European Rule of Law Mechanism: input from Hungary

2021

Content:

Preliminary Statement

Hungary is committed to the fundamental values of the EU as enshrined in Article 2 TEU. Hungary participates in the network of national contact points on rule of law in order to contribute a factually correct, balanced and objective assessment of the situation prevailing in Hungary. However, based on the negative experience gained in relation to the Rule of Law Report 2020, this cooperation cannot be regarded as a commitment to the Commission's Rule of Law Mechanism.

I. Justice System

A. Independence

1. Appointment and selection of judges, prosecutors and court presidents

The appointment of judges and prosecutors continues to be governed by the rules set out in the Hungarian Input to the 2020 Rule of Law Report (Input 2020).

Legal framework: Fundamental Law of Hungary (Fundamental Law)[1] *Articles 25-26, 29, Act CLXII of 2011 on the Legal Status and Remuneration of Judges (Legal Status of Judges Act),*[2] *Act CLXIV of 2011 on the Status of the Prosecutor General, Prosecutors and other Prosecution Employees and the Prosecution Career (Status of Prosecutors Act)*[3]

Election of members of the Constitutional Court

Members of the Hungarian Constitutional Court shall be independent, subordinated only to the Fundamental Law and Acts. The Constitutional Court is composed of fifteen members, elected with the votes of two thirds of the Members of the Parliament. The President of the Constitutional Court is elected from among the members of the Constitutional Court by the Parliament with a two thirds majority.

Members of the Constitutional Court shall be proposed by a Nominating Committee, made up of at least nine and at most fifteen members, appointed by the parliamentary fractions of the parties represented in the Parliament. The Committee shall contain at least one member from each of the parliamentary fractions.

The candidates shall be heard by Parliament's standing committee dealing with constitutional matters. Members of the Constitutional Court shall be elected by Parliament after obtaining the opinion of its standing committee dealing with constitutional matters.

Any Hungarian citizen who has no criminal record and has the right to stand as a candidate in parliamentary elections shall be eligible to become a Member of the Constitutional Court, if he/she: a) has a law degree; b) has reached 45 years of age, but have not reached 70 years of age; and c) is a theoretical lawyer of outstanding knowledge (university professor or doctor of the Hungarian Academy of Sciences) or has at least twenty years of professional work experience in the field of law. [The professional work experience in the field of law shall be from a position for which a law degree is required.]

Having been a member of Government or a leading official in any political party or having held a position of a leading state official in the four years prior to election shall disqualify persons from becoming Members of the Constitutional Court. The term of office of Members of the Constitutional Court shall be twelve years. Members of the Constitutional Court may not be re-elected.

These rules adequately safeguard that the members of the Constitutional Court are elected from among the most excellent Hungarian lawyers and ensure a high level of independence.

Legal framework: Fundamental Law Article 24, Act CLI of 2011 on the Constitutional Court[4]

[1] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=140968.417048; for English translation, see: http://www.njt.hu/translated/doc/TheFundamentalLawofHungary_20201223_FIN.pdf
[2] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=139703.416832
[3] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=139717.386563
[4] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=139622.384723

Appointment of court presidents

In Hungary court executives are a) the presidents of courts of appeal, general courts and district courts (hereinafter: president of the court); b) the vice-presidents of the Kúria (Curia), courts of appeal, general courts and district courts (hereinafter: vice-president of the court); c) heads of colleges; d) deputy heads of colleges; e) heads of groups; f) deputy heads of groups; g) presidents of chambers and h) the secretary-general and deputy secretary-general of the Kúria.

Only judges appointed for an indefinite period of time may be appointed to the offices of court executives. Court executives are appointed for terms of six years as a general rule. The president judges of courts, and their deputies, may be appointed for the same court executive position for two terms at most. If a president of a court has already completed two terms in the same executive position, he may be appointed for the same court executive position subject to the prior consent of the National Judicial Council (NJC).

The President of the National Office for the Judiciary (NOJ) shall appoint the president of courts of appeal and general courts and the president of the general court shall appoint the presidents of the district court.

Court executive positions shall be filled by way of tender as a general rule. Tender notices for the court presidents shall be published by the competent authority. Tender documents shall specify all requirements for the executive position to which they pertain. The applications shall have enclosed a project document containing the applicants long term plans concerning the operation of the court, the college or group, as applicable, covering also the timetable for the implementation of such plans.

The relevant laws contain a number of safeguards in connection with appointments. The combined application of these rules ensures that the decisions of the appointing authority comply with the principles governing the operation of the courts. For example the plenary session of judges of the appropriate level or the judges of the court affected shall give an opinion on the applicants in the case of the president of the court of appeal and general court or the president of the district court by way of secret ballot. The appointing authority shall – based on the application, and upon interviewing the applicant, and relying on the recommendation of the assessment body – conclude the procedure by the appointment of an applicant, or shall declare the tender procedure inconclusive. If the President of the NOJ wishes to appoint a candidate who has not won the majority support of the review body, he must obtain the NJC's preliminary opinion on the candidate before appointment. The candidate may be appointed only if the NJC agrees with the appointment.

A tender procedure shall be declared inconclusive if none of the applications are accepted by the appointing authority. If the tender is declared inconclusive, a new tender shall be published. If the new tender procedure is also declared inconclusive, the court executive position may be filled by a person selected by the appointing authority for a maximum of one year. In order to ensure continuous, uninterrupted operation, these rules provide for the possibility of carrying out the managerial tasks on a temporary basis in the absence of a successful application. It is crucial that a court is operational if the position of court leader is “empty” and cannot be filled successfully.

Unless otherwise provided, the rules on applications for judges’ positions shall apply *mutatis mutandis* to applications for court executive positions.

The President of the Kúria shall be elected by two-thirds majority of votes of the Members of Parliament from among the judges for a period of nine years on a recommendation by the President of the Republic. The President of the Kúria shall be elected from among the judges appointed for an indefinite period of time who served at least five years as a judge. In calculating the period of judges’ service relationship, the experience gained while serving as judge, senior consultant or constitutional court judge in an international organization of the judiciary, or as senior consultant in the Office of the Constitutional Court shall be taken into consideration as well. The following persons may not be elected to the office of President of the Kúria: *a)* any person who is subject to disciplinary or - with the exception of proceedings instituted by private prosecution or substitute private prosecution - criminal proceedings; *b)* any person being under disciplinary action; *c)* any person who is currently being investigated for reasons of unsuitability; or *d)* any person whose service relationship as a judge has been suspended on the strength of law.

The National Judicial Council hears the candidate (shall convey its prior opinion upon conducting personal interview concerning the candidate),[5] thus the involvement of the judicial bodies is safeguarded.

[5] Before the entry into force of the new Fundamental Law and the related reforms, the State Jurisdiction Council had similar rights as regards the election of the President of the Supreme Court (see: Act LXVI of 1997 on the Organization and Administration of the Courts)

Legal framework: Fundamental Law Articles 25-26, Act CLXI of 2011 on the Organization and Administration of the Courts (Courts' Administration Act)[6].

2. Irremovability of judges; including transfers, dismissal and retirement regime of judges, court presidents and prosecutors

The transfers and dismissal of judges continue to be governed by the rules set out in the Input 2020.

