 2022 that the NOJ President requests the Ministry of Justice to amend certain laws on courts and judges. The NOJ President only considered the legislative amendment of the NJC to ensure that, in the case of several tenders being evaluated at the same time, the order in which applications are evaluated is precisely regulated.

The NJC also asked for information from the NOJ President about the practice of regional court and court of appeal presidents regarding their appointment of court leaders (e.g. chamber presidents or college presidents) and judges. The NOJ President declined the NJC's request, claiming that the NJC does not have the competence to oversee local court administration.

Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)

3000 character(s) maximum

The Integrity Policy issued by the NOJ President can still be used as a tool to silence judges 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. The new NOJ President has not amended the Integrity Policy since his election. The disciplinary cases of judges are decided by service courts, the operation of which is not public according to the law. For years, not even the individual decisions of the service courts were published in any way, only aggregated data were provided by the NOJ President regarding the number and the outcome of disciplinary proceedings. In lack of published decisions, the jurisprudence on disciplinary offences was non-transparent both for judges and the public, creating unclarity about the disciplinary regime. Nevertheless, in November 2022, the NJC published on its website some recent anonymized disciplinary decisions for the years 2021 (14 decisions) and 2022 (8 decisions).

Judgment C-564/19 of the CJEU remains non-executed, the law and a precedential decision of the Kúria allow the Kúria to declare a judge's reference for a CJEU preliminary ruling unlawful after a so-called appeal in the interests of the law, which is particularly concerning, as this served as the basis for initiating a disciplinary action against one particular judge in the past. Despite the clear obligation to execute the judgment of the CJEU, both the Kúria President and the Prosecutor General publicly claimed on several occasions that the Kúria's relevant precedential judgment is binding and obligatory on Hungarian judges. In late 2021, the Plenary Meeting of the Group of States against Corruption (GRECO) adopted a new compliance report regarding corruption prevention in respect of members of Parliament, judges and prosecutors, which concluded that there are still serious deficiencies regarding the implementation of GRECO's recommendations, and e.g. the recommendation regarding the immunity of judges remains not implemented.

At its meeting on 2 March 2022, the NJC adopted the new Code of Ethics for judges that includes a more permissive wording with regard to judges' participation in public discussions. An important development is that the Code also states that judges are free to express opinions on "laws, the legal system and the administration of justice", which was previously at least doubtful. On 27 May 2022, the Kúria President challenged the constitutionality of the Code before the CC and the law allowing the NJC to adopt it. While the petition to the CC will not legally hinder the new Code's entry into force, the ongoing dispute and the chilling effect that it exerts on the NJC and the judges will continue to have a negative impact on judges' freedom of expression and participation in professional debates.

Remuneration/bonuses/rewards for judges and prosecutors, including observed changes (significant and targeted increase or decrease over the past year), transparency on the system and access to the information

3000 character(s) maximum

The salary increase for judges made in previous years was discontinued for the year 2023. The base salary of both judges and prosecutors has been raised from gross HUF 507,730 (€ ~1,418) – for the year 2021 – to HUF 566,660 (€ ~1,538) – for the year 2022 – but remained at this level (HUF 566,660) for the year 2023. The Hungarian legislation provides a wide discretion to the NOJ President and judicial leaders in determining the bonuses of their employees, therefore, self-censorship can easily be achieved by cutting (or granting) bonuses. There is no closed statutory list or definition of the types and forms of support that the NOJ President and other judicial leaders can distribute among judges, nor are there clear criteria as to what can serve as the basis for such decisions. For instance, the internal regulations list premiums and bonuses that can be granted in the framework of the labour force preservation programme of the court system. Regarding these supplements and bonuses, it is often the discretionary decision of the employer whether to allow the judge to participate in the activities that serve as the basis for granting the bonus. E.g., a court president can prevent a judge from participating in projects, acting as an instructor for younger judges or being a member in judicial working groups, which automatically deprives them from the possibility of receiving certain types of bonuses.

In 2020 the NJC decided to establish a committee to review the extraordinary payments (bonuses) granted between 1 January 2018 and 31 December 2019 on a discretionary basis by the NOJ President to judicial leaders appointed by the NOJ President as well as to judges assigned by the NOJ President to the NOJ. The committee requested the NOJ President to provide access to the documents containing the relevant data under the legislation authorising the NJC to control the budget of courts. The NOJ President refused to provide the NJC with the relevant data, and only informed the committee of the aggregated amounts of payments effected. The aggregated data showed that in years 2018 and 2019 immense amount was paid out under full discretion of the NOJ President as “project premium, targeted benefit and other personal premium”. Although the payments in question may have concerned projects completed from EU funds, the NOJ President successfully obstructed their review by the NJC, therefore the committee had to close its investigation without the possibility to supervise the legality of these payments.

Independence/autonomy of the prosecution service

3000 character(s) maximum

The prosecution service and the incumbent Prosecutor General (re-elected in 2019 for nine years by the governing parties, who can only be removed with a two-thirds majority as a result of a 2021 amendment) has long been subject to heavy criticism for not bringing high-profile corruption cases of government politicians and their close affiliates before courts.

In relation to prosecution of corruption concerning EU funds, the EC cited issues as regard limitations to the effective investigation and prosecution of alleged criminal activity and the organisation of the prosecution services as grounds for triggering the rule of law conditionality mechanism in relation to Hungary in 2022. In particular, the EC “pointed out a serious risk of weakening the effective pursuit of investigations and prosecutions in cases involving Union funds, due to the concentration of powers in the hands of the Prosecutor General’s Office, the strictly hierarchical organisation of the prosecution service, the lack of a requirement to give reasons when cases are attributed or reassigned, the absence of rules to prevent arbitrary decisions that could hamper an effective investigation and prosecution policy, as well as the lack of judicial review of decisions by the investigating authorities or the prosecution service not to pursue a case”. As a result, in the autumn of 2022, a new special remedy process to bring private prosecution in corruption cases was introduced, enabling both private individuals and legal entities under private law to take cases of corruption before justice. However, due to a series of procedural hindrances, this new special remedy process is unsuitable to provide a meaningful solution if the state fails to prosecute corruption cases. Moreover, the problems raised in relation to the organisation of the prosecution service have not been addressed in any form; structural shortcomings following from the lack of internal checks and balances within the prosecution service and from the possibility of the Prosecutor General to unaccountably influence the work of subordinate prosecutors and to interfere in individual cases have not been tackled. Thus, the “concerns as regards the discretionary powers of the prosecution service to decide on the investigation and prosecution of cases, which are further amplified by the strictly hierarchical architecture of the prosecution service enabling the Prosecutor General and other senior prosecutors to instruct subordinate prosecutors and to reallocate cases assigned to them” as raised by the EC’s 2022 Rule of Law Report remain valid. 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.

