



## **European Commission stakeholders' consultation on the rule of law in the European Union**

SUBMISSION BY CIVICUS, 8th March 2021

**ABOUT US:** [CIVICUS](#) is a global alliance for civil society organisations and activists dedicated to strengthening citizen action and civil society throughout the world. The [CIVICUS Monitor](#) is an online platform which tracks and rates civic space in 196 countries.

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# SLOVENIA

## Introduction

Civic space violations have been documented in Slovenia, particularly when Janez Janša's government came into power in March 2020, prompting a [ratings change](#) of the country to 'narrowed' on the CIVICUS monitor. For months, thousands of cycling [protesters](#) have met in major Slovenian cities every Friday to condemn the government's use of the COVID-19 pandemic to restrict fundamental freedoms and have called for Prime Minister Janša's resignation. The government has repeatedly threatened civil society organisations (CSOs), with journalists and media outlets coming under continuous attack from the Prime Minister and the ruling Slovenian Democratic (SDS) party.

## Media Pluralism

Media watchdog organisations have raised concerns of [political interference](#) in the independence of the oversight board of Slovenia's public broadcaster (RTV). Reporters without borders [reported](#) on 16th April 2020 that the government had replaced three members of the RTV's Oversight Board although their terms had not yet expired. It furthermore attempted to replace two more members but was stopped by a parliamentary committee, which deemed the move illegal. In addition, the ruling SDS party has also changed members of the RTV Programme Council, which is responsible for editorial strategy and the selection of the director-general.

## Transparency of media ownership and government interference

There have been concerning developments regarding media ownership in Slovenia. Over the last few years, the government has threatened media independence through its political interference, with platforms such as Nova24TV and web portal Nova24 - who are partially owned by SDS - being funded by business parties close to Hungarian Prime Minister Viktor Orbán.

In October 2020, the third most viewed TV station in Slovenia, Planet TV, [was sold](#) to Hungarian media company TV2 Media, which is also [owned by](#) a Hungarian businessman linked to Orbán's Fidesz Party. There have also been reports of unofficial plans to merge Planet TV and Nova24TV.

Further threats to media independence come as a result of a [package](#) of three new media laws which [were introduced](#) in Slovenia during July 2020 - the Act Amending the Media Act, the Act Amending the Radio Television Slovenia Act (hereinafter the RTV Slovenia Act) and the Act Amending the Slovenian Act press agency. These laws, which were not submitted for public consultation, threaten to completely change the Slovenian media landscape. The proposed changes by these three media-related laws would result in major funding cuts for the public broadcaster RTV Slovenia, thus impacting on its outputs and threatening job losses for about 400 employees. The law also makes provision for government's interference in the management appointments within the Slovenian Press Agency (STA), thus paving the way for further interference with editorial policy and media independence.

Related to this, in November 2020, the Government Communication Office (UKOM) [suspended](#) its funding to the STA, citing that the agency had failed to provide information which would assist it in assessing its funding for 2021. The agency said that the UKOM had no leg-

al reason for such a decision, but rather intends [to put](#) political and financial pressure on the public press agency. After [communication](#) with the European Commission, UKOM was legally forced to resume overdue payments on 14th January 2021. However, just over a month later, on 24th February 2021 the UKOM once again [announced](#) a suspension of STA's funding for the second time in three months.

The Slovenian Journalist Association and other media watchdog organisations have raised [red flags](#) about UKOM's attempt to censor the media by preventing ministers and officials from appearing on news broadcasts to provide commentary. This practice of banning officials from appearing on news broadcasts was applied when UKOM did not give [its approval](#) for the head of the advisory group at the Ministry of Health, Bojana Beović, to appear on Odmevi Televizija Slovenija to provide comments in relation to COVID-19 developments. In addition, during the COVID-19 pandemic, journalists and media outlets report being restricted or prevented from posing questions during government press conferences held online.