Termination of mandate of Constitutional Court judges

The mandate of Constitutional Court judges (members of the Constitutional Court) shall terminate: a.) upon the expiry of the term of office (see above); b) upon the Member's death, b) upon resignation, c) upon the declaration of the termination of the mandate due to incompatibility, d) if the Member becomes ineligible to stand for election to the Parliament, e) upon dismissal or f) upon exclusion. The mandate shall be terminated by dismissal if a Member of the Constitutional Court is unable to perform the duties deriving from his/her mandate for reasons that are not imputable to him/her. The mandate of a Member of the Constitutional Court may be terminated by exclusion if the Member: a) fails to perform his or her duties for reasons imputable to him or her, or b) has become unworthy of his or her office, and is therefore excluded by a decision of the plenary session of the Constitutional Court. A member of the Constitutional Court shall be excluded if he or she: a) has intentionally committed publicly prosecuted crime according to a final court judgement, b) has not participated in the work of the Constitutional Court for one year for reasons imputable to him or her, or c) has intentionally failed to meet his or her obligation to make a declaration of assets or intentionally made a false declaration on important data or facts in his or her declaration of assets. The reasons for the termination of mandate as well as the fact that the executive power or other organs have no competence in this regard properly ensure the independence of the members of the Constitutional Court.

Legal framework: Act on the Constitutional Court

Retirement of judges

In Hungary with the exception of the President of the Kúria and the President of the NOJ, judges shall be allowed to remain in office up to the statutory retirement age for old-age pension, so the judge must be relieved from office if he/she reached the statutory retirement age for old-age.Given that the upper age limit for holding a judicial office was previously 70, the legislator, taking into account the decision of the Constitutional Court of Hungary and the Court of Justice of the European Union, harmonized the reduction of the upper age limit for judges with the retirement age for other civil servants in 2013. At the end of the transitional period, from 1 January 2023, the upper age limit and the age limit for entitlement to a retirement pension will be the same: it will be adjusted to the age of 65. In view of this, the current rules satisfactorily resolve the issue of the retirement age for judges in all respects and comply with constitutional and EU requirements.

Legal framework: Article 26 (2) of the Fundamental Law, Section 90 ha)-hb), 91, 232/C of the Legal Status of Judges Act.

Transfer, retirement and termination of mandate of court presidents

The rules on the transfers and retirement of judges also apply for the court presidents.

Employment of a court executive shall be terminated: *a)* upon expiry of the term of office; *b)* when service relationship as a judge is terminated; *c)* by mutual consent; *d)* upon resignation; *e)* by dismissal; *f)* if the judicial body, department or organization supervised by the court executive appointed for a term of limited duration ceases to exist; or *g)* if the judge is placed on the reserve service roster at his request.

Upon the expiry of the term of mandate in office of a vice-president, the secretary-general or deputy secretary-general of the Kúria, or the president of a court of appeal or general court, including their deputies and heads of college they shall be appointed without tender to the office of president of chamber at a court of the same level. The other court executives shall be employed, at the end of their original term in office, in positions consistent with their previous positions as court judges. If the office of a court executive is terminated before his fixed term expires, he/she shall be assigned without tender – if possible – to his previous place of service as a court judge in the same or higher position.

[6] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=139695.416673

The mandate of the President of the Kúria shall terminate: *a)* upon expiry of the term of office; *b)* when service relationship as a judge is terminated; *c)* upon resignation; *d)* upon declaration of conflict of interest; *e)* by dismissal; or *f)* upon disqualification from office. In order to ensure a high level of independence for the President of the Supreme Court, only the President of the Republic can initiate his/her disqualification from office.

Upon the expiry of the term in office of the President of the Kúria, he/she shall be transferred to the office of president of chamber to the Kúria without a call for tender. If the mandate of the President of the Kúria is terminated before his fixed term expires, he/she shall be given a judges bench without a call for tender – if possible – at his previous place of service in the same or higher position.

Legal framework: Article 26 (2) of the Fundamental Law, Courts' Administration Act

Transfers, dismissal and retirement of prosecutors

The transfer of a prosecutor is an alteration of the appointment. An appointment may only be altered with the mutual agreement of the person exercising the employer's rights and the prosecutor as a general rule.

The prosecution service relationships of prosecutors appointed by the Prosecutor General shall cease *a)* by the mutual agreement of the parties; *b)* through dismissal; *c)* through resignation; *d)* upon the completion of the applicable old-age pension age; *e)* through extraordinary resignation; *f)* upon election as a Member of Parliament, Member of the European Parliament, local municipality board representative or mayor or upon election or appointment as a state leader; *g)* upon the establishment of a conflict of interests; *h)* by virtue of a final and absolute decision imposing the disciplinary sanction of forfeiture of office; *i)* upon the final and absolute decision of a court of law imposing a prison sentence or public work due to the commission of a crime or if ordered to undergo forced medical treatment by virtue of a final and absolute decision adopted in criminal proceedings; *j)* if, based on the result of the evaluation, he/she is declared unfit; *k)* through death; *l)* if any of the appointing conditions no longer exists; *m)* through the violation of the obligation of taking the prosecutorial oath; *n)* through the violation of the obligation of making a financial disclosure statement as set forth in a separate rule of law.

In Hungary with the exception of the Prosecutor General, prosecutors shall be allowed to remain in office up to the statutory retirement age for old-age pension, so the prosecutor must be relieved from office if he/she reached the statutory retirement age for old-age. Given that the upper age limit for holding a prosecutorial office was previously 70, the legislator, taking into account the decision of the Constitutional Court of Hungary and the Court of Justice of the European Union, harmonized the reduction of the upper age limit for prosecutors with the retirement age for other civil servants in 2013. At the end of the transitional period, from 1 January 2023, the upper age limit and the age limit for entitlement to a retirement pension will be the same: it will be adjusted to the age of 65. In view of this, the current rule on the band system already satisfactorily resolves the issue of the retirement age for prosecutors in all respects and complies with constitutional and EU requirements.

Legal framework: Article 29 of the Fundamental Law, Section 24/A, 26, 34, 165/C of Status of Prosecutors Act.

3. Promotion of judges and prosecutors

The promotion of judges and prosecutors continues to be governed by the rules set out in the Input 2020.

Legal framework: Legal Status of Judges Act, Status of Prosecutors Act.

4. Allocation of cases in courts

The allocation of cases in courts continues to be governed by the rules set out in the Input 2020.

Only one relevant amendment in connection with the allocation of cases in Kúria took place as of January 2021. According to this amendment the President of the Kúria may decide after having consulted with the college concerned, relating to one or more disciplinary branch that disputes falling within the competence of the Kúria may only be heard by chambers of five members. This shall be indicated in the case allocation rules of the Kúria.[7]

[7] The case allocation rules of the Kúria shall, furthermore, provide for the designation of judges to the local government chamber and the uniformity complaints chamber, and also for the assignment of judges to the various uniformity panel branches.

If the President of the Kúria decides accordingly, his decision applies not only to one case but to a branch (penal, civil or administrative law colleges under the rules provided by Courts' Administration Act) and within the branch to certain types of procedures (e.g. all the review procedures or the procedures of second or third instances) in general.

This shall be included in the case allocation rules of the Kúria which serves as a guarantee of the right to a lawful judge. The bigger chamber is also supported by the tradition from the period of the historical constitution and the practice of other countries where supreme courts hear the cases in larger chambers.

Legal framework: Section 8-11 of Courts' Administration Act, Section 31-32 of Decree 14/2002 (VIII. 1.) IM on the Rules of the Case Administration of Courts.[8]

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)

The powers and the tasks of the NJC continue to be governed by the rules set out in the Input 2020.

Some changes took place during year 2020 regarding the operation of the NJC – these modifications had a positive effect on the efficiency, namely: during the summer of 2020 new members have been elected to the NJC, therefore the council now operates at a fully staffed level. As an important development, a good progress has been made in the field of cooperation between the President of the NOJ and the NJC; there are no significant tensions between the two organs.

Legal framework: Article 25 of the Fundamental Law; Sections 88-113 of Courts' Administration Act.

6. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal liability of judges

The accountability of judges and prosecutors, including disciplinary regime and bodies as well as ethical rules continue to be governed by the rules set out in the Input 2020.

The main information[9] about the court of judges (disciplinary courts) including their composition and annual report is available on the central website of the courts together with the necessary information and data related to them. It can be seen that only judges have an influence on the disciplinary procedure (the role of the President of the NOJ is marginal, the Minister of Justice does not have any influence), judicial independence is fully safeguarded.

The NJC recently adopted the draft version of the new Code of Ethics of the Judges with its Resolution No. 137/2020 (XII. 2.) and it is currently under review by the members of the judiciary. During 2020, the NJC set up a consultation body for the review of the current Code of Ethics with the participation of three members of the NJC, presidents of the disciplinary courts (first and second instance), representatives of the Association of Hungarian Judges and one judge appointed by the President of the NOJ. The fact that the Code of Ethics of the judges is approved by the NJC, being the central body of the judicial self-governance (the executive power has no influence thereon) means an important guarantee from the perspective of the judicial integrity and independence.

As far as prosecutors are concerned, only one relevant amendment took place in connection with the disciplinary proceedings of prosecutors in July 2020. This amendment expands the range of disciplinary penalties against the prosecutor with a demotion by two pay grade penalty, and changes the duration of the disciplinary proceedings to 60 days instead of the earlier 30 days, which can be extended by 30 days. The extension of the duration of the disciplinary proceedings is justified on the one hand by the mandatory appointment of the Disciplinary Supervisor and on the other hand by the need for more thorough preparation of the disciplinary decision.

Legal framework: Sections 101-130 of Legal Status of Judges Act, Section 81-99 of the Status of Prosecutors Act, Section 78-79 of Act XCII of 2020 on the amending of certain laws relating to justice.

[8] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=64565.418042
[9] For further details see: https://birosag.hu/szolgalati-birosagok

Judicial immunity and criminal liability of judges

In Hungary judges shall be granted the same privilege of immunity as Members of Parliament. This means that criminal proceedings, infringement proceedings and coercive measures may be instituted against a judge only with the prior consent of the Parliament (in case of the President of the Kúria and the President of the NOJ) or the President of the Republic as a general rule. A judge may be detained or subjected to other coercive measures only if he/she is caught in the act of committing a crime or an infringement. In an infringement case the judge has the possibility of voluntarily waiving his or her immunity.

The suspension of immunity of the President of the Kúria and the President of the NOJ requires a parliamentary decision. The Speaker of Parliament shall have powers to take the measures necessary in connection with any violation of the right of immunity. The suspension of immunity of a judge requires the decision of the President of the Republic on a recommendation by the President of the NOJ. The President of the Republic shall have powers to take the measures necessary in connection with any violation of the right of immunity on a recommendation by the President of the NOJ.

These rules ensure the highest possible level of independence for judges and protect them and the judiciary from harassment through unfounded accusations, including from persons initiating private prosecutions against judges for alleged minor offences.

Legal framework: Section 2 (1)-(3) of Legal Status of Judges Act, Section 74-79 of Act XXXVI of 2012 on the National Assembly (Act on the Parliament)[10]

7. Remuneration/bonuses for judges and prosecutors

The remuneration/bonuses for judges and prosecutors continue to be governed by the rules set out in the Input 2020.

The overall salary increase of judges and prosecutors that is based on a 2019 amendment continues to be carried out as it was planned. As part of this implementation, currently the second step of increase took place recently and there will be a third, final one in 2022. During the first stage the salaries were increased by 32 % as of 1st January, 2020, the subsequent increase in 2021 is 12 % and the third stage will be 13 %. It is worth to mention that the increase also provides the equilibrium between the wages of judges and prosecutors. The second and third stage of the wage increase will catalyse the salary increase of the court employees, since their remuneration is linked to the judges' salary base by its calculation method and the same calculation method is applied in case of the prosecution service.

Furthermore, according to the amendment to the Prosecution Employment Status Act, even after 45 years of the employment relationship in the Prosecution Service there is also a jubilee allowance, the amount of which corresponds to six months' salary.

Legal framework: Sections 167-194 of the Legal Status of Judges Act, Section 58-78 of the Status of Prosecutors Act.

8. Independence/autonomy of the prosecution service

The independence/autonomy of the prosecution service continues to be governed by the rules set out in the Input 2020.

Legal framework: Article 29 of the Fundamental Law, Act CLXIII of 2011 on the Prosecution Service, [11] *Status of Prosecutors Act.*

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

The independence of the Bar (chamber/association of lawyers) continues to be governed by the rules set out in the Input 2020.

During the state of emergency period certain measures have applied to facilitate the safe and effective operation of the public bodies, such as electronic communication for decision making bodies.

[10] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=148174.417199
[11] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=139710.383738

The independence of lawyers

In Hungary the attorneys' profession is, for guarantee reasons, independent of public authorities, which is declared in the Act LXXVIII of 2017 on the professional activities of attorneys-at-law.

Attorneys, European Community jurists and foreign legal counsels shall act freely and independently in their matters and may not assume any obligation that endangers their professional independence. The independence of lawyers can be interpreted partly as personal and partly as organizational independence; both are adequately safeguarded in the relevant legal norms.

Legal framework: Section 1, 6, 24 (4) of Act LXXVIII of 2017 on the professional activities of attorneys-at-law[12]*, Government Decree 502/2020. (XI. 16.) on reintroducing different provisions regarding the operation of personal and capital pooling organizations during the emergency*[13]

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

The central website of the Hungarian courts provides a questionnaire for the measurement of clients' satisfaction[14] and the results obtained from this questionnaire serves as an appropriate tool for the assessment of the clients' perception of the court's operation.

The results of the EU 2020 Justice Scoreboard[15] also proved that the perceived independence of courts and judges among the general public improved by year 2020 in comparison to year 2019. Such improvement is also visible in case of perceived independence of courts and judges among companies.

B. Quality of justice

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

Court fees and legal aid related to the accessibility of courts continue to be governed by the rules set out in the Input 2020.

Legal framework: 37-65 of Act XCIII of 1990 on Duties,[16] *Section 94-101 of Act CXXX of 2016 on the Code of Civil Procedure (Civil Procedure Code),*[17] *Act LXXX of 2003 on Legal Aid.*[18]

Language

In Hungary the language of the proceedings is Hungarian. Relevant laws respect the right to use one's native language or the language of one's nationality, but the language arrangements in court proceedings are different depending on the procedure in which they are to be applied.

In criminal proceedings the members of nationally recognized nationalities living in Hungary may use their native nationality language. No one can be disadvantaged by not knowing the Hungarian language, so everyone is entitled to use their native language in criminal proceedings. A person with a hearing impairment or a deafblind person is entitled to use sign language in these proceedings. If a person participating in criminal proceedings wishes to use his/her non-Hungarian native language an interpreter, preferably with adequate knowledge of legal language, must be used. The state bears the costs incurred in connection with the fact that the accused is hearing-impaired, speech-impaired, blind, deaf-blind, or does not know the Hungarian language, or used his or her native language during the proceeding.

In civil proceedings in oral communication all parties shall be entitled to use their native language, the language of their respective nationality, or the language of their region or nationality to the extent provided for by international agreement.