Independence of the Bar (chamber/association of lawyers) and of lawyers

3000 character(s) maximum

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

3000 character(s) maximum

In March 2022 the Committee of Ministers (CM) monitoring the execution of judgments by the European Court of Human Rights (ECtHR) issued an interim resolution on the execution of the judgment in the Baka v. Hungary case. In its resolution, the CM noted with grave concern the continuing lack of progress, almost six years after the judgment became final and urged the authorities' to present an evaluation of the guarantees and safeguards protecting judges from undue interferences, to enable "a full assessment as to whether the concerns regarding the 'chilling effect' on the freedom of expression of judges caused by the violations in these cases have been dispelled".

Few months after the interim resolution was issued urging guarantees against undue interference in the freedom of expression of judges under Article 10 of the ECHR, an intense smear campaign was targeted in the government-friendly propaganda media against two judges acting in their capacities as members and representatives of the NJC. As the constitutional body mandated by the Fundamental Law to supervise the central administration of courts, the NJC voiced criticism on several occasions against measures undermining the independence of judges and the rule of law in Hungary. The smear campaigns directed against the judges as members of the NJC were closely connected with the criticism voiced and were launched in two waves. (i) In August 2022, in an article by the Guardian, the spokesperson of the NJC voiced his concerns over government overreach aimed at swaying courts; his statements triggered severe and defamatory attacks against him from the pro-government propaganda media. (ii) In October 2022, another massive smear campaign was launched by the pro-government media and government officials against the NJC's spokesperson and its member responsible for international relations. The judges were attacked and their independence was questioned for accepting an invitation to meet the ambassador of the USA in their capacity as representatives of the NJC, to talk about the situation of judges and judicial independence in Hungary.

The NJC promptly issued a public statement in defence of its representatives. The Hungarian Association of Judges (MABIE), the European Association of Judges (EAJ) and the representatives of the European Network of Councils for the Judiciary openly expressed their solidarity towards the targeted members. However, the NOJ President, the Kúria President, a high-ranking ruling majority MP, government politicians also joined the smear campaign by criticising the activity of the judges. The members of the NJC requested the NOJ President and the Kúria President as representatives of the judicial branch in vain to protect the freedom of expression of judges raising their voice in protection of the rule of law and the independence of the judiciary.

B. Quality of justice

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section

2)

Accessibility of courts (e.g. court/legal fees, legal aid, language)

3000 character(s) maximum

After the new Code on Civil Procedure came into force in 2018, the number of civil lawsuits dropped significantly as the new law erected serious barriers to file a complaint, which resulted in the restriction of the right to access courts. While in 2020, the Parliament adopted a comprehensive amendment of the Code to make it easier to start a civil law proceeding, recent caseload statistics show that the amendment could not make a significant improvement and the number of incoming cases in first instance courts has fallen to two-thirds of the 2017 figures, and are constantly decreasing. It is still very difficult to submit a civil law claim, and the high costs of litigation also discourage people from seeking justice before courts.

The problems with access to justice in administrative cases, discussed in the 2022 CSO contribution, have also remained in place. The official caseload data for the first half of 2022 clearly indicate that the number of administrative cases has been continuously decreasing compared to previous years' figures. These data prove that an administrative lawsuit as a tool is not equivalent to an appeal before an administrative body, and provides a much limited possibility for individuals to seek justice against state bodies. Data from 2022 therefore confirm our finding from last year that by abolishing the possibility of appeal within the administrative system, "the level of protection available in practice for the individuals against the unfavourable decisions of public administrative bodies has significantly decreased".

The Hungarian justice system provides some arrangements to support people with disabilities to participate in the administration of justice on an equal basis with others, but access to information in specific formats is limited.

Resources of the judiciary (human/financial/material)

(Material resources refer e.g. to court buildings and other facilities)

3000 character(s) maximum

As regards material resources, judges interviewed by Amnesty International asserted that material resources (e.g., buildings, technical equipment, IT supplies) are sufficiently provided by the court administration, and they are more concerned about the independence of the judiciary.

As regards financial resources provided for courts by the state, for 2021, the proposed central budget expenditure was HUF 141,964.5 million (€ ~396 million). For 2022, the proposed central budget expenditure of the courts was increased to HUF 155,649.5 million (€ ~422 million). For 2023, the proposed central budget expenditure of the courts was HUF 160,377.3 million (€ ~406 million).

As regards material resources, according to a December 2021 amendment to a NOJ President order, the NOJ President granted regional court presidents and regional court of appeal presidents the use of a company car that they can even use for personal purposes up to 15,000 km per year. In April 2021, the NJC objected to the draft amendment, saying that such a possibility amounts to a substantial extra payment to the court presidents, and argued that it "is not supported by legislation, and it would provide an additional benefit, the amount of which is questionable, especially taking into account the significantly higher increase of court leaders' salaries as compared to those of judges". Regardless of the NJC's objection, the NOJ President passed the amendment to the abovementioned order. On 5 October 2022, the NJC questioned the legality of such a company car allowance and pointed out that since these court presidents exercise employers' rights over judges, discretionary decisions related to such allowances by the NOJ President raise integrity concerns.

Training of justice professionals (including judges, prosecutors, lawyers, court staff)

3000 character(s) maximum

In recent years, the NJC has put forward a series of proposals for the central training plan of the judiciary, thereby highlighting the most fundamental problems of the current system of judicial training.

It is the Hungarian Academy of Justice (Magyar Igazságügyi Akadémia, MIA) that is responsible for the training of justice professionals. MIA operates within the NOJ and it is the NOJ President who appoints the director of MIA and determines the central tasks of judicial training. The NJC urged the NOJ to strengthen the role of MIA in training and to organize central training programs which are broadly available for judges on an equal basis.

The NJC stressed that trainers should be selected solely on merit, and courtroom experience, especially experience in conducting trials should be an important factor for selecting those who train their peers.

The major problem lies in the fact that trainers are selected by court executives, and this system lacks transparency. Similarly, the criteria of selecting judges for participating in international training programmes are not set, which makes the selection procedure arbitrary.

In 2022, the NOJ President made a commitment to establish a “trainers’ database” which was welcomed by members of the NJC. In order to strengthen transparency, the NJC requires that the database be published, and clear eligibility criteria be determined with a quality assurance system.

The NJC also raised concerns about the quality of training programs. Some judges criticized the method of presenting formal legal rules to judges without genuine discussion about the related problems. Furthermore, the NJC emphasized the relevance of developing competences, organizing moot court hearings for law clerks, and strengthening fundamental elements of judicial ethos such as independence, impartiality and fairness. Finally, the NJC encouraged the NOJ to involve other legal professionals (e.g. attorneys, prosecutors, notaries) into judicial training.