During January 2021 Radio Študent (RŠ) in Slovenia learnt that the full funding from its founder, the Student Organisation of the University of Ljubljana (ŠOU) would [be lost](#). There was no prior warning of the funding cut or consultation with the station. As a result, Europe's largest and oldest independent student radio station is now under threat of shutting down. According to the station, the funding cut comes as a result of its critical reporting on the ŠOU.

### **Framework for journalists' protection**

As [noted by](#) the European Commission's 2020 Rule of Law report on Slovenia, "online harassment or threats against journalists are frequent and rarely sanctioned by the justice system." It is within this context that journalists have [continuously](#) faced attacks, both in person and online, from the Prime Minister Janez Janša and the ruling SDS party. In February 2021, Janša once again [attacked](#) the media when he tweeted an image which read: "If you repeat a lie often enough it becomes ~~truth~~-journalism" in response to a news article about his request via letter to the European Commission to send a fact-finding mission to Slovenia to determine the "state of democracy, rule of law, independence of the judiciary and media plurality".

These attacks are not new. Within his first few weeks of taking office, Janša [attacked](#) the public broadcaster for spreading lies about the government. He once again wrote on twitter: "Do not spread lies. We pay you to inform, but not to mislead the public during these times. Obviously, you are overpaid and well paid". A month later he accused the public broadcaster of attempting to overthrow the government due to its reporting on the ongoing anti-government protests.

Blaž Zgaga, an investigative reporter and Reporters Without Borders (RSF) correspondent in Slovenia, who has investigated alleged corruption cases involving Janša, has been [subjected to](#) harassment and death threats on social media and by *Demokracija* weekly and *Nova24 TV* – media controlled by the SDS, as they are funded by parties close to Hungarian Prime Minister Viktor Orbán.

The attack resulted in the Council of Europe [issuing a warning](#) alert, categorised as level 1 - the most serious violation of media freedom - raising concerns about the "defamation and hate campaign" against Zgaga "led by the new government". However, at the end of March 2020, the Slovenian government [dismissed](#) the Council of Europe's warning and stated that

it “rejects and condemns the case of alleged harassment” of the journalist. Media organisations [sent a letter](#) to the European Commission Vice-President Jourová and Commissioner Reynders, calling on the Commission to urge Slovenia to take responsibility and to “protect the press, to ensure journalists are able to report independently, as well as to guarantee free and open access to information”. The letter also urged the commission to ensure that Slovenia tackles the harassment and death threats against Zgaga with “utmost seriousness”.

Journalist for public broadcaster RTV Slovenia, Eugenija Carl has also faced repeated threats. In June 2020, Carl [received](#) a threatening letter containing white powder. The letter made death threats against Carl and the powder gave her an allergic reaction. The letter also referenced a defamation case she had filed against PM Janša in relation to a 2016 tweet where he referred to her and her colleague as “retired prostitutes”. Carl has faced repeated online harassment from the SDS party as well as media affiliated with the party.

During a European Council meeting in Brussels which took place in October 2020, Janša [once again](#) attacked the Slovenian media, specifically the Slovenia Press Agency (STA). He wrote on Twitter that STA “*is a national disgrace, a blatant abuse of the name it bears*” in response to what he considers as not receiving enough coverage by the agency. In addition, during a press briefing with journalists in Brussels he singled out Slovenian media, implying that they added to the spread of the COVID-19 pandemic: “This is causing a lot of damage to our joint fight against the spread of coronavirus on the European and also national levels, and is forcing Europe and individual countries to take harsher measures than would actually be required if it was not for the fake news and the mass spreading of completely unscientific and illogical denials.”

On 16th February 2020, Politico Europe and journalist Lili Bayer were criticised on Twitter by the Slovenian Minister of Culture and the Prime Minister for producing [an article](#) on the state of media freedom in Slovenia. The Minister of Culture accused the publication of “political bias”, alleging that Slovenian “private media is predominantly owned by media tycoons close to leftist political parties.” In addition, Janša [remarked](#) that Bayer “was instructed not to tell the truth”. He added “That’s @POLITICOEurope, unfortunately. Laying [sic] for living.” According to media commentary, the misspelling in the tweet was intentional and an attempt to attack Bayer as a woman journalist.