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[12] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=202607.403658. For English translation see: http://www.njt.hu/translated/doc/J2017T0078P_20180101_FIN.pdf

[13] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=222783.420727

[14] https://birosag.hu/form/ugyfel-elegedettsegi-kerdoiv

[15] https://ec.europa.eu/info/sites/info/files/justice_scoreboard_2020_en.pdf

[16] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=13511.383647

[17] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=198992.392171; English translation available at: http://www.njt.hu/translated/doc/J2016T0130P_20200401_FIN.pdf

[18] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=75608.386547

In court proceedings members of all nationalities living in Hungary, and recognized by the Nationalities Act shall be entitled to use the language of their respective nationality in accordance with international convention on the use of regional or minority languages.

But in written communication, unless otherwise provided by an act, binding legislation of the European Union or international agreement, submissions addressed to the court shall be made out in Hungarian. The court shall deliver such submissions and its decision in Hungarian. The court shall appoint an interpreter, sign language interpreter, or a translator with a view to promoting the rights according to language arrangements or if otherwise considered necessary for the use of languages.

In civil court proceedings any person who is hearing impaired or deafblind shall be entitled to use sign language or other special communication methods provided for by law, known by him. Upon request, hearing or speech impaired people shall be allowed to make a written statement instead of being interviewed.

Legal framework: Section 8, 78 (1) and 576 (1) b) of Act XC of 2017 on the Criminal Proceedings (CCP)[19], Section 61-62 and 113 Civil Procedure Code.

12. Resources of the judiciary (human/financial/material)

The budgetary resources provided by the state budget for year 2021 significantly increased in case of the Constitutional Court (32 %),[20] the Office of the Commissioner for Fundamental Rights of Hungary (32 %),[21] the courts (more than 13 %),[22] and the prosecutor's office (15 %).[23]

The budget of the court system for the year 2021 is 141.964.500.000 HUF.

Court buildings are mostly owned by the state with a few exceptions (rentals). The court system uses 185 buildings, 154 have judicial functions (the others are training facilities, record offices, finance offices etc.). Construction projects[24] have been initiated for improving the infrastructure conditions of some courts that need larger facilities for their operation.

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

The training of the justice professionals is part of a given career, is related to progress and - by definition - has a direct impact on the quality of judicial work. In addition to the transfer of factual knowledge necessary for judicial work, the trainings also focus on professional competencies and reinforce the importance of due process. The trainings also play an important role in enabling professionals in different parts of the country to share their experiences.

Judges and court staff

Judges shall be required to participate in regular training provided free of charge for maintaining proper levels in judicature, and shall verify completion of the mandatory training sessions decreed by the President of NOJ, every three years to the person exercising employers rights. Other court employees also shall participate in educational programs.

The president of general court and court of appeal, and the President of the Kúria shall provide for the conditions enabling the judges to meet these requirements. The rules concerning the training scheme and the

[19] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=202672.383936
[20] From HUF 2073.4 M to HUF 2738.3 M
[21] From HUF 1607.4 M to HUF 2134.2 M
[22] From HUF 124 914,4 M to HUF 141964,5 M
[23] From HUF 49 556,3 M to HUF 57004,6 M
[24] Important ongoing developments are underway for providing appropriate premises for the Curia, for the Szeged Regional Court and for the Szeged District Court as well. Development of the existing premises of the following courts is also ongoing: Regional Court of Nyíregyháza, Eger District Court, Regional Court and District Court of Gyula, Ózd District Court. Besides these, the premises of the Hungarian Justice Academy have been extended by the addition of a new classroom for 70 students. The District Court of Ráckeve also will operate in a new building from 2021, the intended transfer of the same is planned to be in February, 2021, and a new regional court and Public Prosecutor's Office will be established in the city of Érd. Renovation of the Budapest Environs Regional Court's facilities was initiated in 2019.
The Ferenc Jablonszky Tender System serves as the resource allocation system for the improvement of management and working conditions of the courts. Several developments were initiated in 2019 within the framework of this system with deadlines in 2019 and 2020.

requirement for further training shall be decreed by the President of the NOJ. The training of judges and other persons involved in the administration of justice is provided by the Hungarian Academy of Justice within the organization of the NOJ. Any judge who fails to comply with the requirement for further training for reasons within his/her control shall immediately be placed under examination, and shall not be permitted to submit an application for higher judicial office.

The grade in compulsory education arranged for practicing law in a specific jurisdiction for which a bar examination is required, and participation in facultative trainings shall be taken into consideration in determining the ranking of applicants in the public selection process for judgeships. [25]

The central educational system of the courts consists of the educational programs provided by the Hungarian Justice Academy (HJA) and certain courts' own educational programmes. The quality of trainings is ensured by an accreditation system of the educational programmes.

The training concept of judges is drawn up by the HJA. According to the strategy of HJA the training programs shall be organized at different levels, making them more easily available for local attendees across the country.

As a new development, an Individual Training Plan became also available for the judges, providing possibilities for them to select those training elements that they are interested in (along with those that they must perform) and the individual plan also assesses those educational achievements of a certain judge, that are not carried out as part of his or her individual plan (for example a second degree) and allocates the respective credit points to such achievements.

In the training plan of judges for year 2021 a major role is dedicated to the legal and ethical training of the prospective judges and their preparatory training for the judicial profession. The educational strategy also contains those elements that are necessary to be aware of the legislative changes and adapt to the technological developments. As of 1st January 2020 it is possible to apply for training electronically through the iCorso education registry system and it also provides a tracking feature for each user regarding his/her own education scheme.

Hungarian participants attended the THEMIS competition for court trainees organized within the framework of the EJTN (European Judicial Training Network) and several Hungarian courts participated in bilateral exchange programs of the EJTN by the support of the NOJ.

The NOJ also maintains relations with the Academy of European Law (ERA) and in the framework of this cooperation the parties organized the 'Basic EU competition law' seminar on HJA for Hungarian judges and court employees. HJA also has close relations with ERA in the field of judicial trainings.

Besides the above mentioned education programs and for the purpose of restructuring already existing scholarship programmes and creating new opportunities, the President of the NOJ established a Werbőczy Scholarship Programme in 2018 which involves three different program: the 'Werbőczy Mundus'[26], the 'Werbőczy Lingua'[27] and the 'Werbőczy Universitas'.[28]

Providing on-line trainings has been a part of the training regime for more than a decade – both the importance and the number of these trainings is growing (especially in accordance with the special situation caused by the COVID-19 pandemic).

Judicial employees (including court secretaries and court clerks) shall be required to participate in regular training provided free of charge. Any judicial employee who fails to comply with the requirement for training for reasons within his/her control shall reimburse the related costs of the judicial body in addition to the other

[25] The factors that can be taken into account in the establishment of the ranking in the application procedures for judicial positions are defined in an exhaustive list in the Legal Status of Judges Act. The grade in compulsory education arranged for practicing law in a specific jurisdiction for which a bar examination is required, and participation in facultative trainings is one of these factors.

[26] In the scope of the Werbőczy Mundus Scholarship Programme, the president of the NOJ offers an apprenticeship for judges and court secretaries at the Court of Justice of the European Union (Luxembourg) and at the Academy of European Law (Trier).

[27] Regarding Werbőczy Lingua, the objective of the scholarship programme is to deliver international results to domestic justice, to communicate the results of Hungarian justice on the international stage and also to continuously improve the necessary professional language competences.

[28] Werbőczy Universitas programme, as a result of the expanding cooperation between the NOJ and universities offering legal education, offers financial support for judges to obtain a postgraduate specialist degree.

legal consequences specified in the law. The detailed rules of the training and further training shall be decreed by the President of the NOJ.

Within the framework of the three-year legal practice, the court clerk must be ensured that he/she acquires appropriate practice at all court levels and cases, prepares draft decisions, keeps minutes, and participates in the reception of clients. Judges shall, to the best of their knowledge, provide assistance for the professional development of court secretaries and court clerks subordinate to them.

