

# 2023 Rule of Law Report - targeted stakeholder consultation

Fields marked with \* are mandatory.

## Introduction

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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](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

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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

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\* 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*

Társaság a Szabadságjogokért (TASZ) - Hungarian Civil Liberties Union (HCLU)

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://hclu.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

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

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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

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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

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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

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

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*

Other - please specify

*3000 character(s) maximum*

## II. Anti-Corruption Framework

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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

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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*

The Recommendations received in the 2022 Report had no consequences in the Hungarian media landscape.

The Media Council and the public service media still serve the interest of the ruling party. They have done nothing to protect the integrity of the 2022 election campaign. The OSCE's analysis of the campaign clearly showed that the public service media and the pro-government commercial media were heavily biased towards the governing parties. However, the Media Council did not launch an investigation to verify the fair and balanced coverage, neither during the campaign nor afterwards. Similarly, it did not initiate proceedings on the occasions when the public media broadcast Russian propaganda messages about Russian aggression against Ukraine.

The practice of state advertising spending did not change at all, it still favours the pro-government media outlets. No steps have been taken to improve the transparency of state advertising, the exact spending decisions are hidden behind a public procurement framework agreement.

It should be noted that the new rules on the regulator in the Audiovisual Media Services Directive did not create any legislative constraints for the Hungarian legislator, and the Media Council's political dependence was reduced at all by the new directive. The draft European Media Freedom Act in its current form does not bring any improvement to the Hungarian situation either.

#### 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*

The issues raised in our previous contributions to the Rule of Law Reports still prevail. The National Media and Infocommunications Authority ("Authority") is a convergent authority, which handles as regulator of the telecommunications and media markets within a single body. The Media Council is part of the Authority; it has a distinct competence in the media field.

In 2022, the Authority did not have any high-profile cases. However, it continued to support the expansion of Fidesz-affiliated radio stations by concluding another four frequency contracts with Karc FM, a KESMA-affiliated station.

The new President of the Media Council gave an interview to 24.hu news portal and he questioned whether media independence can exist at all. „Even in the West, there are brave authors who write that media independence is a myth of its own making. After all, it always works in the interests of the owner and other interest groups, and the journalist is necessarily biased.” This says a lot about the President's perception of his role.

In 2023, the Authority's budget is HUF 58.6 billion (ca. EUR 147 million). Parliament approves the Media Council's budget as part of the Authority's integrated budget. The Media Council's operating budget in 2023 is HUF 621 million (ca. EUR 1,5 million). These amounts are theoretically suitable to guarantee high-level professional work, however, in the case of the Authority and the Media Council these serve as the price of the loyalty.

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*



The legislative framework for the appointment of the head of the National Media and Infocommunications Authority (Media Authority) and the appointment of the head of the Media Council (the Authority's regulatory body) remains unchanged despite sustained critique. The president of the Authority, who is by law the president of the Council too, regulates the media services in the latter role. The president of the Media Authority is appointed by the President of the Republic for 9 years on the advice of the PM. Once appointed, they become the only nominee for the presidency of the Media Council. Though Parliament elects the president of the Media Council with a 2/3 supermajority, Parliament's role is limited to a mere right to reject the nominee. More substantive parliamentary control is present in the election of the 4 other members of the Council (each for 9 years), as their election is based on the proposal of an ad hoc committee consisting of one member of each parliamentary faction.

2022 was the first entire calendar year within the 9-yr mandate of the president elected in 2021. In his first year, he expressed his satisfaction with the diversity of media outlets. Meanwhile, the Media Council did not impose a fine on the major TV channel TV2 which made its own political video campaign available online, featuring its news reporters endorsing Viktor Orban in the general parliamentary election campaign and urging viewers to vote for him. The Media Council also refused to investigate and take a stand on the public complaints it received on Russian propaganda infiltrating TV channels of the public service media – however, it expressed dissatisfaction with related public criticism of the public service media. The lack of a (major) fine in these cases suggests the Media Council remains silent over politically sensitive cases.