According to a report by the International Press Institute (IPI), some journalists anonymously [reported](#) that they are beginning to self-censor to avoid being targeted by online smear campaigns.

## **The enabling framework for civil society**

### *Funding cuts during COVID19*

Civil Society Organisations (CSOs) in Slovenia are increasingly becoming the target of the Slovenian government’s restrictive measures and hostile rhetoric. The current government has especially directed its hostility towards Non-Governmental Organisations (NGOs) which work on independent cultural production, defending human rights, media freedom and the environment. Legal and financial restrictions have been applied to these CSOs and the COVID-19 pandemic has been used to justify such measures.

During the pandemic, 15 NGOs [were notified](#) by the Government Communication Office that their contracts for public grants for 2020 projects, which had been signed during the previous

government's tenure, had been terminated. The government stated that this money would be redirected to tackle the pandemic. It is important to note that the NGOs who faced funding cuts work on projects which include civic education, media literacy, tackling disinformation and raising awareness about the situation of excluded groups, including refugees, migrant workers and victims of human-trafficking.

In addition, representatives of the NGO sector from the national platform CNVOS were not involved in the first stage of the consultations around the measures to tackle COVID-19. The first Intervention Law to tackle the pandemic was passed by parliament in late March 2020 and did not include support measures for CSOs under economic pressure. However, after strong advocacy actions, in early April 2020 the so-called “Mega Corona” law was passed. In a welcome move, the law does not differentiate between legal entities in terms of support to employers, thus NGOs are entitled to the same measures of assistance as all other institutions.

However, in December 2020 the Janša government [attempted to](#) introduce an amendment abolishing the state's fund for NGOs through its 7<sup>th</sup> anti-corona stimulus package. The fund, introduced in 2018, contributed to the professionalisation and development of NGOs and was considered a “huge step forward”. Following a [great mobilisation](#) of NGOs and people against the move to abolish the fund, the amendment abolishing the NGO fund was removed from the 7<sup>th</sup> anti-corona stimulus package, approved in Parliament on 29<sup>th</sup> December 2020 as the coalition party SMC – that had proposed the NGO law in 2018 – joined opposition parties in voting against the proposed amendment.

#### *NGOs evicted amid pandemic*

Amid experiencing its second wave of the pandemic, on 19<sup>th</sup> October 2020, 18 NGOs operating from No. 6 Metelkova Street in Ljubljana [received a proposal](#) from the building manager for an amicable termination of the lease by the Ministry of Culture, which owns the building, and an order to vacate the building by 31<sup>st</sup> January 2021. If the NGOs working in this building failed to do so, the Ministry threatened to enforce the eviction through the courts, at their expense. The notification of an eviction was received on the same day as the government imposed a new COVID-19 curfew. The Slovenian Culture Ministry stated that the eviction was due to its plans to renovate the premises. However, the budget for such a renovation is not allocated until 2023.

These NGOs have been operating from these premises since the mid-1990s. This [threat of eviction](#) from the state-owned former barracks of Metelkova, without any alternative offers for accommodation by Janša's government, has triggered a wave of social support towards the NGOs and collectives affected. The NGOs have informed the Ministry of Culture and the government of the Republic of Slovenia through a [petition](#) that they have no intention of leaving No. 6 Metelkova. They believe that the eviction is a [further attempt](#) by the Janša government to silence NGOs. In January 2021, during an address to the National Assembly, Janša [stated](#) that the funds allocated to organisations from Metelkova had contributed to COVID-19 deaths. He said: “A total of 37 million euros just for the non-governmental organisations whose offices are located at Metelkova 6. Those were your priorities. People died because of this.” In addition, NGOs from Metelkova, such as the Peace Institute, have been [subjected to](#) an online smear campaign by the SDS Party and the Prime Minister.