Legal framework: Section 37 (4) and 45 of Legal Status of Judges Act, Section 171/A of Courts' Administration Act, Section 3, 39 (1) f) and 40 of Act LXVIII of 1997 on the Service status of judicial employees.[29]

Prosecutors

Prosecutors shall attend regular training as necessary for their activities and shall verify towards the person exercising the employer's rights the fulfilment of the training obligation – prescribed in the instruction issued by the Prosecutor General – every five years actually completed in a prosecution service relationship. The prosecution office shall provide the conditions necessary for the fulfilment of this obligation. The rules regarding the system of training and of the fulfilment of the training obligation shall be determined by the Prosecutor General in an instruction. If a prosecutor fails to meet his/her training obligation through his/her own fault, he/she shall be assessed without delay and may not submit an application for a more senior prosecution position.

Organization of the prosecution service's training programmes is provided by the Educational Centre of the Hungarian Prosecutors.

Besides these trainings the educational policy also provides the possibility of supporting the prosecutors' further studies in the framework of study contracts. Members of the Prosecution Service also have the possibility to participate in international training programs, such as those organised by EJTN, ERA and EIPA (European Institute of Public Administration).

Legal framework: Section 54 of the Status of Prosecutors Act.

Lawyers

Legal practitioners shall develop their expertise by self-training and further compulsory training. The agenda for professional education and further training courses shall be compiled by the Hungarian Bar Association. In their respective operational area, the regional bar associations organize, conduct, authorize and control the training of articled clerks and legal clerks as well as the compulsory further training of persons entitled to practice law. Any person who failed to fulfil his/her obligation to attend further training prescribed in the bar association regulations shall be removed from the bar association register.

The meeting of delegates of the Hungarian Bar Association shall adopt regulations on a.) the obligation of those entitled to perform the professional activities of an attorney-at law to participate in further training, the records kept on training, the requirements of the courses and the professional and academic activities that are acceptable within the framework of further training and the procedural rules governing their accreditation and b) the rules governing the further training of junior attorneys-at-law and junior in-house legal counsels and the tasks related to this to be performed by the persons entitled to perform the professional activities of attorneys-at-law, junior attorneys-at-law and junior in-house legal counsels and the tasks of the bar associations regarding organising training courses for junior attorneys-at-law and junior in-house legal counsels. The regulation governing the further training of the persons performing the professional activities of an attorney-at-law shall specify further training cycles of at least 5 years; no professional assessment shall be imposed to verify the fulfilment of the further training obligation.

The presidency of the Hungarian Bar Association shall decide on the courses and the professional and academic activities that can be accredited for further training in respect of the further training obligation of those carrying out the professional activities of an attorney-at-law.

The Hungarian Chamber of Attorneys issued Regulation 1/2020 (2 October) on the Law Clerks' training, completing the regulatory framework of education for members of each chamber. Due to the pandemic crisis, specific measures applied for trainings as well.

[29] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=30229.386397

Legal framework: Section 1 (4), 155 (2) f), 158 (1) 21-22., 158 (7), 159 (4) f), 177 (1) j) of Act LXXVIII of 2017 on the professional activities of attorneys-at-law.

14. 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)

The COVID-19 pandemic fundamentally affected the operation of the courts. Fortunately, digitalization tools were already available when the outbreak hit the country, therefore the courts could benefit from the VIA VIDEO remote hearing system already installed for them.

The increased utilization of remote hearing (videoconference) tools during the COVID-19 pandemic has to be emphasized. In 2019 courts had conducted 6.426 hearings via videoconference while this number in 2020 was 20.569.

About the availability and application of ICT tools the 2020 EU Justice Scoreboard includes further information and data.

During the period from 1st January 2020 to 30th September 2020 the Client Document Access System (a new IT system for access to documents) was used 7013 times by registered users to access their court cases' files.

15. 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)

Several assessment tools are available in the Hungarian court system that have been introduced during the last five years, such as the

- electronic complaint management: this tool provides the possibility 24 hours a day for the courts' clients to submit administrational complaints
- calculator of the proceedings' length: this application calculates the expectable length of the proceedings in each type of case
- readily searchable archives of the decisions: this collection of court decisions contains the decisions in anonymised form
- speech-to-text software
- regional courts have joined to the Authority Responsible for the Liquidators' Registry, containing the structured and systematic data of liquidator and administrator companies, their leaders, owners and employees.

The statistics of the court system are composed in every quarter, half and whole year. It is published on the central website of the courts in every half year. Detailed statistical data and their analysis are publicly available at the website of NOJ (https://birosag.hu/statisztikai-adatok).

16. Geographical distribution and number of courts/jurisdictions ("judicial map") and their specialisation

The Hungarian court system has four levels.

The Kúria [Supreme Court] is located in Budapest. Its jurisdiction in criminal, civil, labour and administrative cases covers adjudication of extraordinary remedies and (exceptionally) appeals, the adoption of uniformity decisions, adjudication of uniformity complaints, performing jurisprudence analysis, deciding upon the legality of municipal decrees.

The five Regional Court of Appeals are located in the cities of Budapest, Debrecen, Győr, Pécs and Szeged. Their jurisdiction in criminal, civil and labour law cases covers the adjudication of appeals received from the regional courts.

The twenty Regional Courts are located in the seat towns of the counties (with two exceptions: in Békés County the regional court is located in Gyula instead of Békéscsaba and in Nógrád County the regional court is located in Balassagyarmat instead of Salgótarján). Their jurisdiction in criminal and civil cases covers the adjudication of appeals received from district courts and the deal with cases of first instance in labour law cases and certain criminal and civil cases. Eight regional court (Metropolitan Court, Regional Court of Budapest, Regional Court of Debrecen, Regional court of Győr, Regional Court of Miskolc, Regional Court of Pécs, Regional Court of Szeged, Regional Court of Veszprém) also deal with administrative cases at first instance.

The 113 District Courts are mostly located in the seat towns of townships. Their jurisdiction in criminal and civil cases covers procedures at first instance.

C. Efficiency of the justice system

17. Length of proceedings

The justice system of Hungary is traditionally among the most effective ones in Europe thanks to the firm commitment and preparedness of its professionals. Nevertheless the constant development of IT tools give the best chance to the smooth and efficient conclusion of court cases.

During the first half year of 2020 the number of resolved cases exceeded the number of initiated court cases in the same period.

According to the EU 2020 Justice Scoreboard Hungary presented the 7th best rank in terms of the proceedings' estimated length regarding civil, commercial and administrative proceedings – these results were gained by assessing a period between 2012 and 2018, however the results assessing the respective data of 2018 only also gave a good rank for Hungary (9th among the 26 analysed country). It is worth to mention that the estimated time consumption of the administrative cases is especially good, for the 2012-2018 period it resulted to be the best among the analysed countries and it became the 7th best performance in the year of 2018. The clearance rate of Hungarian courts is around 100% or slightly above that figure in the four analysed years (2012, 2016, 2017 and 2018) and the number of pending civil, commercial and administrative cases is relatively low.

According to the respective annual reports the case handling timeframes of both the judiciary[30] and the prosecution service decreased significantly.[31]

Other – please specify

Election of the President of the Kúria

As of 1st January, 2021 Dr. András Zsolt Varga was elected for President of the Kúria for a definite term of nine years. Regarding Mr. Varga's position as a former Constitutional Court judge, the following shall be emphasized.

The members of the Constitutional Court practice *de facto* judicial activity, especially in the "real" constitutional complaint proceedings, where the Constitutional Court reviews court judgments.

