

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

Transparency International Hungary Foundation

Main Areas of Work

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

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

500 character(s) maximum

<https://transparency.hu/> and <https://transparency.hu/en/>

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

Miklós

Surname

Ligeti

Email Address of the organisation (this information will not be published)

[REDACTED]

*** 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

From an anticorruption and rule of law perspective, the two most important features of the year 2022 were the national elections and the triggering of the Conditionality Mechanism by the European Commission for the systemic breaches of the rule of law in Hungary. The governing Fidesz-party won a constitutional majority for the fourth time consecutively and remains in power. Mr Orban, uninterruptedly in office since 2010, soon after forming his fifth government following the April 2022 Parliamentary elections had to engage with the Commission in renewed negotiations over Hungary's rule of law performance. The government made significant efforts to convince the Commission of its benevolence and to demonstrate how determined it was to meet the requirements set out in the conditionality process. However, the Hungarian government has proven that it was unable to conduct a fair and inclusive process. New regulations were drafted and submitted without any public consultations with stakeholders representing the academia, civil society, political opposition and others, and the Parliament adopted them at breakneck speed. It was clear by the end of 2022 that the government's main concern was to preserve the regime it has orchestrated since 2010 without any major changes, therefore the concessions it made did not intend in reality to reinstate a functional checks and balances system and to recommence previously halted democratic processes. Instead, the Hungarian government regards at the deal it wishes to strike with the Commission as the lowest common denominator, which would allow the deblocking of European Union funding on the one hand, while on the other hand would enable the survival of the Orban-regime of cronyism and systemic corruption. These endeavours manifest in the government's insincere and double-faced policies. While trying to please the Commission by the fast-paced introduction of new anticorruption solutions and some new institutions, the government keeps on ruling by decree on the pretence of state of danger due to Russia's war against Ukraine. Even though one of the milestones in the Conditionality Mechanism expects the substantial reinforcement of transparency of government decisions, state organs routinely fail to grant access to information relating to dealings of outstanding relevance. Among other things, the government denies access to information on the acquisition of the stocks of the Vodafone telecom company and it does not publish the contract concluded with the MOL energy company on management of wastes. Equally reluctant is the government to undo some of the most questionable steps taken in the areas of management of public assets and provision of healthcare and higher education services. Public interest asset management foundations, endowed with inordinate sums of public money and with public assets of substantial value remain, and top public functionaries, including eight out of twelve ministers preserve their mandate as members of the board at one or more foundations.

The government reformed the system of asset and interest disclosures to be submitted by public decision makers. The previous system of declarations, though virtually defunct due to lack of effective oversight and control, at least enabled the monitoring of assets declared by politicians. As part of the reform, the government introduced the equivalent of the declarations required in the European Parliament, a system even less efficient than Hungary's original solution. As a result, the possibility to follow the magnitude of assets declared by top politicians and senior government officials and to make comparative assessments over the years disappeared.

It is unknown at the moment of submitting the present contribution, if the concessions made by the Hungarian government will satisfy the Commission to deblock the altogether 12-billion-euro worth of funding it made dependant on rule of law requirements detailed in 27 "super" milestones. Nevertheless, by stressing in one of its most recent communications that compliance with the Common Provision Regulations and the fulfilment of enabling conditions, and by identifying areas of concern such as judicial independence and the rights of the LGBTQI community in Hungary, the Commission clarified that Hungary's eligibility for funding from the EU's Cohesion Funds worth in total 22 billion euros for the period 2021-2027 is at stake.

K-Monitor Association ('K-Monitor') and Transparency International Hungary Foundations ('TI-Hungary'), the co-authors of the below submission to the stakeholder consultation of the 2023 Rule of Law Report welcome the Commission for expecting the Hungarian government in the framework of the Conditionality Mechanism to implement certain measures aiming to strengthen the country's rule of law performance. Still, we are safe to conclude that all this should have been achieved way before the Orban-government has cemented its power in Hungary.

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

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

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

Promotion of judges and prosecutors (incl. judicial review)

3000 character(s) maximum

Allocation of cases in courts

3000 character(s) maximum

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

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

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

A bonus system is in place to reward judges and officials working at the National Office for the Judiciary (NOJ). Bonuses and other forms of payments outside remuneration defined by the law are decided by the NOJ president. Aggravated information relating to the amount of money concerned and to the number of recipients in the years 2018 and 2019 was shared by the president of the NOJ in response to an inquiry by the National Judicial Council (NJC). In these two years, the president of the NOJ disbursed bonuses in the amount of 1,3 billion Hungarian forints on altogether 2,493 occasions. Bonuses were paid on a quarterly basis, and the same person may have received bonuses on multiple occasions.