According to the NJC, there have been several occasions in recent years when the selection of the topic as well as the trainers and the participants was based on factors other than what would have been appropriate from a professional point of view. As judicial training is highly important in the career of judges, a trainer position or easy access to training programmes can be a form of reward given by court executives, therefore the NOJ must establish a transparent and merit-based system for selecting trainers and provide judges with access to training on an equal footing.

Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)

3000 character(s) maximum

Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)

3000 character(s) maximum

The results of surveys on the perception of judges about the threats to their independence and integrity (published yearly since 2015) are only partly public and are redacted, so the general public is not able to become acquainted, let alone to fully evaluate their results. In late 2020, Amnesty International submitted a freedom of information request to the NOJ President to obtain the full documentation of these surveys, but the request was declined, claiming that these surveys do not constitute data of public interest. In the years 2020, 2021 and 2022, however, the NOJ President has not conducted such surveys.

The NJC criticised the NOJ President that at no time since taking office has the NOJ President informed the NJC of his programme of long-term tasks for the administration of justice and the conditions for their implementation.

Annual reports on judicial administration data by the NOJ President gets published with a considerable delay: it was only on 16 November 2022 that the central judicial website published the NOJ President's annual review for the first half of 2021 that the Parliament had just approved.

The NJC still has not been given meaningful access (e.g. admin rights) to the central website of the judiciary. Only excerpts and decisions of the NJC meetings and other NJC data strictly prescribed by the law are available on the central website of the courts. The list of the current members of the NJC, the complete minutes of their meetings or public communication materials addressed to the judges are only available on the NJC members' private website, which significantly limits the NJC's access to judges. The NJC repeatedly asked the NOJ President to provide the NJC with access to the central website of the courts so that it could freely convey communication materials addressed to the judges, but the NOJ President refused these requests.

Geographical distribution and number of courts/jurisdictions ("judicial map") and their specialization, in particular specific courts or chambers within courts to deal with fraud and corruption cases

3000 character(s) maximum

The Hungarian court system went through a definite centralisation process between 2019-2021 through a series of legislation adopted in the form of omnibus acts. The centralisation was particularly strong in the administrative section of adjudication, where the stakes for the Hungarian government are high and where judges decide in matters of fundamental rights (e.g. elections, administrative decisions by the police, asylum or the exercise of the right to peaceful assembly) and in cases with significant economic relevance (e.g. disputes over taxation and customs, media, public procurement, construction and building permits, cases of land and forest ownership, land and real estate public records or even market competition matters). In the new system, an overwhelming part of the administrative judicial powers is concentrated in the hands of the Kúria, which went under significant transformation. With effect from 1 April 2020, the Kúria gained exclusive competence to rule (i) as the first instance court; (ii) as the second instance court and (iii) as the court of extraordinary review in different types of cases. In addition to the above, with effect from 1 July 2020, an additional level of judicial review was inserted in the system of adjudication. The new “uniformity complaint procedure” was claimed to be designed to guarantee the uniform application of the law. This legal remedy may be initiated before the Kúria in case a final and binding court decision deviates from judgments previously published by the Kúria. If a complaint is lodged and the Kúria establishes a deviation from published jurisprudence, the final and binding court resolution can be quashed. This means that the uniformity complaint panel of the Kúria gained competence to overrule the final and binding judgments of all other panels of the Kúria as a fourth instance and also became entitled to establish the mandatory interpretation of the law as a result of the procedure by way of uniformity decisions. With effect from 1 March 2022, the system of administrative adjudication was modified, establishing a third tier in the system. The new administrative court level was introduced with the aim of replacing the Kúria as the general court of second instance for first instance judgments handed down by regional courts in administrative cases. Although the new court started to operate on 1 March 2022, until 30 May 2022 none of the judicial positions were filled by an ordinary application procedure. All judges of the new administrative court of appeal were transferred either by way of secondment, or assignment, or on the basis of ad hominem legislation. The centralisation process introduced in the form of a series of legislative steps modified the court system in a manner that increases the likelihood of adjudicating politically sensitive cases in a manner that is favourable for the government.

C. Efficiency of the justice system

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section

2)

Length of proceedings

3000 character(s) maximum

As reported last year, in response to the long-standing demand by the Committee of Ministers of the Council of Europe supervising the execution of ECtHR judgments, in the framework of complying with the pilot judgment handed down in 2015 in the *Gazsó v. Hungary* case concerning the excessive length of judicial proceedings in Hungary, the Parliament adopted a law in June 2021 that introduced a compensatory (financial) remedy for the excessive length of certain proceedings.

However, the law (which took five years, 14 CM decisions and three CM interim resolutions to get adopted after the pilot judgment) introduced the compensatory remedy, as of January 2022, only for excessively lengthy civil proceedings (civil law trial cases). No similar compensation is envisaged by the law for either administrative court procedures or criminal proceedings, and the law does not cover non-trial procedures either, such as enforcement proceedings. Furthermore, the new law has also been criticized for the low amounts of compensation offered and for its leniency vis-à-vis the courts when it comes to defining the reasonable length of procedures.

The CM does not consider the pilot judgment issued in the *Gazsó v. Hungary* case executed either. In its latest, 2021 December decision, it “firmly called on the authorities to ensure [the new law’s] Convention-compliant application and invited them to provide the [CM] with concrete information on its implementation in practice, as well as a detailed analysis on the compliance with the [ECtHR’s] case-law of the levels of compensation regulated in the relevant Government Decree”. In addition, the CM “noted the authorities’ timetable for preparing a proposal for a remedy covering other types of judicial proceedings by the end of June 2023” and “in light of the importance of the matter, its technical nature and the expiry of the deadline set by the [ECtHR] in its pilot-judgment more than five years ago, strongly encouraged the authorities to explore any possible avenue for accelerating their planning”. However, since then, no related draft law has been published or submitted to the Parliament by the Government. Finally, the CM also “encouraged the authorities to continue their efforts in resolving the problem of excessively lengthy court proceedings at the stage of prevention” and “strongly urged the authorities to provide more detailed statistical information on the length of proceedings before all three [civil, criminal, administrative] jurisdictions allowing a comprehensive assessment of the situation”.

The CM requested the authorities to submit updated information on all the above issues by the end of June 2022, however, the Government has not submitted a new action plan/report to date.