The Public Service Public Foundation's Board consists of elected and delegated members with a 9-year-long term. The Parliament elects 6 members to the Board (3 nominated by the governing parties and 3 by the parties of the Opposition), while another member and the President is delegated by the Media Council for 9 years. Membership ceases with conflict of interest, dispensation (in case the person is undergoing conservatorship), exclusion (if the person culpably fails to perform the role for more than 6 months, or if convicted and sentenced to imprisonment, or if professionally disqualified regarding the person's role in the Board, or deprivation of civic rights.)

The Public Service Body's role is to oversee whether public service requirements are met by the state media. Its members are delegated for a 3-year term by 15 CSOs unrelated to the media. On December 8, 2022 the Media Authority issued a call for CSOs to apply for eligibility to delegate members for the next 3-year term. Terms did not change in 2022: CSOs with expertise and/or experience in the media are still ineligible to apply.

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

*3000 character(s) maximum*

The situation has remained unchanged since the latest CSO contribution to the Rule of Law report was submitted. The Hungarian media law created a co-regulation system as an alternative to the Media Council's (MC) control (MC is the media authority in Hungary). The law authorised media market players to set up self-regulatory bodies which have the authority – with exclusive jurisdiction – to implement rules relating to media content. The Media Law provides that the MC may conclude administrative agreements with the co-regulation bodies. Based on these agreements, the self-regulation body handles a specified range of cases within the official authority's jurisdiction and performs other functions relating to media administration and media policy. In this framework the responsibility of self-regulatory bodies is to decide upon complaints concerning the activities of service providers, to arbitrate disputes between media enterprises and to monitor the activities of providers. Four organisations have sprung up as part of the co-regulation framework since 2011: the Hungarian Publishers' Association, the Association of Hungarian Content Providers, the Association of Hungarian Electronic Broadcasters and the Advertising Self Regulation Board. The co-regulation system never really took off, however, and it was obvious that no one felt confident that it would be worthwhile to resort to this forum for settling disputed issues. The co-regulation procedure is not independent of the authorities since - based on the underlying legal agreement - the MC provides the co-regulatory bodies with financial support. Nor is it independent of the market, since the market players delegate members to serve on these bodies. Furthermore, the market players can also keep track of who lodged complaints against them. Hence, it was in no one's interest to launch such proceedings. The market players feel that it is better to keep the peace and avoid a scenario where they would have to delve into each other's disputes, and also that it would not be a good idea to alert the authority to problems. Civic organisations and citizens also do not report issues, either because they do not know the system or because they do not want to legitimise a regulatory practice in which the MC plays a role. In assessing the effectiveness of the co-regulatory system, it is very telling that relevant pages on the websites of three industry organisations are blank or visibly incomplete. There is no indication whatsoever that any kind of proceedings have been conducted in recent years. In the case of Hungarian Publishers' Association the 2020 Annual Report is the last available report at the beginning of 2023. The only exception is the Advertising Self Regulation Board; this organization regularly publishes monitoring documents about certain issues. Co-regulation is clear evidence of how an otherwise good, rule-of-law system in Hungary has become so empty that it is failing to fulfill its original purpose.

## 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*

The issues raised in our 2022 report still prevail. It is well documented that state advertisers favour pro-government companies and avoid independent media. This practice renders fair competition impossible and distorts the market. State sources finance politically favoured media outlets, and it helps several pro-government media enterprises to flourish, or at least survive the economically difficult years. These media companies are unquestionably loyal to the government: the editorial practice has to serve the interest of the ruling parties if they want to preserve their most important revenue source. At the same time independent media outlets become extremely vulnerable because of the unfair competition.

At the beginning of the Orban-system (between 2010 and 2014), the overall volume of state advertising spending was not much higher than in the foregoing period, but it was much more centralised than previously. During the 2014–2018 term there was a massive surge in the total amount of spending. Several pro-government investors bought up media companies and they were heavily financed by state sources. In 2018 the pro-government media became centralized again with the creation of KESMA (Central European Media and Press Foundation), but state advertising continues to be published in government-friendly media. The surge in the advertising volume owes primarily to the Government's campaigns. The billions spent on various state communication campaigns mostly end up with media whose owners have close ties to the Government and which uncritically relay government propaganda.