To assess if this bonus system was proportionate and complied with legal requirements, the NJC set up a subcommittee in 2020 and submitted inquiries to the NOJ president, but the latter refused to reveal the names of the recipients and information regarding the amount of money they received, citing privacy regulations and denying the NJC's jurisdiction to carry out this assessment. Anecdotal information suggests however that the allocation of bonuses and other forms of payments outside statutory remuneration was uneven, and members of the leadership of the NOJ received incommensurately high amounts.

In 2021, TI-Hungary submitted a request for public interest information to the NOJ to obtain the information concerned, but the NOJ denied responding. Successively, TI-Hungary launched a freedom of information lawsuit against the NOJ. The court's first instance ruled in favour of TI-Hungary, but the Budapest Court of Appeals overturned the first instance decision. The written decision of the Budapest Court of Appeals was not handed down until the moment of submission of the present contribution, therefore the exact recital and explanation cannot be analysed. Nonetheless it needs to be noted that in previous decisions awarded in other freedom of information lawsuits commenced by TI-Hungary the courts have ruled that detailed information relating to the remuneration, bonuses and allowances paid to public employees shall be deemed as public interest information and shall be publicly available. This judicature has been followed by Hungary's National Data Protection and Freedom of Information Authority. In TI-Hungary's conclusion, the court has condoned the NOJ's secretive practices in a second instance decision that stands on questionable legal grounds and goes against previous judicature without a due explanation.

Independence/autonomy of the prosecution service

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

TI-Hungary commenced a freedom of information court case against a state-owned enterprise charged to implement the Belgrade – Budapest railway development project to reveal which companies were selected as suppliers and to identify their share of the project. The case was adjudicated at the third instance by the Kúria, Hungary's highest law court, which overturned the second instance judgment of the Budapest Court of Appeals and ruled in favour of the defendant. The Kúria's decision was not only standing on shaky legal grounds, but its argumentation contradicted to previous decisions issued by the Kúria in freedom of information legal disputes, therefore TI-Hungary submitted a complaint to be adjudicated by the Kúria in order to upkeep the uniform application of legal provisions. In a 2022 decision, the Kúria rejected the complaint because of TI-Hungary's failure to pay the necessary court fees as defined by the law. However, according to the Act on fees and charges, legal processes aiming to decide the accessibility of public interest information shall be free of charge. In its order of rejection, the Kúria failed to explain why Transparency International Hungary should have paid a court fee, nor did the Kúria invite TI-Hungary to pay such fees. Thus, the Kúria curtailed TI-Hungary's fundamental right to effective legal remedy in a court case of outstanding relevance.

Rules on court fees and legal aid have remained unchanged. Freedom of information court cases are exempted from court fees, therefore, no fee shall be reimbursed to the state. However, in the case where the court's decision favours the defendant, the applicant must reimburse the defendants' costs related to the process even if the defendant was represented by an employee and not by a legal counsel. In freedom of information lawsuits against bodies with nationwide jurisdiction, the applicant must retain a legal counsel, as legal representation in cases heard at the first instance by county tribunals is mandatory. As the legal aid program is not effective in Hungary, citizens' access to justice is largely dependent on their financial situation. In corruption cases brought by private prosecutor before criminal court, representation by a legal counsel is mandatory, however, general rules on legal aid do not apply.

Resources of the judiciary (human/financial/material)

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

3000 character(s) maximum

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

3000 character(s) maximum

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

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

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 highlighted in previous contributions by K-Monitor and TI-Hungary, freedom of information litigations regularly protract. The average length of court cases relating to the accessibility of public interest information commenced by Transparency International Hungary exceeds one year and a half. At the time of submitting the present contribution, one of Transparency International Hungary’s FOI-litigations launched in the year 2019 is still pending. Even though freedom of information litigations are defined in the law as priority cases, the protraction of the court processes remained a serious concern in 2022 and it positively decreases the degree to which the fundamental right to access public interest information is enjoyable. It needs to be noted that new regulations on freedom of information litigations adopted by the Parliament during the fall of 2022 expect lawcourts to expeditiously rule in all instances in legal disputes relating to the accessibility of public interest information. New regulations on tight deadlines of court processes are applicable to freedom of information requests submitted after 31 December 2022.

There is no deadline set by law for the Constitutional Court to deliver judgements upon constitutional complaints challenging court decisions. As a result, it can take years to have a final decision in a freedom of information case, as exemplified in case No. IV/01391/2019, where the applicant submitted a constitutional complaint in October 2019 and the case is still pending.