### *Environmental NGOs under threat*

Environment NGOs faced [ongoing attacks](#) during the COVID-19 pandemic. In late April 2020, the government included [an article](#) in the “Act Amending the Act on Intervention Measures to Contain the COVID-19 Epidemic and Mitigating its Consequences for Citizens and the Economy” which changes the criteria that allows environmental NGOs to challenge construction projects on the basis of environmental impact. Previously, NGOs working in the field of environmental protection could obtain the status of acting in the public interest as parties in procedures and were able to approach the courts and challenge decisions on environmental matters. However, the criteria are considered retroactive as only those NGOs which have met them in the previous two years will be able to participate and will be eligible until the end of the coronavirus pandemic. According to the network Justice and Environment, only 16% of the organisations are currently able to access this process via the new criteria. The Anti-Coronavirus Law proposed on 20th May 2020 containing provisions to ease the restrictions included an article extending these criteria until the end of 2021. The law was later challenged in the Constitutional Court which suspended its implementation until a decision is reached.

On 12th May 2020, the government also introduced an amendment to extend the above criteria to nature conservation NGOs. The government argued that there is a need to speed up the country’s economic development, as small environmental organisations were previously slowing down important construction. According to [environmental NGOs](#), these new bills would restrict participation of NGOs in environmental impact assessments even further.

In a [further attack](#) on NGOs working on environmental rights, in January 2021 the Ministry of Environment [proposed](#) new changes to the *Environmental Protection and Spatial Planning Acts* which would exclude environmental NGOs from key relevant procedures. The law is currently under consultation. The draft bill would allow only individual citizens demonstrating legal interest – and not environmental and nature conservation NGOs – to initiate an administrative dispute against Spatial Implementation Acts.

Smear campaigns and vilification of environmental NGOs have also been documented [previously](#) in 2019.

## **POLAND**

### **Introduction**

Civic space in Poland has been in decline since the ruling Law and Justice Party (PiS) came into power in 2015. The government has passed several laws and reforms which have undermined judicial independence, the rule of law and, as a result, civic space. At the time of making this submission, Poland is currently on our [Civic Space Watchlist](#) due to ongoing intimidation, harassment and repression of women’s rights protesters, the repeated persecution of LGBTQI+ persons and threats to media independence. Civic space in Poland is [rated](#) as ‘narrowed’.

### **Significant developments capable of affecting the general public’s perception of the independence of the judiciary**

As [noted](#) in the Commission’s Rule of Law report on Poland, “Poland’s justice reforms since 2015 have been a major source of controversy, both domestically and at EU level, and have raised serious concerns, several of which persist.”

In relation to this, on 22nd October 2020 the Constitutional Tribunal [ruled that](#) abortion in cases of foetal abnormalities are unconstitutional, imposing a near-total ban on abortion. While the court's ruling only came into effect in January 2021, the independence and legitimacy of the Tribunal has been severely undermined by reforms implemented by the ruling party since 2015. Thus, the lack of independence, impartiality and illegitimacy of this judgement is of great concern. The decision has sparked months of ongoing protests over women's rights and the rule of law, which have been met with ongoing repression. Authorities have [used](#) excessive force on protesters, which include the use of tear gas and pepper spray, kettling tactics and physical violence. Protesters of all ages, including minors and older persons, have been intimidated, detained and charged for participating in or expressing support for protests. Thus far, at least 150 people have been detained. Furthermore, authorities have [used](#) unjustifiable detention methods, as observed by the Polish Ombudsman, with persons initially detained in Warsaw being driven to police stations as far as 70 kilometres outside the capital. In some cases, detainees have had little or no access to legal representation and have been subjected to strip searches or physical violence during detention. Multiple charges have [been brought](#) against the leaders of the Polish Women's Strike for their ongoing role in protests.