Other - please specify

3000 character(s) maximum

In 2021, the prosecution brought charges against György Schadl, President of the Hungarian Chamber of Bailiffs, according to which Schadl regularly used to give cash as an undue advantage to the then State Secretary of the Ministry of Justice, who, in turn, made use of his competence deriving from his position as deputy minister according to the interests of the person offering the bribe to him. As indicated in the investigation documents leaked in January 2022, Schadl contacted the NOJ President in June 2021 with the aim of attaining the removal of a judge from position. According to the documents of the National Protective Service, the NOJ President arranged a meeting for Schadl with Péter Tatár-Kis, the President of the Metropolitan Regional Court (MRC); at the meeting, Schadl asked Tatár-Kis to fire the judge. As a response Tatár-Kis informed him that “he was unable to fire the judge, but he could revoke her appointment as group leader, and could achieve that she feels at unease at her workplace”. The NJC urged the NOJ President to initiate a disciplinary procedure against Tatár-Kis. Instead, the NOJ President initiated a comprehensive targeted administrative investigation related to complaints’ handling with respect to the MRC and all the district courts operating within its jurisdiction regarding the full calendar year of 2021. In June 2022, the NOJ President classified the full documentation of the internal investigation as “intended for limited distribution”, which, under the law, means that access may be granted to the outcomes of the internal investigation in 2037 at the latest. Although the law explicitly allows NJC members to consult classified documents, the NOJ President has refused to grant the possibility for NJC members to consult the documents of the case. The data of the ENCJ survey 2022 show that over a longer timespan the independence of the judiciary has deteriorated in Hungary. The answers given to questions related to appointment and promotion of judges in Hungary show a very concerning picture: 42% of judges agreed that judges have entered the judiciary on first appointment other than solely on the basis of ability and experience during the last three years; 52% of judges agree that judges in Hungary have been appointed to the Kúria other than solely on the basis of ability and experience during the last three years; 44% of judges agree that judges in first instance and appeal courts in Hungary have been appointed to other positions other than on the basis of ability and experience during the last three years; 15% of judges believe that corruption is an issue and individual judges have accepted bribes or have engaged in other forms of corruption as an inducement to decide cases in a specific way. Based on the outcome of the survey, the ENCJ distinguished three categories where Hungary falls in the group of European countries in which a higher percentage of judges believe that corruption occurs.

II. Anti-Corruption Framework

Where previous specific reports, published in the framework of the review under the UN Convention against Corruption, of GRECO, and of the OECD address the issues below, please make a reference to the points you wish to bring to the Commission’s attention in these documents, indicating any relevant updates, changes or measures introduced that have occurred since these documents were published.

Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding the anti-corruption framework (if applicable)

3000 character(s) maximum

A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable)

3000 character(s) maximum

Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption

3000 character(s) maximum

Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators

3000 character(s) maximum

B. Prevention

Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct, ethics training). Please provide figures on their application

3000 character(s) maximum

General transparency of public decision-making, including rules on lobbying and their enforcement, asset disclosure rules and enforcement, gifts policy, transparency of political party financing

3000 character(s) maximum

Rules and measures to prevent conflict of interests in the public sector. Please specify the scope of their application (e.g. categories of officials concerned)

3000 character(s) maximum

Measures in place to ensure whistleblower protection and encourage reporting of corruption.

3000 character(s) maximum

List the sectors with high-risks of corruption in your Member State and list the relevant measures taken /envisaged for monitoring and preventing corruption and conflict of interest in these sectors (e.g. public procurement, healthcare, citizen investor schemes, risk or cases of corruption linked to the disbursement of EU funds, other), and, where applicable, list measures to prevent and address corruption committed by organised crime groups (e.g. to infiltrate the public sector)

3000 character(s) maximum

Any other relevant measures to prevent corruption in public and private sector

3000 character(s) maximum

C. Repressive measures

Criminalisation, including the level of sanctions available by law, of corruption and related offences, including foreign bribery

3000 character(s) maximum

Data on investigation and application of sanctions for corruption offences, including for legal persons and high level and complex corruption cases and their transparency, including as regards to the implementation of EU funds

(Please include, if available the number of (data since 2019): indictments; first instance convictions; first instance acquittals; final convictions; final acquittals; other outcomes (final) (i.e. excluding convictions and acquittals); cases adjudicated (final); imprisonment / custodial sentences through final convictions; suspended custodial sentences through final convictions; pending cases at the end of the reference year)

3000 character(s) maximum

Potential obstacles to investigation and prosecution as well as to the effectiveness of criminal sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, cross-border cooperation, pardoning)

3000 character(s) maximum

Information on effectiveness of non-criminal measures and of sanctions (e.g. recovery measures and administrative sanctions) on both public and private offenders

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

III. Media Freedom and Pluralism

Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding media freedom and pluralism (if applicable)

3000 character(s) maximum

A. Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

Measures taken to ensure the independence, enforcement powers and adequacy of resources (financial, human and technical) of media regulatory authorities and bodies

3000 character(s) maximum

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

3000 character(s) maximum

Existence and functions of media councils or other self-regulatory bodies

3000 character(s) maximum

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

Measures taken to ensure the fair and transparent allocation of state advertising (including any rules regulating the matter)

3000 character(s) maximum

Safeguards against state / political interference, in particular:

- safeguards to ensure editorial independence of media (private and public)
- specific safeguards for the independence of heads of management and members of the governing boards of public service media (e.g. related to appointment, dismissal), safeguards for their

operational independence (e.g. related to reporting obligations and the allocation of resources) and safeguards for plurality of information and opinions

- information on specific legal provisions and procedures applying to media service providers, including as regards granting/renewal/termination of licenses, company operation, capital entry requirements, concentration and corporate governance

3000 character(s) maximum

Transparency of media ownership and public availability of media ownership information, including on direct, indirect and beneficial owners, as well as any rules regulating the matter

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

Rules and practices guaranteeing journalist's independence and safety, including as regards protection of journalistic sources and communications

3000 character(s) maximum

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

3000 character(s) maximum

Access to information and public documents (incl. transparency authorities where they exist, procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities, possible obstacles related to the classification of information)

3000 character(s) maximum

Lawsuits (incl. SLAPPs - strategic lawsuits against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguard against manifestly unfounded and abusive lawsuits

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

IV. Other institutional issues related to checks and balances

Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding the system of checks and balances (if applicable)

3000 character(s) maximum

The Government made no efforts towards implementing the EC's recommendation in the 2022 Rule of Law Report to "[r]emove obstacles affecting civil society organisations" – some earlier passed restrictive and stigmatising legislation remained in effect, instances of administrative harassment were observed, and the distribution of public funding to civil society continues to be non-transparent and politically biased. See more in section D. on enabling environment for civil society.