Other - please specify

3000 character(s) maximum

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

In 2022, the government of Hungary made some important steps to upgrade the country's rule of law performance, although not in response to the findings and recommendations included in the 2022 Rule of Law Report, but as part of 1) the Conditionality Mechanism triggered by the Commission and 2) the negotiations over Hungary's Recovery and Resilience Plan. The 17 commitments made by the Hungarian government, embedded in the altogether 27 so-called "super" milestones relate to the Hungarian control system aiming at the protection of the financial interests of the European Union. The Commission holds the proper implementation of these milestones for a precondition for any payment on its behalf.

K-Monitor and TI-Hungary, in concert with the Hungarian Helsinki Committee have closely monitored the process leading up to the definition of the milestones and have assessed the measures taken by the Hungarian government to implement them. The three organisations concluded in their joint evaluation published in October 2022 that the Hungarian government delivered its commitments in a disappointing manner, which therefore result "in changes that remain insufficient to protect the Union budget". In lack of substantial progress, the three human rights defenders and anticorruption watchdogs reiterated their concerns in November 2022.

Doubts as regards the efficiency of the measures envisioned, and, partly, introduced by the government remain. First of all, Hungary's institutional landscape remains unchanged, which guarantees the survival of the ecosystem of corruption and gives reason to suppose that newly devised mechanisms aiming to curb corruption will have limited impact in practice.

The Conditionality Mechanism, in principle, serves to enhance the protection of the European Union's financial interests, therefore the public procurement system, which suffers from systemic deficiencies is a key area of intervention. Still, the commitments made by the Hungarian government may come too late, as the level of competition does not intensify even if the share of single-bidder public procurements financed from EU funds is rapidly reduced to below 15 percent.

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

The Ministry of the Interior preserved its first-hand responsibility for anti-corruption coordination, but the jurisdiction of the National Protective Service (NPS) significantly shrank. Since mid-2022, the NPS is only responsible for the prevention of crime among the staff of institutions subordinated to the Ministry of Interior,

as well as public health care providers. In respect of these agencies and their personnel, the NPS carries out regular integrity tests. Integrity tests and crime detection for the rest of Hungary's public administration shall be carried out by the Constitution Protection Office (CPO), one of Hungary's civilian clandestine services, overseen by the Prime Minister's Cabinet Office. It is worth noting that while the detailed budget and information on the staffing of the NPS are publicly available, this does not stand for the CPO. Moreover, shortcomings of the mandate to carry out crime detection remain, as the CPO is not empowered to test the integrity and the reliability of political leaders.

The State Audit Office (SAO), charged to oversee the accountability of the use of public funds is also responsible for the audit of political parties' declarations on campaign expenses. In 2022, the SAO ignored public warnings by K-Monitor, Political Capital and TI-Hungary about systemic overspending by the government and by the governing Fidesz-party on public billboards during the Parliamentary election campaign.

In 2022, the government introduced the Integrity Authority as a standalone state agency to help protect the financial interests of the European Union. The Integrity Authority cannot exercise most of its competences on its own, instead it must invite other state bodies to take appropriate action, therefore its work is entirely reliant on other government agencies, which are mostly captured and have proven reluctant to uncover and combat wrongdoing associated with the government. K-Monitor and TI-Hungary have warned that the Integrity Authority's jurisdiction was undersized. According to publicly available documents, the planned staff is at least 50 persons, however, the president of the Integrity Authority stated that he planned to set up a body with a staff of 100-150 employees.

Besides, the government set up an Anti-corruption Task Force to assess the government's anti-corruption policies. The Task Force has 21 members, out of whom 10 members are delegated by state agencies and 10 members are representing civil society. Non-state members are selected by the Integrity Authority's president based on an open application process. The inaugural session of the Anti-corruption Task Force took place in December 2022. K-Monitor and TI-Hungary joined the Anti-corruption Task Force, although both have been critical of its weak jurisdiction and the fact that the Task Force was only established after an intense period of anticorruption legislation.

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

3000 character(s) maximum

Concerns raised in previous contributions prevail. Besides the NPS and the SAO, other agencies, such as the tax administration, the competition authority (HCA), the Public Procurement Authority (PPA), the Prosecution Service, the Government Control Office and the Police are also tasked to combat corruption. All these agencies are exposed to undue government influence, although to different extents. Government offices directly administered by the respective minister in charge, such as the Police or the tax administration can hardly resist the influence exerted by political leaders. However, even authorities with an autonomous standing, who, by law, shall function independently of the executive branch of government, such as the SAO, the Prosecution Service, the HCA, and the PPA exhibit low levels of autonomy in performing their functions. This demonstrates best in the lack of ambition to examine and sanction incidents of wrongdoing that can be linked to government-near circles.

Legal provisions on the functional independence of these agencies, whether overseen by the government or autonomous, have little or no impact on their performance due to the phenomenon of state capture. K-Monitor and TI-Hungary have been observing the emergence of this phenomenon since 2012. Captured institutions exhibit clear signs of partiality and bias in the performance of their functions. So far, the new Integrity Authority cannot be regarded as a captured institution, however the success of its actions rests in the hands of other, more or less captured public authorities, thus state capture will positively impact the performance of this new agency.

