

Annual Rule of Law  
Report - Council of  
Europe input

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

2021

**Directorate General Human Rights and Rule of Law (DG I)**

Hungary

# I Justice System

## A. Independence

### CEPEJ

CEPEJ – Country profile Hungary - Scoreboard (2019 data) *(content of the link will be available after acceptance of the CEPEJ Study for the Scoreboard by DG-Just)*

[CEPEJ Country Profiles Hungary Scoreboard](#)

CEPEJ European Judicial Systems Evaluation Report – Evaluation cycle 2018-2020 (2018 data) – Part 2 Country profile Hungary

[CEPEJ Evaluation Report - Country Profiles – Hungary](#)

CEPEJ website – General Country profile Hungary (including answers to the Evaluation Scheme)

[General CEPEJ Country profile](#)

European Judicial Systems CEPEJ Evaluation Report – Evaluation cycle 2018-2020 (2018 data) – Part 1 Tables, graphs and analysis

[CEPEJ Evaluation Report 2020 Part 1](#)

CEPEJ Dynamic database of European judicial systems

[CEPEJ-STAT](#)

## 1. Appointment and selection of judges and prosecutors

### GRECO

<https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680a062e9>

4<sup>th</sup> round: Second Compliance Report in respect of MPs, judges and prosecutors

### GRECO

<https://www.coe.int/en/web/greco/evaluations/hungary>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2012)008 English 19/06/2012 - Public

[Opinion on Act CLXIII of 2011 on the Prosecution Service and Act CLXIV of 2011 on the Status of the Prosecutor General, Prosecutors and other Prosecution Employees and the Prosecution Career of Hungary, adopted by the Venice Commission at its 91st Plenary Session \(Venice, 15-16 June 2012\)](#)

## 2. Irremovability of judges, including transfers of judges and dismissal

Department for the Execution of Judgments of the European Court of Human Rights

[Baka v. Hungary](#) (20261/12 ) (ENHA): undue and premature termination of the applicants' mandates as President (Baka case) and Vice-President (Erményi case) of the former Hungarian Supreme Court (both positions of more judicial than administrative character) through ad hominem legislative measures adopted in the context of a major reform of the judiciary

Presentation on Hudoc.exec: [Baka v. Hungary](#)

Latest submissions : [DH-DD\(2020\)563](#)

Latest decisions of the Committee of Ministers : [CM/Del/Dec\(2020\)1383/H46-8](#)

### GRECO

<https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680a062e9>

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### 3. Promotion of judges and prosecutors

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### 4. Allocation of cases in courts

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

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### 6. Accountability of judges and prosecutors, including disciplinary regime and ethical rules.

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#### 7. Remuneration/bonuses for judges and prosecutors

The European Commission for Democracy through Law – Venice Commission  
CDL-AD(2012)008 English 19/06/2012 - Public

[Opinion on Act CLXIII of 2011 on the Prosecution Service and Act CLXIV of 2011 on the Status of the Prosecutor General, Prosecutors and other Prosecution Employees and the Prosecution Career of Hungary, adopted by the Venice Commission at its 91st Plenary Session \(Venice, 15-16 June 2012\)](#)

#### 8. Independence/autonomy of the prosecution service

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[Opinion on Act CLXIII of 2011 on the Prosecution Service and Act CLXIV of 2011 on the Status of the Prosecutor General, Prosecutors and other Prosecution Employees and the Prosecution Career of Hungary, adopted by the Venice Commission at its 91st Plenary Session \(Venice, 15-16 June 2012\)](#)

#### 9. Independence of the Bar (chamber/association of lawyers)

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

GRECO

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The European Commission for Democracy through Law – Venice Commission  
CDL-AD(2019)004 English 19/03/2019 - Public

[Hungary - Opinion on the law on administrative courts and the law on the entry into force of the law on administrative courts and certain transitional rules, adopted by the Venice Commission at its 118th Plenary Session \(Venice, 15-16 March 2019\)](#)

#### 11. Other - please specify

PACE

Democracies facing the Covid-19 pandemic

Rapporteur : Mr Ian LIDDELL-GRAINGER, United Kingdom, EC/DA

[Doc. 15157](#)

Office of the Commissioner for Human Rights

Concerning draft amendments to the Constitution and other existing legal instruments