### **Transparency of media ownership and government interference**

As [noted by](#) the Commission's 2020 Rule of Law report on Poland, "There is a lack of regulatory safeguards limiting political control over media outlets in Poland". This is demonstrated by the public broadcaster Telewizja Polska (TVP), which has [shown a strong bias](#) in favour of the ruling PiS party in its news coverage. During the run up to the elections, which took place during July 2020, a [report by](#) Reporters without Borders (RSF) found that 97 percent of TVP's coverage depicted the incumbent President Andrzej Duda in a positive light. In contrast, 87 percent of its coverage about the opposing presidential candidate, Rafal Trzaskowski, was negative. The broadcaster has also been used by the government to push its anti-rights rhetoric. For example, an anti-LGBTQI+ documentary entitled *Invasion*, which claimed to reveal the "aims, methods and money" behind Poland's LGBTQI+ community, was aired by TVP. However, a court later ordered the broadcaster to remove the film from its YouTube channel and it also banned the broadcaster from airing the film for a year. In addition, during ongoing protests on the near-total abortion ban, the broadcaster has also [smeared](#) leaders of the Polish Women's Strike, accusing them of attempting to overthrow the government.

In addition, the PiS party has been planning to reform Polish media by bringing foreign-owned media outlets under Polish control, [adopting](#) similar tactics to Hungary's Prime Minister Victor Orbán. On 8th December 2020, PKN Orlen [announced](#) its acquisition of *Polska Press*, one of the country's largest media publishers with an audience of 17,4 million internet users (it owns 20 out of 24 regional newspapers, 120 local weeklies and 500 online portals across the country). Although PKN Orlen described the acquisition as an expansion of PKN's "business interests", concerns over media freedom have been raised. The CEO of PKN Orlen, Daniel Obajtek, is said to be a [loyal supporter](#) of PiS party president Jarosław Kaczyński.

In a [further threat](#) to media freedom, the Polish government is pushing for a planned tax on business advertising. This prompted several Polish media outlets to jointly [suspend](#) news coverage on 10th February 2021 and stage a blackout on their websites for several hours,

with the message “Media without choice” to highlight this threat to independence. The government alleges the tax will contribute towards sectors severely affected by the pandemic -- e.g. culture and health -- and represents a necessary step in the fair taxation of large media corporations. However, media outlets claim such action will jeopardise media freedom since many are **heavily dependent** on advertising revenue for doing their work, and the taxation will disproportionately hit independent Polish news outlets. Pro-governmental outlets are **not expected** to be impacted by this taxation, with pro-government broadcaster TVP financially supported by user fees and a 440 million euro subsidy.

## **Framework for journalists' protection**

### *Attacks against journalists*

A **report** published in February 2021 titled “Democracy Declining: Erosion of Media Freedom in Poland: Media Freedom Rapid Response (MFRR) mission to Poland”, by the **International Press Institute** (IPI) highlighted that journalists work in a “hyper-polarised society” in which threats and insults linked to their work have become a norm. Hateful attacks on social media are increasingly directed towards journalists who work on both sides of the political spectrum. Editors noted that reporters were “routinely vilified, discredited and delegitimised in smears in pro-government media or by PiS officials.” Journalists are often accused of being “anti-Polish”, “political activists” or “foreign agents”.

In addition to the threats described above, journalists have faced **ongoing** physical attacks and detention during the protests against the near-total abortion ban. On 28th October 2020, Magda Koziół, a journalist from *Gazeta Wyborcza*, was hit in the stomach and thrown to the ground as she was attempting to film a group of 30 black clad individuals from far-right groups during the protest in Wrocław. She was treated in hospital for minor injuries. Following this, it was reported that the man suspected of attacking the journalist belonged to a football hooligan group and was detained by police. During the same incident, *Gazeta Wyborcza* reporter Joanna Urbańska-Jaworska was “dragged and thrown to the ground” by one of the masked individuals, knocking the camera out of her hands. The District Prosecutor's Office in Wrocław filed a motion for the arrest of the man suspected of assaulting Urbańska-Jaworska. However, the next day the motion for arrest was withdrawn by the same court after **an intervention** from the National Prosecutor's Office. Adam Michnik, Editor-in-chief of *Gazeta Wyborcza* warned that this decision will only encourage further physical violence against journalists since those responsible for this violence will go “unpunished”.