A person elected as a member of the Constitutional Court who did not hold a judicial office (judge) prior to his/her election may apply to be appointed by the President of the Republic as a judge after his or her term in the Constitutional Court. The conditions for becoming a constitutional judge guarantee that there is no need for a separate examination of judicial competences (to become an acting judge). The independence of constitutional court judges and ordinary court judges is also safeguarded by a number of measures: Immunity is ensured for both groups. Judges may not be members of political parties or engage in political activities. Members of the Constitutional Court may not be members of political parties or engage in political activities either. Besides, having been a member of Government or a leading official in any political party or having held a position of a leading state official in the four years prior to election shall disqualify persons from becoming Members of the Constitutional Court.

Thus, a member of the Constitutional Court who may become judge at the Kúria, did not carry out high-ranking political activities at least four years before his/her election and during his/her mandate as member of the Constitutional Court and similar safeguards of independence have applied to him as in case of ordinary court judges. Therefore, the election of a former constitutional court judge as President of the Supreme Court does not raise questions as regards independence or professional competence.

Among others the fact that Mr. Varga has been elected as the Vice-President of the Sub-Commission for Constitutional Justice of the Venice Commission is a confirmation of the high level of theory and practice of constitutional justice in Hungary and also of his personal professional qualities.

[30] Annual report of the National Office of the Judiciary for 2019: https://www.parlament.hu/irom41/13547/13547.pdf
[31] Annual report of the Prosecution Service for 2019: http://ugyeszseg.hu/wp-content/uploads/admin/2020/10/ogy_beszamolo_2019.pdf

II. Anti-corruption framework

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

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

The most important task of National Protective Service (NPS), established on 1 January 2011, is to reduce corruption, to prevent the expansion of organised crime within law enforcement and public administration agencies, to continue high-quality detection work and to organise sufficient protection for people working at law enforcement agencies and certain government agencies, including their family members, who are at risk due to their profession. Detailed information on the NPS has been provided in the Input 2020.

In 2020, from the completed integrity tests 245 people chose the right path, however, criminal proceedings have commenced against 9 individuals because they breached their official duty for undue advantage.

An amendment of Act XXXIV of 1994 on the Police that came into effect on the 1st of January 2021 has significantly broadened the scope of personnel protected by the NPS. According to the amendment all employees of almost every budgetary organization under the supervision of the Government or a member of the Government as well as the National University of Public Service may be the subject to integrity tests.

As mentioned in the Addendum to the Input 2020, the allocation of resources provided to the National Protective Service in connection with the elimination of corruption offenses can be considered as appropriate and efficient. The resources at the NPS's disposal are the following: the NPS has 660 employees and an operating budget of 7037,5 million HUF with an additional 32,3 million HUF provided for investment projects. Starting from 2022, according to Government Decision 2032/2020. (XII. 29.), the budget will rise with another 1133,7 million HUF.

Legal framework: Act XXXIV of 1994 on the Police (Police Act),[32] Government Decree 293/2010 (XII. 22) on the designation of the police agency performing internal crime prevention and detection tasks and the detailed rules of the performance of such tasks, the lifestyle monitoring and integrity checks[33]

B. Prevention

19. Integrity framework including incompatibility rules (e.g.: revolving doors)

Increasing the trust in the state and the resistance of public administration to corruption are priority questions for the Government.

Effective elimination of corruption in the public sector is based on the balanced use of rule-based and value-based tools. The introduction of a coordinated integrity policy at the national and organisational level is a prerequisite to an integrity management system that aims at both preventing and sanctioning abuses.

To this end, Government Decree 50/2013 (II. 25.) on the System of Integrity Management at Public Administration Bodies and the Procedural Rules of Receiving Lobbyists introduced the integrity management system for public administration organisations and the role of integrity advisor. The main task of the integrity advisor is the reception and examination of reports on abuses, irregularities and corruption risks related to the operations of the organisation.

Moreover, the integrity advisor informs and advises the management and staff of the organisation in matters related to professional ethics. Pursuant to the Integrity Decree, integrity and corruption risks shall be assessed annually, based on which an annual risk management action plan to be elaborated. Furthermore, a general procedure is to be developed at organisational level for the reception and examination of reports on abuses, irregularities and corruption risks related to the operations of the organisation.

In order to promote a value-based approach, minimise organisational duplications and build organisational capacities to assess, identify, manage and prevent corruption risks, the internal control system and the integrity management system of the public administration organisations have been integrated by the amendment of Government Decree 370 of 2011 (XII. 31) on the Internal Control System and Internal Auditing of Central Budgetary Organizations and the Integrity Decree.

[32] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=21269.383660
[33] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=133717.417787

Based on Section 77 (3) b) of Act CXXV of 2018 on governmental administration (Kit.),[34] the Hungarian Government Officials Corps works out the detailed professional ethical rules, establishes the system of ethical procedures, and conducts the ethical procedures. (The Professional Code of Conduct and Ethics applies to administrative state secretaries and deputy state secretaries, too.)

The Code of Professional Conduct and Ethics[35] establishes standards related to integrity e.g. *"III/10.1. If we have assumed responsibility for the control and supervision of other colleagues, we shall pursue this activity in accordance with the goals of the organisation employing us, in compliance with the applicable legislation and the relevant ethical and professional requirements. We shall adopt all measures that may be reasonably expected from us in order to ensure that the work of the colleagues under our control should correspond to the relevant goals and requirements and that all deficiencies and abuse should be prevented in time."* It contains detailed provisions on conflict of interests, contact with third parties, maintaining impartiality etc. as well.

Incompatibility

In the case of political leaders the conflict of interest rules are highly strict. According to Section 182 of Kit., in case of political leaders it is not permitted to establish other employment relationship – including membership in supervisory board, in the government body of foundations, leader position in business association or in cooperation and an office in interest representation organization. Moreover political leaders shall not be remunerated for public appearance in relating with their official tasks. With the exception of the above mentioned, political leaders are permitted to hold certain positions enlisted in Kit. E.g. it is permitted: a) to be member of Parliament; c) carry out scientific, educational, artistic, proofreading, editorial and legally protected intellectual activity; d) establish foster parent status; e) be an official of a sports federation or sports association.

It is not allowed to establish a government service relationship if it results in a situation where the government official would have a governing (supervising), controlling or accounting relation with one of his relatives. A government official may not be a representative of a local government or a national self-government of the local government which operates in the area of competence of the government administrative body employing him or her. A civil servant at the government administrative body cannot hold the following positions: a) chairman or deputy chairman of local nationality minority government; b) chairman or deputy chairman of country-level nationality minority government; c) representative of nationality minority government.

A government official can engage in further employment, including other gainful employment and remunerated activities, – with the exception activities listed in Kit., e.g. scientific, educational, artistic, editorial activity, the establishment of foster parent status and voluntary work in the public interest – only with the prior authorization of the employer.

Moreover it is not permitted that civil servants have any position in political parties – except for being a candidate at parliamentary and European Parliamentary elections and local elections –, have leader position in business associations, membership in a supervisory board except some of them owned mainly by the state and some particular local governments. Civil servants shall report immediately the conflict of interest in writing, if it arises. If the employer takes account of any circumstance giving rise to conflict of interest, he/she shall immediately call on the civil servant in writing to abolish it within 30 days. If the civil servant does not comply with the notice, his/her government service relationship shall be terminated.

Restrictions on taking up a new job and re-employment

As far as the question of revolving doors in concerned, based on Section 117 Paragraph (1) of the Kit., the Government defines sectors and jobs within these sectors, in which the government official may not enter an employment relationship after the termination of his government service relationship (if the given business association operates in those sectors as its main scope of activity). The term of the restriction specified is the equivalent of the time spent in the job subject to the restriction, but maximum two years. The information obtained in the period of the government service relationship shall not be used for business purposes after the expiry of the deadline specified, either. These provisions of the Kit. shall apply to senior political leaders (Prime Minister, minister, state secretary), as well as to the professional senior executives (administrative state secretary, deputy state secretary).