A. The process for preparing and enacting laws

Framework, policy and use of impact assessments and evidence based policy-making, stakeholders'[1] /public consultations (particularly consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process

[1] *This includes also the consultation of social partners*

3000 character(s) maximum

The “absence of effective public consultation on draft laws” remains an issue despite new legislative amendments. In recent years, public consultation on draft laws has virtually ceased to exist; “rules on the obligatory public consultation of draft legal acts and their impact assessments have been systematically disregarded”. The provision that draft laws by ministers should be subject to public consultation as a main rule has been consistently ignored; the requirement that a summary of the comments received and the reasons for their rejection shall be published has not been respected even when a consultation took place. Although in October 2022, with a view to accessing EU funds, Act CXXXI of 2010 on Public Participation in Preparing of Laws was amended, the new rules do not provide a real solution:

- a) The Government now “bears a responsibility” to ensure that annually, 90% of draft laws fall into the category where public consultation is mandatory. However, the wide range of exceptions when draft laws do not have to or cannot be subject to public consultation was left intact. As a result, the Government may comply with the new rule without consulting on bills that are truly significant socially.
- b) The new rules set out that at least 8 days are provided for commenting. This is an improvement compared to the previous wording (setting out that “adequate time” should be provided), but in the case of voluminous bills, it is highly questionable whether 8 days is sufficient.
- c) The Government Control Office (GCO) can now impose fines on ministries for violating the rules on public consultation. However, this will have no deterrent effect because fines will ultimately end up in the same state budget from which ministries are allocated funds. Secondly, the GCO is subordinated to the Government, it has no functional independence, a factor that questions whether it can appropriately fulfil this role. Furthermore, the GCO played a key role in the 2014 crackdown on the CSOs that distributed EEA /Norway grants, showing that it is ready to spearhead a government action with shaky legal grounds and illustrating clear political bias.
- d) There are no further consequences foreseen if a law is adopted in breach of public consultation rules, so such laws can become/remain part of the legal system.
- e) Other forms of public participation in law-making have not been strengthened in any way.

In the last period of 2022, ministries started to publish laws for consultation, but several significant laws were omitted – most notably, all drafts laws the Government submitted in order to comply with the commitments it made in the conditionality procedure, and the above amendment of Act CXXXI of 2010.

In August 2022, CSOs requested the Minister of Justice to address problems of the judiciary after consulting both with the general public and experts, including self-governing and representative organs of the judiciary, but have not received a response ever since.

Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)

3000 character(s) maximum

On 24 May 2022, the governing majority adopted the 10th Amendment to the Fundamental Law, which authorised the Government to declare a state of danger in the case of an armed conflict, war or humanitarian disaster in a neighbouring country. This was accompanied by a law that excessively widened the scope of emergency decrees the Government can issue during a state of danger, providing it with yet another carte blanche mandate to suspend or derogate from Acts of Parliament.

The Government made use of the possibility to declare the new type of state of danger instantly, as of 25 May, with a reference to the “armed conflict and humanitarian disaster” in Ukraine. Subsequently, the Fourth Authorization Act removed parliamentary oversight over individual emergency decrees, following the practice developed during the COVID-19 pandemic. Thus, the amendments (none of them put to public consultation) allowed the Government to use the war as a pretext to keep its excessive regulatory powers acquired with a view to the pandemic, and maintain a “rule by decree” system.

Furthermore, provisions of the 9th Amendment to the Fundamental Law and accompanying laws that entered into force on 1 November transformed the framework for special legal orders, including the state of danger. As a new element, the Government needs an authorization from the Parliament to extend the state of danger after an initial 30 days; this authorization can be given for a maximum of 180 days per occasion, but can be repeated without limitation. The oversight of the Parliament over individual emergency decrees has been removed (they do not need the approval of the Parliament any more to stay in force after an initial period), cementing the framework created in the past years via the “authorization acts”. New provisions include a similar carte blanche mandate as the one created during the pandemic. As of 1 November, the Government declared a new state of danger under these new rules, with a reference to the war on Ukraine, and subsequently the Government extended the state of danger with an additional 180 days based on the Parliament’s authorization.

In the case of the other special legal order regimes introduced by the 9th Amendment to the Fundamental Law (“state of war” and “state of emergency”), the power to regulate and take measures is also concentrated in the hands of the Government without adequate constitutional restraints.

The Government continued to use “its emergency powers extensively”. In 2022, out of the 637 government decrees, 267 (41.9%) were adopted as emergency decrees, either with a reference to the pandemic or the war. (In 2020, at the height of the pandemic, fewer, 257 such decrees were issued.) 82 of these were issued in November-December, including a decree restructuring the state budget.

From among the 81 Acts of Parliament promulgated in 2022, five were adopted in an exceptional procedure, and eight were adopted in a discussion with urgency procedure.

Regime for constitutional review of laws

3000 character(s) maximum

All concerns raised by CSOs in recent years about the independence and effective functioning of the CC have remained in 2022. The CC has continued to rule in favour of the incumbent parties in politically sensitive cases.

In 2022, parliamentary elections were held in Hungary, and the CC has the power to review the constitutionality of Kúria's judgments in electoral cases. While the Kúria ruled against the Government only in a limited number of cases, the CC annulled even those decisions that were detrimental to the interests of the Government. For instance, the CC held that the fairness of the elections was not compromised when the Government used personal data collected for COVID vaccination for spreading campaign messages. The impugned message provided a distorted view about the standpoint of the opposition parties on the war in Ukraine, depicting it as irresponsible, but according to the CC, this communication fell under the Government's obligation to provide information for the people. Similarly, in referendum cases, the CC overturned those Kúria judgments that gave green light to referenda initiated by a key opposition figure, while in late 2021, it reversed a judgment which refused to validate one of the questions of the anti-LGBTQI referendum initiated by the Government.

The CC failed to intervene and examine the Kúria's judgment that rejected the complaint about the fine imposed on an NGO for encouraging voters to cast invalid ballots in the 2022 anti-LGBTQI referendum. Furthermore, the CC upheld the Kúria's judgment declaring its lack of jurisdiction concerning the potential irregularities in delivering postal ballots for Hungarians in Serbia.

In 2022, the CC terminated the procedures in relation to the 2017 "Lex NGO" which was found to be in breach of EU law by the CJEU in 2020. While the CC first decided to suspend the procedure until the EU court delivers its decision on the contested legislation, the CC was reluctant to continue the cases for years, and finally rejected the complaints on the ground that the challenged legislation had already been repealed. The CC failed to consider those complaints on the merits that challenged the overhaul of a small-business tax (KATA) which was pushed through the legislation overnight without any public consultation. The mid-year tax reform negatively affected hundreds of thousands of entrepreneurs. Also, the CC did not annul the law which stripped the Hungarian Academy of Sciences (MTA) of its research institutions and transferred them with its related assets to a government-controlled institution. According to the CC, the reform did not raise concerns about academic freedom.

Finally, the CC also failed to invalidate the law that effectively hollowed out the right to strike in public education. While the CC concluded that the restrictions pursued a constitutionally legitimate aim by protecting the interest of children, the justices did not engage in any meaningful proportionality analysis.