The state advertising spending is built on public procurement. The significant part of entire public sector communication activity is carried out under one framework agreement with the National Communications Office (NKOH). The latest framework agreement, concluded in 2022, stipulates in point 10.7 that the agreement can be renewed twice, each time for a maximum amount of HUF 75 billion. The contract is therefore worth up to HUF 225 billion (approx. EUR 562 million).

In the last years the very same consortium of New Land Media Kft. and Lounge Design Kft. won the communication public procurement tenders. They have the same owner, Gyula Balásy, a pro-government businessman. The contracts of these consortium are not published, there is no information how these state sources are spent in the media market.

The social media spending was high, especially in Q1 2022, in the campaign of the parliamentary elections. A fund (Megafon) created for pro-government social media influencers spent more than HUF 1 billion (ca. EUR 2,5 million) on Facebook and all sponsored influencers echoed the government propaganda. The financial background of Megafon is not known.

State advertising spending lacks transparency. The Hungarian state does not publish a database about its advertising activity. Majority of the social media platforms do not publish data about their advertisers.

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*

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

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

According to the media law Duna is the public service media provider and it is more or less appropriately subject to external control mechanisms (Board of Public Service Public Foundation, Public Service Body, Public Service Fiscal Council), but in reality, the oversight is merely a façade since it has no resources. And then there is the Fund, which disposes of taxpayer funds without being subject to any meaningful independent control. The Fund is subject to the review of a single organisation: the Media Council (MC). Budget of Duna for 2023 is HUF 2,1 billion (ca 5,3 million EUR), while the budget of the Fund is HUF 127 billion HUF (ca 318 million EUR). It is obviously hacking of the media law.

The extension of radio licence is an arbitrary decision of the MC. According to the Media Act, a media service provider may not establish a right to renew a media service right, and the MC is not obliged to conclude a contract based on an initiative to renew a media service right. Repeated infringements by the media service provider exclude the possibility of renewal, even if the infringements are of a very minor nature, e.g. a minor exceeding of advertising time. In the case of Tilos Radio, the MC did not renew the radio's licence in 2022 because the MC found some problems (age rating and broadcasting time, data providing) in the previous licencing period between 2015 and 2022. Similar repeated breaches of the law by other radio stations did not lead to a refusal to renew, despite the wording of the law. The practice of the MC is arbitrary and non-transparent.

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

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

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

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

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

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

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

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

*3000 character(s) maximum*

The Act on Freedom of the Press formally provides for the “right to professional independence” of the persons working for media content providers from the owner or sponsor of the media content provider, and from advertisers. This right has no effective enforcement mechanism. Newspapers and media sites are either indirectly financed by the government (as a major advertiser), or they barely survive in an advertising scene dominated by the government, maintaining substantial independence by crowdfunding. Journalistic independence in the state media is entirely taken away. Evidence shows governmental control over the Hungarian state news agency. Journalists formerly working at “public service” state media stated in a documentary that they had worked under direct political control.

In 2021 it came to light that numerous journalists were victims of state-approved secret surveillance by the abuse of the spyware Pegasus. To this date, no steps were taken by the government to offer protection to the affected journalists. The Government did not even apologize, despite having acknowledged the surveillance. The DPA launched an investigation and found nothing against the law or objectionable about the surveillance of journalists. The HCLU represented victims who filed complaints to the ministers responsible for secret services (Constitutional Protection Office, Information Office) who found no violation of law either. Victims appealed these findings to the National Security Committee of Parliament, which confirmed the ministerial findings or, in one case, did not even investigate the case. Victims launched several lawsuits to learn more about their own surveillance, without success so far.

Journalists are still denied direct access to public institutions, and this practice is supported by the government. At the height of the pandemic, the Ministry of Human Resources has denied journalists entry into hospitals, preventing the independent media reporting on the COVID19 situation. An independent news site, Telex won a lawsuit against the Ministry: the Court stated hospital directors, and not the ministry, have authority to make decisions about entry. A week after the court judgment, a new government decree empowered the Government’s Operative Board to “establish a procedure in which hospitals maintain communications with the media” including granting entry.