[34] As the question does not specify the areas to be covered, the current answer analyses the topic from the point of view of public administration.

[35] See text at: http://mkk.org.hu/sites/default/files/Hivat%C3%A1setikai%20K%C3%B3dex%202020.pdf

These rules altogether result in a legal framework that ensures a high level of integrity for the public administration.

Legal framework: Act CXXV of 2018 on governmental administration (Kit.),[36] *Government Decree 370/2011. (XII. 31.) on the internal control system and internal control of budgetary organizations,*[37] *Government Decree 50/2013 (II. 25.) on the system of integrity management at public administration bodies and the procedural rules of receiving lobbyists.*[38]

20. General transparency of public decision-making (including public access to information such as lobbying, asset disclosure rules and transparency of political party financing)

Asset declarations

Asset declarations continue to be governed by the rules set out in the Input 2020.

As described in the Input 2020, several groups of officials have to submit asset declarations. Not only MPs, members of the Government, but a significant group of public officials and even judges are obliged to submit such declarations. The rules in force serve the fight against corruption through transparency (e.g. in case of MPs) and they contribute to the prevention or detection of more serious crimes.

Legal framework: Act CLII of 2007 on certain obligations related to asset declaration,[39] *Act on the Parliament*

Lobbying

Lobbying continues to be governed by the rules set out in the Input 2020.

The Government Decree on the system of integrity management regulates the communication between public administrative organisations supervised by the Government or by the member of the Government and third parties representing private interests. The rules concerning the communication with lobbyists contribute to strengthening organisational integrity through recognising and managing possible risks.[40]

Legal framework: Government Decree 50/2013 (II. 25.) on the system of integrity management at public administration bodies and the procedural rules of receiving lobbyists.[41]

Party financing

Act XXXIII of 1989 on the Operation and Financial Management of Political Parties (Party Act) stipulates in details the possible forms of income of political parties and the detailed rules for their financial management.

Political parties shall publish the financial statement as foreseen in Annex of the Party Act in the Official Journal by 31 May each year, and also on their website, where available.

The State Audit Office shall be authorized to control the legality of the financial management of the parties. The State Audit Office shall biennially audit the financial management of the parties drawing aid from the central budget on a regular basis.

If the State Audit Office notices that the party has acted illegally in the sphere of its financial management, it shall request the party to re-establish its legal state of affairs. In the case of a more serious infringement of law or if the party fails to comply with the request, the chairman of the State Audit Office shall move to initiate the public prosecutor's action provided for in Subsection (3) of Section 11 of the Civil Societies Act.

A separate Act, Act LXXXVII of 2013 on the Transparency of Campaign Costs related to the Election of the Members of the National Assembly deals with the campaign funding.

The main pillars of the Hungarian legislation on political campaign financing are the following: (1) The Act maximizes the amount allowed to be spent for campaign activities. (2) It establishes strict rules on the use of

[36] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=211886.383874
[37] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=143099.377523
[38] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=159079.418087
[39] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=111766.416659
[40] Referring to the alleged deficiencies mentioned in the Rule of Law Report 2020, it shall be emphasized that the detailed monitoring of single elements of Council of Europe recommendations seems to be irrelevant for providing an overall picture on the anti-corruption framework.
[41] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=159079.418087

such financing and on the monitoring of campaign spending. (3) Financial statements are to be submitted to the Treasury within 15 days after the individual results of the election together with copies of all accounting documents concerning the use of the amount of support. (4) The Treasury reviews the statement and supporting documents. (5) If a candidate or a party fails to submit a statement within the above mentioned deadline or submits one, which is not approved later in whole or in part by the Treasury, they shall pay double the amount of the support received or that has not been properly reported, respectively. (6) In order to strengthen transparency, the Act introduced a requirement that within 60 days starting from the date when the result of the elections became official, (7) all candidates and nominating organisations must make public the amount they had spent for campaigning, including public and non-public sources, as well as the purposes for the spending. (8) The State Audit Office has the competence to monitor and control whether the candidates and nominating organisations have complied with the legal requirements on maximizing the campaign spending. (9) The State Audit Office audits the use of campaign finances in case of those political parties which obtained at least one percent of the votes, according to the legislation, within one year from the date of the elections.

It shall be emphasized that the control of the financial management of parties as well as of campaign funding is very strict in Hungary, also compared to other European countries.[42]

Legal framework: Act XXXIII of 1989 on the Operation and Financial Management of Political Parties (Party Act)[43], Act LXXXVII of 2013 on the Transparency of Campaign Costs related to the Election of the Members of the National Assembly[44]

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

Conflict of interests in the public sector continues to be governed by the rules set out in the Input 2020 as well as the information provided above.

In 2021, by virtue of Paragraph 7 of the Action Plan implementing the National Anti-Corruption Strategy (NACS), positions and jobs most exposed to corruption and integrity risks will be mapped at the public administration authorities.

Legal framework: Act CXCIX of 2011 on government officials and state officials (Kttv.),[45] Kit., Act XLII of 2015 on service status of the members of law enforcement agencies (Hszt.).[46]

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

Whistle-blower protection continues to be governed by the rules set out in the Input 2020.

As an additional information and example for sectoral rules the Order No. 2/2018. (II. 28.) issued by the Prosecutor General on the rules of procedure managing incidents that violate organizational integrity shall be mentioned. The Order contains the following provisions regarding the whistleblower protection in its Section 15.

Cases relating to integrity shall be handled in a way to ensure that whistleblowers' rights and legitimate interests are respected. No adverse legal consequences may be imposed on a whistleblower, and he shall not be held liable for his reporting unless he is found to have intentionally made a false report. While reporting or during his hearing, the whistleblower may request that his data be kept confidential. In such a case the whistleblower's data shall be placed in the case file in a sealed enveloped signed by the integrity adviser and the prosecutorial employee designated in accordance with Section 3 (5), and information about its content may only be provided to the Prosecutor General.

If it is justified by the nature of the report, other persons who are heard in the case may also request that their personal data be handled confidentially. Disclosure of the whistleblower's data requires the whistleblower's prior written consent. If it can be proven that the whistleblower has intentionally made a false report, and there are reasonable grounds to believe that he has committed a crime or disciplinary offence, caused damage or other violations of law to another person thereby, his data can be transmitted to the person entitled to initiate or conduct the proceeding.

[42] For comparative studies see: http://www.penzugyiszemle.hu/vitaforum/partok-ellenorzese-az-eu-tagallamaiban; https://www.aszhirportal.hu/hu/hirek/multilateralis-szakmai-forum-a-partok-ellenorzeserol
[43] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=11014.383584
[44] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=161284.417206
[45] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=142936.383856
[46] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=175262.383770

This example – and the information provided in the Input 2020 – demonstrate that whistle-blower protection is efficiently safeguarded both in general and in certain sectors encouraging this way the reporting of corruption.

Legal framework: Act CXI of 2011 on the Commissioner for Fundamental Rights[47]*, Act CLXV of 2013 on Complaints and Public Interest Disclosures.*[48]

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).

The NPS basically performs its crime prevention and crime detection tasks in the law enforcement sector. Within the law enforcement sector, public officials dealing with "clients" or with official licensing, official sanctioning tasks, having decision-making power over major financial instruments (e.g., those with competencies in positions related to citizens, prisoners) are at risk of corruption. The NPS intends to mitigate the risk of corruption discovered in relation to the protected staff by conducting crime prevention and detection procedures specified in the legislation.