A newly adopted legislation turned the Directorate General for the Audit of European Funds ('EUTAF'),

which has until the end of 2022 functioned as a government agency overseen by the finance minister, into an autonomous state body. The new regulation left the jurisdiction of EUTAF unchanged. With regard to the fact that the EUTAF has not objected to the misuse of European Union funding posterior to 2010, it is yet a question if the change in its legal status will have a positive impact on this agency's performance. The changing legal status of the EUTAF will serve as a litmus test. If the EUTAF starts to exercise its powers relative to the prevention and detection of the misuse of European Union funding, it may indicate that lack of visible action on this agency's behalf earlier was the consequence of the government's influence. To promote cooperation with OLAF, an amendment to the relevant law was also adopted, which expects the criminal investigation service of the tax administration to support OLAF investigations. The law foresees fines impossible on those who refuse to cooperate. As of the time of this submission there is no data available to assess the effectiveness of this amendment, but some opinions suggest that it may not represent a significant improvement on the current situation.

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

There is still no publicly available information on the implementation and the milestones of the Medium-term Strategy 2020-2022, the government's anti-corruption website released just 10 news items, nine of which related to various training courses (the backbone of the medium-term strategy) and one example of stakeholder consultation (the health care rebate phase-out measures; the consultation happened after the measures had already been put in place) – no information on the implementation or monitoring of the strategy was made publicly available. The deadline for implementing the strategy was extended until 2023 – no further delay is expected as the recovery and resilience plan sets out that the main elements of the strategy must be implemented by 31 March 2023 and the strategy as a whole by 30 June 2023. The adopted Resilience and Recovery Plan, however, contains provisions on the content of the following anti-corruption strategy and action plan which shall be adopted by the June 30 2023, The new strategy is therefore expected to be more ambitious and comprehensive than the previous one, for example, it will have to include the development of ethical standards for high-level political officials (including the prevention of nepotism, the re-regulation of the revolving door phenomenon and lobbying) and the introduction of effective asset declaration procedures.

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

Integrity remains an anti-corruption buzzword for the government, however concerns as regards the reliability of the government's actions to enhance integrity in the public life raised in previous contributions by K-Monitor and TI-Hungary are still prevalent. In addition to existing integrity mechanisms in place at many state organs (integrity officers and reports, trainings) and to integrity and reliability testing by the NPS and newly by the CPO, a new Directorate for Internal Audit and Integrity (DIAI) was set up. The DIAI functions under the direction of the minister in charge of regional development, but it has a mandate to monitor conflict of interest declarations and raise awareness of potential incidents of conflict of interest at any national authority involved with the implementation of European Union support. The DIAI will carry out its monitoring tasks by examining random sampled interest declarations and by selecting a given number of declarations based on risk assessments. Its powers related to incidents of conflict of interests are limited to awareness raising and trainings. The DIAI has to operate a reporting platform at a designated website to

receive information, including anonymous reports on incidents of conflict of interests.

As included in previous contributions by K-Monitor and TI-Hungary, there is no comprehensive regulatory ban on the “revolving door” phenomenon, however, a cooling off period is required in case of senior officials of certain authorities (such as the newly established Integrity Authority, the Supervisory Authority for Regulatory Affairs, the Hungarian Energy and Public Utility Regulatory Authority and the Hungarian Atomic Energy Authority). Moreover, Act CXXV of 2018 on government administration theoretically provides for the Government to determine sectors and posts that are subject to placement restriction, however, this provision fell into disuse due to the government’s failure to adopt the necessary regulation.

The most recent example of the revolving door phenomenon is the case of Mr László Palkovics, who, as described below, jumped from his previous ministerial position to the board of one of Hungary’s newly established public interest asset management foundations, without having to wait for the elapse of a cooling off period.

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

After the pandemic, the government used Russia’s war against Ukraine as an excuse to declare state of emergency and to thus enable rule by decree. Since the end of 2022, in an attempt to persuade the EC of its commitment toward the inclusion of stakeholders, the government started to upload legislative drafts to a designated website. However, consultations remain a one-way type of a tick-box exercise with no or just formal feedback from the government and without real consideration of recommendations and suggestions of the consulting parties. It has also reduced the transparency of legislation by bundling completely different regulatory subjects into omnibus bills.