COVID-19: provide update on significant developments with regard to emergency regimes/measures in the context of the COVID-19 pandemic

- judicial review (including constitutional review) of emergency regimes and measures in the context of COVID-19 pandemic
- oversight (incl. ex-post reporting/investigation) by Parliament of emergency regimes and measures in the context of COVID-19 pandemic
- processes related to lessons learned/crisis preparedness in terms of the functioning of checks and balances

3000 character(s) maximum

The state of danger as a special legal order regime declared due to the pandemic was in place until 31 May 2022. Thus, the Government was in the position to issue emergency decrees suspending or derogating from Acts of Parliament during the period directly leading up to the national elections, held on 3 April 2022. In this period, the Third Authorization Act also remained in force. This law authorized the Government to extend the effect of future, not-yet-adopted emergency decrees, until the end of the state of danger. Thus, the substantive constitutional restriction that emergency decrees should remain in effect after an initial period of 15 days only with the Parliament's approval continued to be circumvented in this period.

The Government continued to "regulate matters unrelated to the COVID-19 pandemic" in emergency decrees. For example, a decree lifted tax secrecy in order to enable the tax authority to send information letters to beneficiaries of a new, unusually generous tax refund just before the elections. On this basis, a letter signed by the Prime Minister was sent out a week before the launch of the election campaign, being another example of the "pervasive overlap of government information and ruling party messaging" in terms of the election, criticized by OSCE/ODIHR. Another decree overruled a judicial decision quashing a ministerial decision limiting media access to hospitals and thereby limited media freedom when it provided full discretion to the government's pandemic taskforce to regulate relations between the media and healthcare institutions. Another decree restricted teachers' right to strike for better pay and working conditions when it determined the necessary minimum services that must be provided during a strike in such a broad manner that made a meaningful and at the same time lawful strike impossible.

As of 1 June 2022, the Government terminated the state of danger declared due to the pandemic. As a result, all emergency decrees lost their force, with the exception of 37 decrees that were specifically kept in force. The latter was possible because as discussed above, the Government declared a new state of danger as of 25 May, with a reference to the war in Ukraine. 19 of these 37 decrees were adopted way before the start of the war (mostly in 2021), and had no connection to it whatsoever. A remarkable example is a decree from 2020 that excessively extended the deadline for authorities to respond to freedom of information requests (this was later abolished in late 2022 though).

As presented above, bad practices developed during the pandemic in relation to the state of danger were cemented by the new legal framework that entered into force in November: new rules currently applied do not foresee parliamentary oversight over individual emergency decrees, and provide the Government with a similar carte blanche mandate as the one created during the pandemic.

B. Independent authorities

Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions

(Cf. the website of the European Court of Auditors: <https://www.eca.europa.eu/en/Pages/SupremeAuditInstitutions.aspx#>)

3000 character(s) maximum

In June 2021, the GANHRI Sub-Committee on Accreditation (SCA) recommended that Hungary's NHRI, the Commissioner for Fundamental Rights (CFR) is downgraded from an A to a B status. The downgrading became final in March 2022. In its March 2022 report, the SCA concluded, confirming the concerns of Hungarian CSOs, that the CFR has not substantiated that it is "fulfilling its mandate to effectively promote and protect all human rights", that it is "effectively carrying out its mandate in relation to vulnerable groups such as ethnic minorities, LGBTQI people, human rights defenders, refugees and migrants, or related to important human rights issues such as media pluralism, civic space and judicial independence", or its "engagement with the constitutional court and international human rights mechanisms in relation to cases deemed political and institutional". The SCA emphasized that the failure to do so "evidences a lack of independence", and concluded that the CFR is acting in a way that "seriously compromises its compliance with the Paris Principles". The concern raised earlier that the CFR's selection and appointment process is not sufficiently broad and transparent has not been addressed either. The deficiencies pointed out by the SCA as a reason for the downgrading continue to exist.

The above development made the merging of Hungary's equality body, the Equal Treatment Authority (ETA) into the CFR's Office as of 2021 all the more problematic. In its October 2021 opinion, the Venice Commission (VC) raised various concerns regarding this merger. It noted with regret "that no Director General for Equality Treatment [DGET, within the CFR's Office] has been appointed to-date, 9 months after the merger", although without a DGET "it is hard to imagine the promotion and visibility of equality mandate as required by ECRI General Policy Recommendation No 2". For that reason, the VC encouraged the authorities "to ensure a timely appointment of DGET and his/her Deputy in accordance with clear and transparent criteria defined by law". However, based on the information provided by the CFR's website, at the time of submitting the present contribution, still no DGET or Deputy seem to have been appointed. The VC was of the view that "the new system of protection against discrimination is overall more complicated and thus has the potential to be less effective than the previous one" and that this is a risk "that may undermine the effectiveness of the work in the field of promoting equality and combating discrimination". This conclusion is supported by a drop in the number of discrimination complaints after the merger. According to Hättér Society, the ETA received 868 cases in 2019, whereas "in the first 6 months of 2021, [the Directorate] received only 156 complaints". According to the CFR's annual report, in 2021 the Directorate dealt with altogether 462 cases, but this number also includes pending complaints from previous years.

Statistics/reports concerning the follow-up of recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years

3000 character(s) maximum

C. Accessibility and judicial review of administrative decisions

Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)

3000 character(s) maximum

Judicial review of administrative decisions:

- short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review)

3000 character(s) maximum

From 1 April 2020, the specialized Administrative and Labour Courts (20 of them, one for each county) were dissolved, and the first instance administrative cases were channelled to eight designated regional courts. With effect from 1 March 2022, the system of administrative adjudication was modified, once again. A new administrative court level was introduced with the aim of creating a general court of second instance for first instance judgments handed down in administrative cases, instead of the Kúria that acted as a court of second instance in such cases starting with 1 April 2020.

As a general rule, judicial review does not suspend the execution of the administrative decision. However, people seeking judicial review may ask the court for interim measures including suspension of execution or pretrial collection of evidence.

In cases against administrative authorities started after 1 March 2020, it is no longer possible to submit an appeal against first instance decisions of administrative authorities within the administrative system: instead, they have to be challenged before the court instantly. Moreover, as an additional step towards centralization, as from 1 March 2022, the law opened the way to 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) and not by the eight designated regional courts, further limiting access to court. In a limited subset of cases, e.g. in freedom of assembly cases, the Kúria passes the first instance judgment.

Judges dealing with administrative cases shall explicitly be assigned for this task within the ordinary court system. 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). The assignment can be terminated by the NOJ President any time without the consent of the assigned judge and without objective reasons or the obligation to justify the decision. Neither the criteria nor the terms of an assignment or the termination thereof are set out by law. This also entails the possibility of practically “taking away” cases from judges, since if the assignment to hear administrative cases is withdrawn from a judge he /she will no longer be able to hear his/her ongoing administrative cases and must be replaced. In 2022, the NOJ President unilaterally terminated the assignment of two judges without any meaningful justification, within a 1-day notice period.