[Commissioner urges Hungary's Parliament to postpone the vote on draft bills that, if adopted, will have far-reaching adverse effects on human rights in the country - View \(coe.int\)](#) - 20 November 2020

Consultative Council of European Judges (CCJE)

Statement by the President of the CCJE on the role of judges during and in the aftermath of the COVID-19 pandemic: lessons and challenges (24 June 2020)

<https://rm.coe.int/ccje-2020-2-statement-of-the-ccje-president-3-lessons-and-challenges-c/16809ed060>

Opinion No. 23 (2020) of the CCJE on the role of associations of judges in supporting judicial independence (6 November 2020)

<https://rm.coe.int/opinion-23-en-ccje-2020/1680a03d4b>

Consultative Council of European Prosecutors (CCPE)

Opinion No. 15 (2020) of the CCPE on the role of prosecutors in emergency situations, in particular when facing a pandemic (19 November 2020)

<https://rm.coe.int/opinion-no-15-ccpe-en/1680a05a1b>

GRECO

[9 December 2020 – International Anti-Corruption Day - Newsroom \(coe.int\)](#)

GRECO President: “No quarter to corruption in healthcare, governments must lead by example”

CPT

Report on the CPT's 2018 periodic visit, [CPT/Inf \(2019\) 8](#), paras. 26 and 27

The Hungarian authorities have taken further steps since the previous periodic visit (in 2013) to strengthen procedural safeguards against police ill-treatment, notably through the adoption of a new criminal procedure legislation and relevant police regulations.

According to the new criminal procedure legislation (see Section 386, para. 1, of the Law on Criminal Procedure), a person suspected of having committed a criminal offence is entitled to have access to a lawyer as from the outset of police custody, including when he or she has the status of an “apprehended” person.

Lawyers nominated by the detained persons were promptly contacted on their behalf and, as a matter of principle, no statement was taken without the lawyer's arrival. However, detained persons were allegedly not always put in a position to speak to their lawyer in private before the first police interview.

A criminal legal aid scheme was developed in order to enable persons who cannot pay for the services of a lawyer to be represented by an ex officio lawyer appointed by the relevant bar association. By virtue of the new criminal procedure legislation, if the bar association is unable to select an ex officio lawyer within one hour, the lawyer is chosen by the investigating or prosecuting authority (see Sections 47 and 49 of the Law on Criminal Procedure). Ex officio lawyers were generally appointed without undue delay following contact made with the bar association, in particular in Budapest. That being said, the delegation was told in a number of cases that ex officio lawyers did not come to the police establishment and were seen only after a first police interview or even not until the time of the first court hearing.

## B. Quality of justice

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

13. Resources of the judiciary (human/financial)

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

15. Other - please specify

European Commission for the Efficiency of Justice (CEPEJ)

<https://www.coe.int/en/web/cepej/country-profiles/hungary>

## C. Efficiency of the justice system

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The European Commission for Democracy through Law – Venice Commission

CDL-AD(2012)020 English 15/10/2012 - Public

[Opinion on the Cardinal Acts on the Judiciary that were amended following the adoption of Opinion CDL-AD\(2012\)001 on Hungary, adopted by the Venice Commission at its 92nd Plenary Session \(Venice, 12-13 October 2012\)](#)

## 16. Length of proceedings

Department for the Execution of Judgments of the European Court of Human Rights

[Gazso v. Hungary](#) (48322/12) (ENHA): This group of cases concerns the excessive length of judicial proceedings in civil, criminal and administrative matters, and the lack of an effective remedy in this respect

Presentation on Hudoc.exec: [Gazso v. Hungary](#)

Latest decisions of the Committee of Ministers : [CM/Del/Dec\(2020\)1390/H46-12](#)

Latest submissions : [DH-DD\(2021\)88](#)

## 17. Enforcement of judgements

## 18. Other - please specify

European Court of Human Rights - country profile

[https://echr.coe.int/Documents/CP\\_Hungary\\_ENG.pdf](https://echr.coe.int/Documents/CP_Hungary_ENG.pdf)

Execution of Judgments of the European Court of Human Rights - country factsheets

<https://rm.coe.int/168070974d>

# 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 that have occurred since these documents were published.

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

GRECO

Guidelines addressed to GRECO 50 Member States

[Corruption Risks and Useful Legal References in the context of COVID-19](#)