Deficiencies regarding declarations of MPs and high level political decisionmakers prevail. Under the conditionality mechanism, Hungary implemented reforms, however, these were to a great extent the reestablishment of its failed asset declaration system, that was purposely deteriorated in the summer of 2022. A serious loophole of the reformed system already in force is the opportunity not to declare a real estate used by the declarant. Another deterioration is that incomes do not have to be disclosed as exact sums, but in broad ranges. Spousal declarations remain non-public. The new Integrity Authority received competences regarding the verification of asset declaration, however, details of the procedure are not fully elaborated. It would be crucial to empower the Authority to verify asset declarations of high-level decision makers and high-risk officials (such as leaders of government agencies). In the case of MPs, the SAO should be empowered to carry out these tasks. A new system of sanctions shall be elaborated by the end of 2023. A shortcoming following from the lack of competences to proactively investigate illicit enrichments remains.

Mandatory registration of lobbyists and the obligation to disclose contact reports are still lacking and the topic of lobbying was not covered by the conditionality mechanism.

The 2022 national elections have shown that political finance remain a serious source of corruption.

According to observations by K-Monitor and TI-Hungary, political parties regularly overspend and fail to sufficiently report on their resources and expenditure. Introduction of dedicated bank accounts to be used by parties for their incomes and expenses to be regularly checked against their reports would be needed.

Corruption risks arise from the lack of regulation on third party’s engagement in campaigns (such as GONGOs) and the abuse of public administration or government capacities. Use of public funds and financing of political parties is monitored by the SAO, however the SAO interprets its role narrowly and does not check reports against real political expenditures.

According to the SAO, the payment obligations it imposes are not fines, therefore cannot be challenged before the court. This practice has been confirmed by the Constitutional Court.

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

Concerns raised in previous contributions by K-Monitor and TI-Hungary remain relevant. A new phenomenon of conflict of interests emerged pervasively in 2022, as public interest asset management foundations have been increasingly endowed at the expense of public resources. While they are tasked to provide public services in the areas of higher education, healthcare and the management of public assets, public interest asset management foundations have the legal standing of civil law foundations. By 2022, the government has transferred most universities and significant amounts of national assets to public interest asset management foundations.

Boards and supervisory boards of public interest asset management foundations are mainly manned with government loyalists, including eight out of twelve government ministers, members of the Parliament's Fidesz-group, secretaries of state, government commissioners and mayors of Fidesz-led municipalities, etc. Rights exercised by the boards of public interest asset management foundations include the cooptation of new board members and the selection of their own replacement as well as the management of assets. The Parliament removed incompatibility rules that would prevent senior public officials from being board members. The government failed to address conflict of interests created by public interest asset management foundations. It is worth noting that the provision, which allows political leaders to be board members was first removed by 13 October 2022 and reintroduced by another legislative amendment as of 1 November 2022.

Although in the beginning, senior public officials did not receive remunerations for their membership in the board of a public interest asset management foundation, this has changed over time. After the general elections in April 2022, public interest asset management foundations started to pay monthly remunerations to the members of board in the amount of 1-1,5 million forints. Two ministers have multiple board memberships: Mr János Lázár, minister of construction and traffic sits on the board of three public interest asset management foundations, and Mr Mihály Varga, minister of finance holds two board memberships. Six out of the eight ministers concerned receive some kind of a remuneration for their membership in the board of public interest asset management foundations, while there is only one minister, Mr Tibor Navracsics, minister in charge of rural development who publicly admits not to receive an extra salary.

In addition, public interest asset management foundations also exemplify how the revolving door phenomenon remains unaddressed. Mr László Palkovics, former minister of technology and industry, after having resigned, was elected president of the board of a public interest asset management foundation. The monthly remuneration of the president of the board at the very foundation where Mr Palkovics serves amounts to 1,5 million forints.

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

3000 character(s) maximum

Although as part of the remedial measures under the conditionality mechanism, the Hungarian government introduced the DIAI, which is by law obliged to operate a reporting platform at a designated website to receive information, including anonymous reports on incidents, concerns raised in previous contributions by K-Monitor and TI-Hungary regarding the availability and the reliability of whistleblower protection remain relevant. Hungary has failed to transpose the Whistleblower Directive (2019/1937/EU) despite the aim to build on whistleblower reports when preventing EU fraud (e.g. in the case of the new Integrity Authority). Hungary's act on whistleblower protection (WPA) is in effect since 2014, which covers most of the issues addressed in the Directive, but does not meet the detailed requirements set out in the EU-legislation in regard of the level of protection, the handling of the reports and the provided incentives – not to mention the fact, that the WPA only requires the application of mandatory whistleblowing system in the public sector. Especially safeguards such as a reversed burden of proof, non-biased professional investigations, protection for private sector employees, providing protection even in the case of reporting to the public are serious

shortcomings. The WPA basically requires whistleblowers to (at least partly) identify themselves. However, in case of complaints and reports against public authorities, citizens might use a designated electronic reporting channel operated by the country's Ombudsperson, the Commissioner for Fundamental Rights. Note also, that by a separate regulation Government institutions' leadership is required to appoint an integrity adviser charged with the management of whistleblower reports. Integrity advisers are not independent from the hierarchy and are often tasked with the oversight of privacy practices, equal treatment policies and disciplinary procedures, a reason why their impact remains very limited. Some government institutions (PPA, Prime Minister's Office, HCA) operate their own reporting channels, but there is little information available on the reports received.