On 23rd November 2020, despite having shown her **Press ID**, photojournalist Agata Grzybowska **was arrested** and charged for “violating the [police officer's] physical integrity” while covering the demonstrations in Warsaw. In January 2021, a district court found the journalist guilty and **handed down** a fine of PLN 100 (22 EUR). However, the prosecution has appealed the decision and requested a harsher penalty. On 20th January 2020, two photojournalists from *Gazeta Wyborcza* **were** tear gassed by police officers **during protests** in Warsaw, despite identifying themselves as members of the press.

Violent actions **against** journalists **were documented** during the Polish Independence Day March which took place during November 2020. A 74-year-old photojournalist **was injured** in the face by a rubber bullet while he was holding his camera and was **visibly distanced** from the crowd. Journalist Renata Kim from *Newsweek Polska* was hit in the kidney twice with a

police baton, despite the fact that she was wearing a vest which clearly stated “PRESS”. Przemysław Stefaniak was hit on the head with a baton and footage shows police throwing a stun grenade near the group of journalists. Adam Tuchliński from *Newsweek Polska* was hit on his back and legs with a police baton. Dominik Łowicki, a reporter at *Gazeta Wyborcza*, [was hit](#) with police batons and pepper-sprayed, despite holding up his hands and shouting “Media”.

In light of the ongoing attacks against journalists during protests, over 700 journalists sent [an appeal](#) to authorities to refrain from deliberately hindering the work of the media during protests.

## **The enabling framework for civil society**

The space for civil society organisations is [under threat](#) after the Polish Minister of Justice, Zbigniew Ziobro, and the then Minister of the Environment, Michał Woś, both from the radical-right junior coalition party United Poland (Solidarna Polska), [proposed legislation](#) in July 2020 to make it mandatory for non-governmental organisations that have an annual income above PLN 156,000 (approx. EUR 35,000), where at least 10 percent of that income comes from abroad, to report to the Ministry of Justice within 14 days of obtaining foreign funds. Organisations that receive more than 30 percent of their annual income from abroad would need to state this fact on all of the materials they publish and label themselves as such on their websites and before every public appearance of their representatives. If they fail to do so, they may face harsh administrative penalties of PLN 3,000 to 50,000 for NGOs (660 to 10,992 EUR) and PLN 1,000 to 30,000 (220 to 6,595 EUR) for members of the board. In the event of repeated violations, they could lose their NGO status.

In a media interview, the environment minister said that one of the motivations behind the proposed law was to fight NGOs that serve foreign interests, adding that “it is an open secret” that a number of environmental organisations “actually work to carry out the instructions of big business, big capital or the powerful of this world.” He specifically made reference to organisation Greenpeace, accusing it of working for “bigger interests”. [The Helsinki Foundation for Human Rights](#) believes that the proposal has many risks and that, if introduced, it may contribute to the creation of a “climate of suspicion and stigmatisation of foreign-funded NGOs”. Another [concern](#) is that the proposal clearly includes disproportionate administrative penalties that are far above the average annual income of Polish NGOs. Moreover, it is unclear what legitimate need such legislation will provide as there are already existing and sufficient mechanisms to monitor the activity of NGOs. However, shortly after the proposal was submitted, the Minister of Culture and President of the Public Benefit Committee, Piotr Gliński, of the senior governing party Law and Justice (PiS), said that the government does not support such a proposal, but stressed that a new system of regulating the finances and the transparency of NGOs was being prepared. No further developments have emerged after this. It is important to note that a similar piece of Hungarian legislation was [found](#) by the European Court of Justice to violate EU law.

## **HUNGARY**

### **Introduction**

Under the leadership of Prime Minister Viktor Orbán, the Hungarian government has continued to diminish media independence. Academic freedom [has faced](#) significant threats, with a decision by the Fidesz ruling party during July 2020 to transfer ownership of the University of

Theatre and Film Arts to a private foundation and the appointment of a board of five trustees, closely linked to the prime minister. Six other universities have undergone similar changes, raising concerns about the **further dismantling** of academic freedom and free expression in the country. In addition, LGBTQI+ rights have been **repeatedly targeted** through the outlawing of legal gender recognition for transgender people and the parliament passing two amendments to the Constitution which reinforce institutionalised homophobia and transphobia. Civic space in Hungary is **rated** as 'Obstructed'.