[Published 21/04/2020](#)

GRECO

<https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680a062e9>

4<sup>th</sup> round: Second Compliance Report in respect of MPs, judges and prosecutors

Office of the Commissioner for Human Rights

Corruption undermines human rights and the rule of law [Corruption undermines human rights and the rule of law - Human Rights Comments - Commissioner for Human Rights \(coe.int\)](#) – published on 19 January 2021

GRECO

<https://www.coe.int/en/web/greco/evaluations/hungary>

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19. List of relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption. Where possible, please indicate the resources allocated to these (the human, financial, legal, and practical resources as relevant).

## B. Prevention

GRECO

Guidelines addressed to GRECO 50 Member States

[Corruption Risks and Useful Legal References in the context of COVID-19](#)

[Published 21/04/2020](#)

GRECO

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20. Integrity framework: asset disclosure rules, lobbying, revolving doors and general transparency of public decision-making (including public access to information)

21. Rules on preventing conflict of interests in the public sector

22. Measures in place to ensure Whistle-blower protection and encourage reporting of corruption

23. List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged for preventing corruption in these sectors. (e.g. public procurement, healthcare, other).

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

## C. Repressive measures

GRECO

<https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680a062e9>

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- 25. Criminalisation of corruption and related offences,
- 26. Overview of application of sanctions (criminal and non-criminal) for corruption offences (including for legal persons)
- 27. Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)

### III Media pluralism

#### A. Media regulatory authorities and bodies

- 28. Independence, enforcement powers and adequacy of resources of media authorities and bodies

The European Commission for Democracy through Law – Venice Commission  
CDL-AD(2015)015 English 22/06/2015 - Public

[Opinion on Media Legislation \(ACT CLXXXV on Media Services and on the Mass Media, Act CIV on the Freedom of the Press, and the Legislation on Taxation of Advertisement Revenues of Mass Media\) of Hungary, adopted by the Venice Commission at its 103rd Plenary Session \(Venice, 19-20 June 2015\)](#)

Relevant recommendation of the Committee of Ministers of the Council of Europe to member states:

[Recommendation Rec \(2000\) 23 of the Committee of Ministers to member states on the independence and functions of regulatory authorities for the broadcasting sector](#)

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

#### B. Transparency of media ownership and government interference

- 30. The transparent allocation of state advertising (including any rules regulating the matter)

The European Commission for Democracy through Law – Venice Commission  
CDL-AD(2015)015 English 22/06/2015 - Public

[Opinion on Media Legislation \(ACT CLXXXV on Media Services and on the Mass Media, Act CIV on the Freedom of the Press, and the Legislation on Taxation of Advertisement Revenues of Mass Media\) of Hungary, adopted by the Venice Commission at its 103rd Plenary Session \(Venice, 19-20 June 2015\)](#)

- 31. Public information campaigns on rule of law issues (e.g. on judges and prosecutors, journalists, civil society)

Office of the Commissioner for Human Rights

[Time to take action against SLAPPs - Human Rights Comments - Commissioner for Human Rights \(coe.int\) – published on 27 October 2020](#)

- 32. Rules governing transparency of media ownership

Relevant recommendation of the Committee of Ministers of the Council of Europe to member states:

[Recommendation CM/Rec\(2018\)1 of the Committee of Ministers to member States on media pluralism and transparency of media ownership](#)

PACE

The impact of the Covid-19 pandemic on human rights and the rule of law  
(Rapporteur : [Mr Vladimir VARDANYAN](#), Armenia, EPP/CD)

[Doc. 15139](#) / See also the [Opinion](#) by the Committee on Culture, Science, Education and Media on the aforementioned report.