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

Public procurement and the allocation of EU funding remain interrelated sectors with high corruption risks, as highlighted in previous contributions on our behalf. Related issues were addressed in the framework of the conditionality mechanism and the negotiations about the RRP. A visible shortcoming is the high proportion of single-bid procurements, therefore the majority of the proposed measures also revolve around this issue. The government proposed to reduce the share of single-bid procurements until 2025 to 15 %, which is currently more challenging in case of procurements funded from national resources. In the case of EU-funded procurements, where the precondition for successful procurement is often multiple bids, the base figure is closer to the target, at 16 %.

The government has also set up a framework for public procurement evaluation and performance measurement, with the help of external experts, to examine the shortcomings of the Hungarian public procurement system -- its work and findings, as well as the results of the single-bid reporting tool, are not currently publicly available. However, a development to be welcomed for transparency in the sector that the e-procurement portal now allows structured, machine-readable search and bulk export of all contract award notices, however, a software (API) connecting to the entire database, including the text of all other notices, is still not provided, and it remains unclear why the reform only commits to quarterly updates. At the same time, several data types are still unavailable for bulk download, such as the related EU grant reference number, the name and identifier of unsuccessful bidders, the justification for the use of exceptional procedures, deadlines and information on direct purchasing orders based on framework agreements. Meanwhile, a number of issues related to the shortcomings of the procurement system have not been addressed during the negotiations, such as the large share of procedures (35 % of all procedures below the threshold) without publication of a contract notice in the national procurement regime, which also facilitates fake bidding; or the high prevalence of framework agreements and conditional procurements. Trust towards the integrity of public procurement is also undermined by the fact that in many cases legislation itself circumvents public procurement principles and directives: the law may allow for the use of exceptional procedures (without examining the substantive conditions), or even exempt certain purchases from the application of the procurement rules (that was the case in the COVID-related procurements). Rules on Public Procurement were circumvented by establishing concessions, with which, for example, waste management and the operation of expressways were entrusted to actors for 35 years. Given that the majority of its members represent governmental institutions or government-close agencies, the independence of Public Procurement Council is in doubt.

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

Both K-Monitor and TI-Hungary have warned of the deteriorating freedom of information performance in Hungary and have highlighted that accessibility of public interest information has been incrementally backsliding since 2012. Many of these concerns still prevail, even though in the framework of the conditionality mechanism, the Parliament removed some of the most burdensome legal barriers of accessing information and made significant changes to the freedom of information legal framework. A long overdue step was the abolishment of rules that allowed data holders to respond to FOI requests in a renewable 45-day period under the emergency regime established during the pandemic and maintained ever since instead of the statutory (renewable) 15-day response deadline. Another important step forward, even though with just minimal impact in practice was the removal of the possibility for data holders to require the payment of their labour-related costs in advance of servicing an FOI request. New regulations on costs and fees are in line with the Tromso Convention. Moreover, newly adopted changes aim to improve proactive data disclosure of public contract data and foresee the imposition of fines up to 50 million forints by the National Data Protection and Freedom of Information Authority if information is not uploaded in the newly designed publicly accessible data repository. The Authority's new competence is limited to bodies being part of the state budget, while other agencies performing public services do not fall under the scope of the scheme of disclosure. Furthermore, deadlines for bringing arguments and contestations in freedom of information litigations have been radically shortened, and courts are obliged in cases commenced after 1 January 2023 to schedule hearings within a shortened timeframe. Although the intention must have been to speed up court cases, this may not result, while shortened deadlines put an incommensurate burden on requesters who turn to the court, as fast paced court procedures are more challenging for requesters of information, who, in general, are under resourced compared to state agencies and publicly owned enterprises, being the usual defendants in FOI litigations. Despite these steps, fundamental shortcomings remain in the freedom of information framework. One of this is that none of the legal changes addresses the widespread practice of data holders to not comply with requests or to reject them with vague justifications that can only be contested efficiently before court. Besides, new provisions on proactive publication of data do not apply to, among others, public interest asset management foundations and to state-owned enterprises, nor will they compel the publication of contracts financed at the expense of public resources. Even more disturbingly, the new rules enable entities affected by business secret to engage in court cases as third party litigants and provide arguments to condone the secrecy of the information.