## Media Pluralism

In January 2020, the Budapest-Capital Regional Court **stated** that the decision of the Hungarian Competition Authority to allow for the creation of a pro-government media empire was unlawful. A significant part of the Hungarian pro-government media was swept into the Central European Press and Media Foundation (KESMA in Hungarian, Közép-európai Sajtó- és Média Alapítvány) in late 2018. In November 2018, **476 media outlets** became part of the new Hungarian media holding organisation controlled by pro-government forces. The media outlets were owned by **pro-government oligarchs**, who donated them to KESMA. According to media reports, most of the publications donated to the Foundation were **affiliated** to allies of Prime Minister Viktor Orbán.

As **reported** in the European Commission's 2020 Rule of Law report on Hungary, "the independence and effectiveness of the Media Council is at risk." In relation to this, on 11th September 2020, Hungary's Media Council **decided** not to automatically renew the licence of the radio station Klubrádió, one of the few remaining critical outlets in Hungary, which has, according to the government-appointed Media Council, repeatedly violated the country's media law. For this reason, the Media Council said, the radio outlet would have to apply for a new licence. It is important to note that the Media Council is dominated by members of the ruling Fidesz party. On 9th February 2020, a Budapest court **rejected** the request to temporarily extend the radio station's licence and agreed with the Council's decision. This ruling led to Klubrádió **going off air** for good on 14th February 2021. While it is able to broadcast online, the station **will not** be able to reach its previous listeners.

## Transparency of media ownership and government interference

### *Independent media censored*

In mid-January 2020, the Hungarian Civil Liberties Union (HCLU) **reported that** the government had made an arbitrary decision on which editorial offices would be granted the opportunity to attend Prime Minister Viktor Orbán's annual press conference ("Orbáninfo"). While the pro-government media was well represented at the event, well-known independent online media such as *Átlátszó*, *Direkt3*, *Mérce*, *24.hu* were denied entry, thus limiting access to information. The office of *24.hu* received three different explanations within 24 hours regarding the grounds for the lockout.

In another **concerning** development, in early February 2020, Politico **reported** that according to internal emails obtained, Hungarian public media (MTVA) employees require special approval from their editors to cover topics such as migration, politics, EU, church issues and Greta Thunberg. In addition, coverage of reports from leading human rights organisations such as Amnesty International and Human Rights Watch **is prohibited**. In reaction to the in-

investigation, MTVA released a statement saying that “fake news sites with foreign help” have launched an attack against the state media and that editorial guidelines are a normal practice in any media outlet.

In November 2020, new details [emerged](#) on how the public media sector is serving as pro-government. An investigation by [Radio Free Europe](#) found that editors at the public broadcaster MTVA were instructed on how to cover opposition parties and were told to push an anti-migrant narrative. During a leaked audio recording, Balázs Bende, senior MTVA editor told reporters: “I’m sure no one will be surprised to hear that it is not the opposition’s list that enjoys the support of this institution. If anyone is not prepared to work under these conditions, he is free to file his resignation immediately.” Not only were reporters instructed to take a negative stance on migrant issues, but also on LGBTQI+ issues and climate change.

### *Free speech under threat during COVID-19*

On 11th March 2020, Hungary declared a state of emergency due to the coronavirus (COVID-19) pandemic. The state of emergency gave the government special powers for 15 days. On 20th March 2020, Justice Minister Judit Varga submitted a draft bill to parliament that would prolong emergency measures for as long as the government deems necessary, which allowed the government to rule by decree. The so-called Authorisation Act was [adopted](#) on 30th March 2020. Besides introducing excessively [wide powers](#) without a sunset clause, the Act criminalises the spread of false news about the pandemic. Media organisations raised concerns that this would majorly impact freedom of expression.