### C. Framework for journalists' protection

33. Rules and practices guaranteeing journalist's independence and safety and protecting journalistic and other media activity from interference by state authorities

34. Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists

Relevant recommendation of the Committee of Ministers of the Council of Europe to member states:

[Recommendation CM/Rec\(2016\)4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors](#)

35. Access to information and public documents

Office of the Commissioner for Human Rights

[Access to official documents is crucial – let's make it a reality - Human Rights Comments - Commissioner for Human Rights \(coe.int\)](#) – published on 1 December 2020

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2012)023 English 16/10/2012 - Public

[Opinion on Act CXII of 2011 on informational Self-determination and Freedom of Information of Hungary, adopted by the Venice Commission at its 92nd Plenary Session \(Venice, 12-13 October 2012\)](#)

36. Other - please specify

Office of the Commissioner for Human Rights

[Tapping the full potential of Equality Bodies for a fairer Europe Tapping the full potential of Equality Bodies for a fairer Europe - Human Rights Comments - Commissioner for Human Rights \(coe.int\)](#) – published on 26 June 2020

Platform to promote the protection of journalism and safety of journalists

<https://www.coe.int/en/web/media-freedom/hungary>

Freedom of expression chapters of the annual reports of the Secretary General of the Council of Europe featuring indicators on media pluralism and transparency of ownership, media independence and safety of journalists as well as country-specific assessments:

2018

<https://rm.coe.int/state-of-democracy-human-rights-and-the-rule-of-law-role-of-institutio/168086c0c5>

2017

<https://edoc.coe.int/en/an-overview/7345-pdf-state-of-democracy-human-rights-and-the-rule-of-law.html>

2016

[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=0900001680646af8](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680646af8)

2015

[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=090000168058e01e](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=090000168058e01e)

## IV Other institutional issues related to checks and balances

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

37. Stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), transparency of the legislative process, 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).

### 38. Regime for constitutional review of laws

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2013)012 English 17/06/2013 - Public

[Opinion on the Fourth Amendment to the Fundamental Law of Hungary Adopted by the Venice Commission at its 95th Plenary Session, Venice, 14-15 June 2013](#)

CDL-AD(2012)011 English 19/06/2012 - Public

[Opinion on the Act on the Rights of Nationalities of Hungary adopted by the Venice Commission at its 91st Plenary Session \(Venice, 15-16 June 2012\)](#)

CDL-AD(2012)009 English 19/06/2012 - Public

[Opinion on Act CLI of 2011 on the Constitutional Court of Hungary adopted by the Venice Commission at its 91st Plenary Session \(Venice, 15-16 June 2012\)](#)

### B. Independent authorities

39. independence, capacity and powers of national human rights institutions, ombudsman institutions and equality bodies

### C. Accessibility and judicial review of administrative decisions

40. modalities of publication of administrative decisions and scope of judicial review

41. implementation by the public administration and State institutions of final court decisions

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2019)004 English 19/03/2019 - Public

[Hungary - Opinion on the law on administrative courts and the law on the entry into force of the law on administrative courts and certain transitional rules, adopted by the Venice Commission at its 118th Plenary Session \(Venice, 15-16 March 2019\)](#)

CDL-AD(2018)035 English 17/12/2018 - Public

[Hungary - Joint Opinion on Section 253 on the special immigration tax of Act XLI of 20 July 2018 amending certain tax laws and other related laws and on the immigration tax, adopted by the Venice Commission at its 117th Plenary Session \(Venice, 14 and 15 December 2018\)](#)

### D. The enabling framework for civil society

42. Measures regarding the framework for civil society organisations

The European Commission for Democracy through Law – Venice Commission

CDL-REF(2017)031 English 20/06/2017 - Public

[Hungary - Law on the transparency of organisations receiving support from abroad, adopted on 13 June 2017](#)

43. Other - please specify

Expert Council on NGO Law report on criminalisation of NGO activity in relation to migration and a compendium of developments 2017-2019 in NGO law, freedom of association

<https://rm.coe.int/expert-council-conf-exp-2020-1-ngos-developments-in-standards-mechanis/16809ccd3a>

<https://rm.coe.int/expert-council-conf-exp-2019-1-criminal-law-ngo-restrictions-migration/1680996969>

Private Office procedure on human rights defenders interacting with the Council of Europe

[https://www.coe.int/en/web/secretary-general/news-2019-thorbjorn-jagland/-/asset\\_publisher/9j1gCsAwfdMt/content/revised-private-office-procedure-on-human-rights-defenders-interacting-with-the-council-of-europe](https://www.coe.int/en/web/secretary-general/news-2019-thorbjorn-jagland/-/asset_publisher/9j1gCsAwfdMt/content/revised-private-office-procedure-on-human-rights-defenders-interacting-with-the-council-of-europe)