Journalists cannot report from public court trials if they fail to indicate precisely, to the judge’s satisfaction, to which medium they are reporting to thus excluding freelance and/or citizen journalists from the opportunity to report. There is no legal remedy against the judge’s decision.

Even in the time of the Russian aggression in Ukraine, the PM usually refuses to answer questions addressed to him by independent media outlets – although in practice, he sets the direction of foreign policy. The few cases when the PMO also attends government press conferences are still the exception.

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

*3000 character(s) maximum*

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

Hungary is still not in compliance with the ECHR regarding regulations on authorizing state surveillance. In particular, the government failed to make any efforts to implement the 2016 ECtHR judgement *Szabó and Vissy v. Hungary* that stated: Hungary has no effective control over the government-authorized surveillance, and the excessively broad range of potential victims of surveillance may give rise to mass-surveillance – a concern of the ECtHR that came to realization in the Pegasus-affair. Although the decision specifically warned against the potential threat the legislation may impose on journalists, the government's failure to set up an effective control mechanism to prevent the abuse of surveillance resulted in a surveillance action of an unprecedented extent targeting journalists. This has been confirmed again in the 2022 ECtHR judgment *Hüttl v. Hungary*. The Minister of Justice has still been reluctant to publicly account for her role as the official authorizer for non-judicial surveillance.

Threats to journalists still prevail especially in the propaganda media. A smear campaign in the propaganda media targeting independent journalists and civil society activists aimed to create an impression before the general elections that these journalists serve foreign interests dictated by human rights NGOs, by publishing ruthlessly edited videos of fake job interviews these actors were invited to. To the best of our knowledge, the DPA did not launch any investigations in the case. In another case, the CEO of the publisher of 24.hu, one of the few remaining independent news sites, was interrogated as a criminal suspect by the National Tax and Customs Authority. A physical attack against a journalist working for a national TV channel is still exceptional.

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*

Access to information remains restricted due to the government's abuse of its special powers under the new kind of special legal order. In a decree, the government prolonged the extension of the deadline to respond to freedom of information requests (FOI requests) again to 90 days, with a failed legislative attempt of withdrawal.

The abolition of the fee for "disproportionate workload" involved in answering FOI requests was abolished on October 13, 2022. However, the main barrier for access to information is an abusive tendency of state entities' response to FOI requests: state entities first deny they are in possession of the data requested from them and withhold the data requested, thus forcing the individual to seek legal remedy. Then in the court proceedings, they provide the data requested in the documents submitted to the court, leaving the court no other option than to terminate the proceeding as the data requested has been granted, while the plaintiff formally loses in the lawsuit. One example is the result of the multiple lawsuits launched to gain access to the Covid-19 Vaccination Plan: the defendant state entities presented the plan only in the middle of the trial proceedings. The metadata on the data files showed that they were made available after the trial started, yet this did (and could not) not affect the legal outcome of the proceedings. In another case, the Prime Minister's Office obstructed access to public data on a public development project by providing them to the journalist who requested it using a technology that made access impossible. Further, the Government declared in a decree that public data that the Government Operative Board had produced should be considered "decision-preparatory" data, and as such, can be denied access to for 10 years.

Access to data regarding public funds is restricted based on an earlier constitutional amendment that narrowed down the definition of public funds. Current jurisprudence upholds that data about subcontractors' participation in national constructions realized by EU funds need not be disclosed in response to FOI requests.

Public bodies resisting Courts' orders to disclose public data continues to be a major obstacle. Judgmening ordering the disclosure of public data cannot be effectively executed, and there is no special legal remedy for such cases.

Parliament has still failed to comply with its duty specified in a 2020 Constitutional Court's decision that set a due date of December 31st, 2020 to amend the Act regulating FOI procedures since it does not guarantee judicial remedy in case public information is not held by a public authority but by an organization which entered into financial relations with a public body.