C. Repressive measures

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

Conclusions in the previous contributions by K-Monitor and TI-Hungary remain relevant. Important development is the adoption of a new regulation aiming to enable private prosecution of high-level cases of corruption and mismanagement, should the prosecution service fail to take appropriate action. The new regulations enable both private individuals and legal entities to submit a complaint to a judge in seek of an assessment if the termination of the investigation by an investigating agency or by the prosecution service was well founded. In response to the complaint, the judge may issue a binding order on the commencement or the continuation of the investigation. If the investigation is terminated again, the complainant may submit a second complaint, in response to which the judge may enable the complainant to act as private prosecutor and take the case before a court of trial. The complainant has one month from the date of termination of the investigation to submit the complaint or to indict as private prosecutor and may only access the anonymized decision on the termination of the investigation and the anonymized excerpt of the casefile.

K-Monitor and TI-Hungary have warned that the very limited accessibility of casefiles and the stringently short procedural deadlines make private prosecution practically impossible.

Moreover, private prosecutors of corruption may not appeal against the court's decision, while the law enables the court of trial to dismiss the case without a hearing if it finds the indictment by the private prosecutor unfounded. Giving more rights as regards appeals to the defendant than to the private prosecutor clearly violates the principle of equality of arms.

Although the Integrity Authority is enabled to submit a complaint under the new regulations, only private individuals and entities under private law may act as private prosecutor. As prosecution of high-level delicts, and especially incidents of corruption is extremely resource intensive, it is more than questionable if private individuals and non-state organs do have the capacity to proceed if the relevant authorities are reluctant to do so.

This new special remedy process, though breaks the monopoly held by the Prosecution Service to bring cases of corruption before justice, due to the procedural hindrances, seems unsuitable to provide a meaningful solution if the state fails to prosecute wrongdoing or abuse of power.

In 2022, the NPS continued to enforce regulations that ban the offer and acceptance of bribes in the healthcare system. Accordingly, the NPS conducted 287 processes relating to healthcare providers, involving 195 healthcare professionals and 291 clients. The NPS submitted criminal complaints in 75 cases, including 11 cases of accepting a bribe. Sums of bribes ranged between 10 thousand and 800 thousand forints. In 2022, the NPS conducted 98 reliability assessments, resulting in two criminal complaints for misbehaviour.

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

Conclusions relating to impunity of perpetrators of high-level corruption, which results from partiality in the work of law enforcement agencies and of the prosecution service, underlined in previous contributions by K-Monitor and TI-Hungary remain relevant. Most recently, the case related to an EU funded project called "Bridge to the word of labour" illustrates how prosecution of high-level corruption is hindered. In this case the tax administration terminated the process in lack of evidence of a criminal conduct in 2022 following a seven-year investigation of supposed subsidy fraud. The prosecution service approved this decision, albeit both the Commission (OLAF) and the Hungarian government uncovered signs of serious misconduct. The Commission ordered the repayment of the entire project budget (1.5 billion forints). The decision on the termination of the investigation cites the lack of evidence to sustain that the intention of those in charge of the project implementation was to misappropriate the grant. According to the investigating agency, what OLAF took for subsidy fraud was constituted a mere financial irregularity caused by non-intentional failure to properly implement the project. The beneficiary of the grant was the National Roma Self Government, whose president during the grant period, Mr Florian Farkas used to serve as a government MP. Mr Farkas was not

interrogated during the process. The Prosecutor General, in response to a question by an opposition MP condoned the lack of interrogation of Mr Farkas by saying that none of the persons interrogated during the process referred to Mr Farkas as the instigator of their conduct.

The case of Ms Margit Veres serves as another example of impunity of high-level corruption. In 2018, Ms Margit Veres was sentenced to five years imprisonment for accepting bribes. According to the court's verdict, Ms Margit Veres, the town clerk in Balmazújváros at the time of commission, took bribes in the amount of HUF 5 million aiming to arrange for state subsidies to an entrepreneur. This entrepreneur testified that Ms Margit Veres was brokering the bribe, which the entrepreneur wanted to give to Mr István Tiba, mayor of the town, and, simultaneously, a Fidesz-MP. The prosecution service did not indict Mr István Tiba, who, as a witness, said in his defence that the entrepreneur only intended to borrow the money, and not to bribe him. Mr János Áder, the former president of the republic pardoned Ms Margit Veres in 2022 in response to her pardon petition of 2018. As a pardon petition does not interrupt or delay the enforcement of criminal sanctions, the Justice Ministry must have granted a deferral to Ms Margit Veres.

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

Concerns raised by K-Monitor and TI-Hungary relating to the low efficiency of asset recovery and the lack of information on follow-up measures to be taken by domestic authorities to uncover and sanction supposed irregularities found by OLAF remain relevant.