Available data show that the amendment of the remedial framework has indeed restricted access to justice in relation to the decisions of public authorities impacting citizens. This means that the level of protection available in practice for the individuals against the unfavourable decisions of public administrative bodies has significantly decreased.

Follow-up by the public administration and State institutions to final (national/supranational) court decisions, as well as available remedies in case of non-implementation

3000 character(s) maximum

Concerns raised by previous CSO contributions with regard to the non-execution of domestic and regional court judgments remain valid.

1. There are still “cases where state bodies refuse to execute decisions of the domestic courts; several of these concern access to documents”, and court decisions issued e.g. in press rectification and personality rights lawsuits launched against government-affiliated media are often not executed either. According to a 2021 study by the HHC, one of the systemic problems contributing to this is the lack of effective and genuinely coercive enforcement tools. As reported by lawyers, the enforcement proceedings is a “costly and lengthy legal process which does not promise certain success”. The sanction regime has no deterrent /dissuasive effect, the issue of excessively lengthy enforcement proceedings has not been addressed, and a number of practical problems limits its accessibility. In freedom of information cases it is also a problem that

enforcement is only possible in practice through imposing a fine, but the maximum amount of fines is too low (HUF 500,000 per instance). Criminal procedures launched for non-compliance with the obligation to disclose data in violation of a court decision very rarely lead to indictments: in 2018–2020, charges were filed in only 3 out of 59 cases. Criminal procedures have been reported to be discontinued solely on the basis that the alleged perpetrator eventually disclosed the data requested after the criminal procedure had been launched, although with the denial to disclose data, the offence is already completed.

2. The number of judgments in which the CC declared that a legislative omission resulted in the violation of the Fundamental Law, but the Parliament has failed to remedy the situation to date, has grown from 13 to 16 since last year. The court-set deadline for implementing these decisions has expired in 15 cases, the oldest one in 2013.

3. Hungary's record of implementing ECtHR judgments remains poor: 43 leading cases are still pending execution. Pending leading cases concern e.g. 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. There is still no separate national structure to bring together various actors to coordinate the implementation of ECtHR judgments; meaningful parliamentary oversight is lacking.

4. Problems related to the execution of CJEU judgments have also persisted. A recent study by the HHC shows that, as of October 2022, Hungary has not (or only partially) implemented 9 out of the 13 CJEU judgments issued in the field of asylum and migration. In December, the "Stop Soros" law that criminalises assistance to asylum-seekers and which was found to be in breach of EU law by the CJEU in 2021 in one of those judgments was amended, but this amendment has failed to implement the CJEU's judgment.

D. The enabling framework for civil society

Measures regarding the framework for civil society organisations and human rights defenders (e.g. legal framework and its application in practice incl. registration and dissolution rules)

3000 character(s) maximum

The freedom of association is embedded in Act CLXV of 2011 which at the same time also contains detailed rules on the operation of non-profit organisations. The freedom of (peaceful) assembly is regulated by the Act LV of 2018, while the freedom of expression and the press is enshrined in Act CIV of 2010. Furthermore, the Civil Code (Act V of 2013) contains provisions on the establishment and general functioning of associations and foundations.

The letter of these laws generally conforms with relevant international standards, and has not changed in the past year, and no new legislation relevant to civil society has been passed. Accordingly, anyone can freely register an association or foundation at the administrative courts (also online which has made the process easier, though geographic differences among courts still occur), and there have been no cases of deregistration either. Organisations can also operate freely, but in practice, both regulation and oversight place unnecessary administrative burdens on smaller groups, while larger ones, especially those with public benefit status (20% of all) and those receiving public funding must meet rigorous reporting obligations: e.g. they must annually and publicly report separately on their accounts and activities, on their donations and the use of the 1% personal income tax assignments – but thereby, their transparency is guaranteed, too.

At the same time several pieces of earlier legislation negatively affecting civil society remain in effect, though are not or only partially implemented. A notable example for the former is the 25% punitive tax on donations to organisations that are regarded as "supporting" immigration, and the 2021 acts on organisations "capable of influencing public life" (Act XLIX) and on "homosexual propaganda to minors" (Act LXXIX) for the latter – for more on the application of these, see the next chapter on safe space.

Rules and practices having an impact on the effective operation and safety of civil society organisations and human rights defenders. This includes measures for protection from attacks – verbal, physical or on-line –, intimidation, legal threats incl. SLAPPs, negative narratives or smear campaigns, measures capable of affecting the public perception of civil society organisations, etc. It also includes measures to monitor threats or attacks and dedicated support services.

3000 character(s) maximum

Intimidation and harassment by governmental agencies based on legislation passed in previous years was observed in 2022, too.

On 21 February, the tax authority conducted a raid at the headquarters of 'Oltalom' Charitable Association /Hungarian Evangelical Brotherhood, as a follow-up of an earlier fine imposed on them for the non-payment of due taxes. However, the root cause for this omission on the side of the association was that following a 2016 ruling of the ECtHR, the Government failed to restore the organization's earlier church status, thereby causing them to lose billions in subsidies to which they were rightfully entitled to finance their services to poor people.

In the spring of 2022, Amnesty International Hungary and Háttér Society organised a campaign with 14 other major CSOs entitled "Invalid answer to invalid questions - CSO response to the anti-LGBTQI referendum". This referendum, held on the day of the parliamentary election, was an important element in the government's anti-LGBTQI campaign, aimed at mobilising the more homo- and transphobic part of the society in the general elections. As a response to the manipulative nature of the referendum questions, the CSOs' campaign encouraged voters to cast an invalid vote in the referendum, successfully: as 1.7 million people crossed both answers (Y/N) to all four questions, the number of valid votes remained under the validity threshold (50%).

Five days after the referendum, the 16 CSOs which signed up to the campaign received a ruling from the National Election Commission imposing a fine of HUF 3 million (€ ~8,100) on the two main organisers and HUF 176,400 (€ ~475) on each supporting CSO (in 5 separate decisions), with the justification that such campaign amounts to an "abuse of rights", it defeats the purpose of the referendum. The affected CSOs appealed to the Kúria which overturned 3 of the decisions, nullifying 15 of the 16 fines, but rejected to deal with 2 cases on the merit citing the lack of a sufficiently clear argument in the appeals. Amnesty International Hungary and Háttér Society turned to the ECtHR in the matter.