On 17th June 2020 the government announced an end to the “state of danger”, but immediately [declared](#) a “state of medical crisis”. This newly established legal situation allowed the government to issue a wide range of decrees and restrict certain rights. The state of medical crisis cannot be [lifted](#) by parliament. Human rights organisations are concerned that this is just a smokescreen for maintaining unchecked and excessive government powers. Again, on 3rd November 2020, the Hungarian Government declared a [state of emergency](#) due to the pandemic. On 10th November 2020, the Hungarian parliament [passed](#) a law authorising the government to use its emergency powers for 90 days. This was [extended](#) until 23rd May 2021.

While no journalists were detained for spreading fake news based on the Authorisation Act, the criminalisation had a [chilling effect](#) on freedom of expression. In addition, independent journalists faced [other challenges](#) while reporting on the pandemic. For example, critical questions posed by the independent media to the government tend to be ignored more than previously and their access to information has [diminished](#).

In addition, during May 2020 several European media outlets [were asked](#) to apologise to the Hungarian government by Hungary’s ambassadors in the respective countries where these outlets are based. More specifically, the outlets in question were asked to apologise regarding reports on restrictions on press freedom during the pandemic (criminalisation of fake news) and the government’s power to rule by decree. Reporters without Borders issued a [statement](#) labelling this as a “ploy” to intimidate foreign journalists.

### *Media independence hangs by a thread*

On 21st June 2020, nearly 100 Index journalists and staff members released a [statement](#) explaining that the site is in danger. In the statement, the journalists said: “We wanted to cut through the fog of rumours and conspiracy theories and have a way to unmistakably let our readers know when we think there is trouble. Index is under such external pressure that it could spell out the end of our editorial staff as we know it. We are concerned that with the proposed organisational overhaul, we will lose those values that made Index.hu the biggest and most-read news site in Hungary.”

The site operates under a complex ownership structure, with government allies occupying certain key positions for a few years. By 23rd June 2020, some of the proposed changes were withdrawn, with Index CEO András Pusztay stepping down. However, a month later, on 24th July 2020 over 70 journalists from Index.hu [resigned](#), including three leading editors, following the dismissal of editor-in-chief Szabolcs Dull on 22nd July 2020. Dull was fired from his role by László Bodolai, President of the Board, who has refused to reinstate him despite calls to demonstrate the outlet’s independence.

The editorial staff believe that this act was a clear case of political interference. The developments at the outlet came shortly after pro-government businessman Miklos Vaszily gained a stake at the news portal. Following the mass resignations, thousands of citizens and journalists protested in Budapest outside the offices of Prime Minister Orbán.

## **The enabling framework for civil society**

### *NGO law against EU law*

On 8th June 2020, the Court of Justice of the European Union [ruled](#) that a Hungarian law concerning [foreign funding](#) of non-governmental organisations “does not comply with the Union law”. The law in question was passed in 2017. According to the law, any organisation receiving more than €24,000 from abroad is to register as “foreign supported”. Under the law, NGOs also had to list any foreign sponsors granting them more than €1,600 a year. The law requires qualifying organisations to label all communications materials accordingly and comply with additional administrative requirements. Failure to comply with the law can lead to the freezing of assets or even termination of organisations’ activities.

The government claimed that the law was needed to counter money-laundering and boost transparency. However, the law has long been perceived as part of the Hungarian government’s hate mongering against philanthropist George Soros. The law has been widely known as one of the “Stop-Soros” laws.

Following the adoption of the law, the European Commission called on the government to repeal it. The government failed to comply with this request and after unsuccessful consultations the European Commission took the matter to the Court of Justice of the European Union. The court [found](#) that the law introduced “discriminatory and unjustified restrictions” on those organisations affected. It adds that the measures which it lays down for those associations and foundations create a “climate of distrust”. On 18th February 2021, the European Commission [sent a letter](#) of formal notice to Hungary for failing to repeal the law in accordance with the Court’s ruling. The letter gives Hungary two months to respond to the Commission’s concerns. If it fails to do so, the Commission may decide to refer the case to the Court with proposed financial sanctions.