Another cause for concern is the lack of compliance with court decisions awarded in freedom of information litigations. Noncompliance occurs mostly in high-level cases, where the publication of sensitive information would embarrass the government. Under the Criminal Code, failing to comply with the court's final binding judgement ordering to reveal public interest information is a form of contempt of court and qualifies a misdemeanour. Still, Police and prosecution tend to ignore these unlawful conducts and deny investigating cases. This was exemplified in a freedom of information litigation won by TI-Hungary against the National Institute of Pharmacy and Nutrition, where the court obliged the government to open up the medical documents relating to Covid-19 vaccines purchased from Chinese and Russian makers. Despite the court's ruling, the government removed the most sensitive parts from the documentary. TI-Hungary reported this case of contempt of court to the Police, which unlawfully denied investigation. By dismissing TI-Hungary's complaint, the prosecution service condoned the wrongful negligence of the Police.

In an incident of noncompliance, the plaintiff may commence a bailiff process against the defendant, however, in freedom of information lawsuits this is not an effective tool, as the only coercive method bailiffs can employ to incentivise compliance with the court's ruling is the imposition of fines. The maximum sum of money to be imposed is 500,000 forints (~approx. 1,3 thousand euros), which does not deter state agencies from noncompliance, even if the fine can be reimposed.

Other - please specify

3000 character(s) maximum

The government keeps on promoting the economic interests of crony elites at the expense of public resources. This is exemplified by the case of the 4IG Ltd., a telecom and IT company owned by Mr Gellért Jászai, who earlier used to work as one of the top managers of Mr Lőrinc Mészáros, Hungary's number one oligarch. In 2021, the 4IG Ltd. agreed with the government on acquiring the majority of the stocks of the state-owned broadcasting company Antenna Hungária Ltd., which the government had shortly before this dealing repurchased from its previous owner, an investment house from France. The 4IG Ltd. made a series of capital increases in the Antenna Hungária Ltd., as a result of which its share in the Antenna Hungária Ltd. exceeded 75 percent by April 2022. As the acquisition took place without the purchase of state-owned stocks of the Antenna Hungária Ltd., regulations expecting open tendering of state assets could be

circumvented. With the employment of this technique, the government enabled the takeover of previously state-owned assets by a crony company.

As a next step, in 2022, the government announced that it was going to buy 49 percent of the Vodafone Hungary Ltd., Hungary's second largest mobile telecommunications company, while the 4IG Ltd. was to buy the rest of the shares of Vodafone Hungary Ltd. The government failed to explain why it needs to buy a minority portfolio in a telecom service provider. In January 2023, the government first undertook to grant suretyship for a 425 million euro loan to be taken out by the state-owned Hungarian Development Bank with the aim to finance the purchase of the shares of the Vodafone Hungary Ltd. by the 4IG Ltd. In addition, the government, by a decree, exempted this transaction from the Competition Authority's cartel oversight. The total purchase price of the stock of the Vodafone Hungary Ltd. amounts to 660 billion forints (almost 2 billion euros), which corresponds to 7 times the company's EBITDA. In sum, the government not just purchases the minority stock of a market company in the telecom sector to thus become the minority owner in a corporation whose dominant proprietor is going to be the 4IG Ltd., but it syndicates a loan through a state-owned bank to the 4IG Ltd. to cover up to 80 percent of the purchase price of the stocks acquired by this company.

To clarify some details of this transaction, TI-Hungary submitted a freedom of information request to the government. Our main question relates to the methods employed to define the purchase price. As the government denied responding, TI-Hungary needed to turn to the court, whose first hearing will be held at the end of January 2023.

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

In addition to the assessment above, K-Monitor and TI-Hungary share further concerns relating to the reforms of regulations on accessibility of public interest information. Without contesting that some of these reforms are going to improve the accessibility of public interest information, it needs to be stressed that the government failed to repeal many of the legal obstacles it had thrown in the way of freedom of information since 2012.

A more comprehensive reform should have entailed the rethinking of rules on legal remedies in freedom of information cases in order to

- 1) strengthen the role of the Freedom of Information Authority in dispute resolution processes,
- 2) better reflect the principle of equality of arms in a court process,
- 3) more proportionately distribute the burden of proof, and
- 4) enable reasonably expeditious decisions both in court and in processes commenced by the Freedom of Information Authority.

In order to improve proactive data publication, the law should make the use of the new transparency portal mandatory for all entities performing a public duty and should make the payment of invoices relating to contracts financed from public resources dependent on the prior publication of such contracts and their annexes and amendments.

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

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

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

Regime for constitutional review of laws

3000 character(s) maximum

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

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

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

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

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

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

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

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

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

Other - please specify

3000 character(s) maximum

Contact

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