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*



Courts continue to issue injunctions banning the dissemination of and research into data related to the business activities of high profile public figures. A ban on the liberal weekly Magyar Narancs (see 2020 and 2021 RoL reports) was momentarily lifted (due to plaintiffs' procedural omission) but was reinstated and confirmed by an appellate court. Injunctions upheld by the Kúria in 2020 against Forbes Hungary are still in effect, related civil litigation is pending before first-instance courts. Complaints against the injunctions have been pending for more than 2 years before the Constitutional Court.

By 2022, the new tendency of SLAPP lawsuits and other legal actions specifically weaponizing the GDPR gained further traction. These actions abuse the fact that Hungary has enacted no statutory journalism exemptions (as per Art. 85 of the GDPR), and obstruct journalistic reporting, from research to publication, on the extent and origins of the wealth of public figures who have benefitted from state funding or political ties, or whose projects have a lasting impact on the environment or have national economic significance. An appellate court confirmed that the estimation of a public figure's wealth in a list of the most wealthy Hungarians in Forbes violated his rights, despite that it was based on public data and a consistent methodology. The decision was partly confirmed by the Kúria. The plaintiff's alleged that Forbes' methodology underestimated his wealth and thus violated the accuracy requirement of GDPR. The HCLU's legal aid service also encountered a case in which a politician attempted to use the GDPR to erase traces of his past candidacy in local elections from an online newspaper.

Hungary's DPA has consistently ruled against the press when it dealt with GDPR-based complaints of public figures. In the only case we know of in which it found no violations (Magyar Narancs), it later withdrew its finding that the weekly did not violate GDPR requirements. The Kúria found the DPA lawfully withdrew its no-violation decision. The DPA asked another news site covering the extensive corruption practices of public figures and their links to the Government to reveal its sources.

While GDPR-based cases against media outlets represent an emerging new trend, defamation (incl. criminal defamation) continues to be used in high politics to threaten journalists. The Kúria denied review of the conviction of a female journalist writing for 444.hu, a news portal, for criminal defamation, for failing to prove she was physically coerced out of a Fidesz party event she was reporting on. An independent newspaper, Népszava lost a defamation lawsuit concerning a critical caricature depicting the Surgeon General, a public figure regularly commenting on anti-COVID measures, on a cross. The Constitutional Court ruled the caricature was a case of arbitrary defamation of Christians.

Other - please specify

*3000 character(s) maximum*

It still held true in 2022 that the Orbán regime was unwilling to take effective steps against foreign (primarily Russian) information manipulation and interference. The Hungarian government even aggravated the effects of such manipulation by disseminating geopolitical messages in line with Russian narratives. This practice was elevated to a new level in 2022, mainly due to Russia's invasion against Ukraine.

Due to the government's control over the vast majority of the media, its dominance on social media, the use of state resources for party interests (e.g., state advertisements and campaigns in line with the governing party's messages), and the enhanced use of the so-called "grey zone" media (non-transparent outlets, whose aim is to influence public opinion through biased, often manipulated content), the government has practically established an informational autocracy, where the state exerts influence through the manipulation of information.

Two major examples of information manipulation by the governing party occurred in 2022. One relates to the parliamentary elections, where Fidesz's whole campaign was based on a factually false message that the opposition, should it win, would drag Hungary into war, created by manipulating a statement of the opposition parties' prime minister candidate. The other example relates to the war in Ukraine. Since the invasion's start, the government-organised traditional and "grey zone" media and social media influencers have disseminated Russian war propaganda to justify the war and to blame the West, especially the US, for the war, and the EU ("Brussels sanctions") for the negative economic and social consequences. Moreover, mainstream communication paints Ukraine and the West, mainly the US and "Brussels", as the primary source of danger instead of Russia. The high proportion of Fidesz supporters, who identify with the Russian position in the war or consider Russia's responsibility less, is clear evidence of the government's ability to influence the public discourse. Hence, in 2022, malign Russian influence constituted in Hungary mainly through the government-organised media and the pro-Kremlin narratives of the Hungarian government.

## 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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