Another instance of interference was based on the Act on organisations "capable of influencing public life", passed in April 2021. In late May 2022, coinciding with the deadline to submit their annual reports, hundreds of CSOs falling in this category received an order from the State Audit Office (SAO) to submit internal financial rules and guidelines through the agency's online platform with a deadline of about 10 days. (Regulations oblige CSOs to have these documents at their disposal, but in practice, most use templates more or less well adapted to their own circumstances.) In spite of the occasional malfunctioning of the online platform, affected CSOs complied with the request. To our best knowledge none of them received any follow-up or further requests from the SAO by the end of the year.

Organisation of financial support for civil society organisations and human rights defenders (e.g. framework to ensure access to funding, and for financial viability, taxation/incentive/donation systems, measures to ensure a fair distribution of funding)

3000 character(s) maximum

The total income of associations and foundations in 2021 (according to latest official statistics available) was HUF ~1,070 billion (€ ~2.8 billion), a little more than the year before (900 billion). However, this income is very unevenly distributed in the sector with 35% of the organisations working with an annual budget of not more than HUF 500,000 (€ ~1,350) and three-quarters below 5 million, with the average per organisation being around HUF 21 million (€ 57,000). About 44% of the sector's income is comprised of public funding, including EU Structural Fund support distributed by the Government, while 22% comes from private sources,

and the remaining is made up of CSOs' own and other incomes. The central state support instrument to CSOs, the National Cooperation Fund provides grants annually to ~4,000 organizations with a total budget of HUF 11 billion (€ ~29 million) in 2022, and 9 million in 2021. Additionally, the so-called Village and Town Civil Funds (for CSOs operating in settlements under and over 5,000 inhabitants) each distributed HUF 5 billion (€ ~13 million). The operation of these funds is rather non-transparent (e.g. grants are not searchable on the webpage), and as journalists revealed, about half of the biggest beneficiaries were organizations directly controlled by local governing party politicians or their affiliates. The Government did not provide any additional funding or relief to CSOs in response to the effects of the pandemic on the sector and lagged behind civil society in treating the refugee crisis stemming from the war in Ukraine. There are no dedicated national public funding sources specifically supporting CSOs engaged in the areas of democracy, rule of law and fundamental rights. While independent CSOs are not excluded from applying for public funding per se, they rarely have a chance to secure a grant. Therefore, they remain dependent on international philanthropic and institutional donors (although foreign funding comprises a minor part of the sector's overall income, it plays a crucial role in the income structure of these organizations), and individual giving. The latter has gained public recognition in the past years, and was instrumental in raising support to aid the refugees arriving from Ukraine in the spring of 2022. CSOs themselves are also becoming more and more professional in collecting donations, especially online (e.g. through the adjukossze.hu platform, a crowdfunding site). However, the cost-of-living crisis will most probably negatively impact the success of future campaigns. Indeed, the amount of the 1% income tax assignments, and the number of people that used this opportunity decreased in 2022 compared to the year before, but as the period of collecting these donations coincided with the election campaign, the latter probably diverted people's attention. Domestic institutional philanthropy (grantmaking foundations) remains very underdeveloped, with just a handful of (relatively small) actors.

Rules and practices on the participation of civil society organisations and human rights defenders to the decision-making process (e.g. measures related to dialogue between authorities and civil society, participation of civil society in policy development and decision-making, consultation, dialogues, etc.)

3000 character(s) maximum

As described above, Act CXXXI of 2010 in theory provides for public participation in the legislative process, however, it has hardly been implemented recently: in practice, draft legislation is – if at all – usually published for comments with a very short deadline. Important acts have often not been consulted at all, or submitted to Parliament by individual MPs, thus circumventing participation. In the autumn, an amendment of the act was passed, introducing (weak) sanctions for non-compliance. But, as CSOs pointed out, it is no more than window-dressing in the absence of the proper implementation of existing rules. Also, human right defenders and anti-corruption organisations must regularly go to court to obtain public interest data and even after a positive ruling, authorities often drag their feet to implement the court's orders.

While various consultative bodies with civil society representatives do exist (such as the National Council on Sustainable Development), they are rarely convened and their functions are often formal, without any substance. Again in the framework of the efforts to meet EU criteria, a new Anti-corruption Working Group was established towards the end of the year including representatives of relevant CSOs, but it remains to be seen whether this body will have any real impact in practice. Other forms of dialogue and civic participation have become practically non-existent, as traditional channels of advocacy and consultation with state institutions ceased to work years ago. Open letters, petitions even on the scale of the ongoing teachers' demonstrations are routinely ignored – or even vilified – by the Government. While some organizations are still able to maintain good contacts with lower levels of the public administration, their results are more often than not overruled by the higher levels.

Instead of real participation, the Government introduced the so-called “national consultation” i.e. questionnaires on topical issues with leading questions and distorted statements that are sent occasionally to all households. In the autumn of 2022, such a “consultation” on the “damages” caused by “Brussels’

sanctions” was carried out. As the government rarely releases verifiable information on the result of the questionnaires (return rate, division of responses, etc.), it is safe to say that these exercises rather serve to promote the Government’s narratives than offer a real opportunity to people to express their opinions. On the local level, opposition-led municipalities (elected in 2019) are usually open to dialogue and experiment with various participation methods, e.g. citizen assemblies (Budapest, Miskolc, Érd), participatory budgeting (Budapest and some of its districts, Pécs). However, they often lack the necessary expertise, and even more importantly have little room to manoeuvre as their competencies and financing have been severely curtailed.

E. Initiatives to foster a rule of law culture

Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, contributions from civil society etc.)

3000 character(s) maximum

In 2022, there were no government measures to foster a rule of law culture. Also, the centralized, compulsory curriculum of public education incorporates very few elements of civic education. Instead of “fostering” it, in 2022 as in the previous year, the Government took various non-legislative steps that eroded rule of law culture in Hungary or at the minimum, were not aimed at increasing respect for the rule of law. The Government or the governing majority have not organized any meaningful national level discussion about the EC’s 2022 Rule of Law Report. Instead, Minister of Justice Judit Varga posted on her Facebook page that “the report, like in previous years, is based on uncertain indexes, biased NGOs and prejudices”. Instead, in fall 2022, Hungarian CSOs (including the CSOs submitting the present contribution) organized offline events in Szombathely, Pécs and Debrecen to have public discussion about current topics related to the rule of law in Hungary, including the EC’s 2022 Rule of Law Report and they also prepared short videos explaining the topics therein.

Other - please specify

3000 character(s) maximum

Note: Survey responses of the Eötvös Károly Institute for consultation topic I. were prepared jointly with Amnesty International Hungary and the Hungarian Helsinki Committee.
Survey responses of the Eötvös Károly Institute for consultation topic IV. were prepared jointly with Amnesty International Hungary, the Hungarian Helsinki Committee, and the Hungarian Environmental Partnership Foundation.

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