As far as corruption risks in certain sectors is concerned, the amendment of the Hungarian Criminal Code, effective from 1 January 2021, includes the criminalization of gratitude payment in such a way that the criminal provisions of active and passive bribery were supplemented by the granting and acceptance of an undue advantage (described below). In this context Act CLIV of 1997 on Health Care determines which benefits are acceptable in the course of providing health care services. According to the before mentioned law, except for gifts of small value, no consideration or other benefit can be sought or accepted in addition to the statutory fees.

The Police Act stipulates that from 2021 the compliance with these regulations can be checked within the frames of integrity testing performed by the NPS. All employees of public health services will be subject to integrity testing with the exception of persons involved in the performance of health care activities on the basis of a student status or employed by health care service providers maintained or owned by ecclesiastical legal entities. The task will be performed by the NPS's newly established unit consisting of 50 people.

Legal framework: Police Act, Act C of 2012 on the Criminal Code (Criminal Code)[49]*, Act CLIV of 1997 on Health Care* [50]

24. Measures taken to address corruption risks in the context of the COVID-19 pandemic

The 9th Integrity Round Table was held online on 26 November 2020 with the participation of the Ministry of Interior, the State Audit Office, the Hungarian Competition Authority, the Public Procurement Authority, the Supreme Court, the Office of the Prosecutor General, the Central Bank of Hungary and the NOJ. At the meeting, the participants agreed that "*the pandemic may also increase corruption risks; therefore social cooperation for the purity of public life is more relevant than ever*".

During the talks, there was a consensus in the great importance of compliance and orderliness in time of the COVID-19 pandemic.

According to the statement of the UN, international researches and the evaluation of the State Audit Office, the state of emergency poses the threat of excessive corruption and minor offence risks, it is therefore of paramount importance to propagate the integrity approach and to have systems ensuring the prevention of corruption put in place and operating at bodies of the public sphere. In general, it can be stated that the Hungarian Ministry of Interior rigorously and consistently takes a stand against all forms of corruption. In the interest of the above, the medium-term National Anti-corruption Strategy for 2020-2022 and the connected Action Plan was adopted.

Having regard to the fact that the aforementioned Strategy includes a wide range of measures capable of preventing and confining acts of corruption, the individual management of pandemic-related corruption phenomena has not been necessary as the legislation in force and the included definitions of criminal acts can be applied adequately.

[47] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=139247.393075
[48] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=164339.376770
[49] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=152383.420865
[50] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=30903.383680

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

The National Anti-corruption Strategy (2020-2022)

The Government adopted the National Anti-Corruption Strategy (Strategy) and the Action Plan on the implementation of the Strategy by Government Decision 1328/2020. (VI.19.).

The central objective of the Strategy is to establish conditions that facilitate the recognition and the management of corruption situations in time, and thus support all the players in public administration and the society in preventing, recognising and managing dangers of this type. At the same time, the Strategy highlights all the possibilities and instruments that can be used to manage the harmful effects of corruption in a lawful way.

The Strategy implements its objectives through the following three intervention areas: 1. technology-based, 2. compliance-based and 3. value-based intervention area.

The Measures to be implemented in 2021 include the following:

1. The Minister of Interior - with the involvement of the affected ministers - works out the uniform system of considerations for the prevention of corruption to be enforced in the planning and implementation of electronic public administration developments, and ensure its continuous enforcement.
2. The Minister of Interior - in the framework of a pilot project - takes steps for the development of an automated decision support system for certain procedures in his competence, in order to improve the transparency and the controllability of the decision-making process, and thus ensure the corruption-free nature of the procedure.
3. With the cooperation of the Minister of Finance, the Minister of Interior elaborates the concept of an IT system that is essential for the proper operation of the internal control system, especially the integrated risk management system, and supports the uniform management of process models and their distribution among organisations.
4. The Minister of Interior - with the involvement of the Minister of Justice - organises joint anti-corruption trainings every year for judges, prosecutors and the police force.
5. NPS organises trainings for investigating prosecutors on the practices used by law enforcement agencies in confidential information collection.
6. The Minister of Interior - with the involvement of the affected ministers - in cooperation with the University of Public Service - identifies the positions and jobs most exposed to corruption and integrity risks at public administrative organisations.
7. The minister without portfolio for the management of national assets, in cooperation with the Minister of Innovation and Technology, the Minister of Finance, the Minister of Interior and the Minister of Justice, examines the possibility of creating a uniform legal background for the preparation and implementation of major investments financed from public funds and for the management of the related integrity risks.
8. The minister without portfolio for the management of national assets, in cooperation with the Minister of Innovation and Technology, the Minister of Finance, the Minister of Interior and the Minister of Justice examines the conditions of using the ISO system and its expected effects at the economic associations in public ownership, then - depending on the results of the audit - makes a recommendation to the Government about the necessary actions.
9. In order to improve the efficiency of the integrity management systems of public administration authorities, the Minister of Interior arranges for the training of integrity officials and integrity staff that assist in the activities of integrity advisors - performing some tasks in a specialised way, or supporting the coordination of integrity issues at bigger organisational units.

Anti-corruption trainings focusing on foreign bribery

The implementation of the training project entitled “Anti-corruption trainings, especially in the field of international bribery” financed from the Internal Security Fund begins this year. As part of the project, we are planning a wide-ranging training program for the public sector (foreign affairs staff, judges, prosecutors, police officers, public administration staff) and companies to transfer knowledge about the obligation to report international bribery and about the liability of legal entities for international bribery. The project is planned to involve nearly 1,400 people in 34 trainings.

C. Repressive measures

26. Criminalisation of corruption and related offences

The criminalisation of corruption and related offences continues to be governed by the rules set out in the Input 2020. The amendment in line with the OECD recommendations mentioned in the Input 2020 came into effect as of 1st January 2021.

According to the new Paragraph (6) Section 290 of the Criminal Code, any person who promises or gives unlawful advantage - as defined by the Healthcare Act - to a health professional or other healthcare worker, or to a third person at the behest of such person, in connection with the provision of health services is guilty of a misdemeanour punishable by imprisonment not exceeding one year, insofar as the act did not result in a more serious criminal offense. Furthermore, Section 291 of the Criminal Code on passive corruption was supplemented with a reference to undue advantage in the health sector.

Undue advantage is defined, and its definition provided for by the Criminal Code is made more precise and detailed in the Health Care Act. The summary of the new, relevant parts of the Health Care Act includes that health care personnel (or staff working in the health care system) cannot accept any advantages for providing health care services, and if they receive the advantage not for the provision of health care service (e.g. but for their kindness shown during the provision of such service, or for making themselves available and providing services that are not included among their workplace responsibilities), they may accept an item given as a gift valuing no more than 5% of the monthly amount of the current minimum salary on one occasion after the provision of the service. If the health care service is provided to an inpatient, for a longer period of time, gifts may be accepted once in every two months.

Promising or giving undue advantage for the provision of health care service is a subsidiary crime. In other words, if the patient gives the undue advantage to make the recipient breach his duty, the patient commits bribery in the private sector, which is punished more severely. On the other hand, the definition of the new, basic form of the crime in the Criminal Code does not contain the intent to achieve breach of duty as an element, so the perpetrator of active bribery is punishable in this special, health care relation even if the intent is missing.

Legal framework: Criminal Code, Act CLIV of 1997 on Health Care

27. 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

The application of sanctions for corruption offences continues to be governed by the rules set out in the Input 2020.

A change in the lowest range of sentence that could be imposed for corruption crimes is that it was reduced to imprisonment for up to one year if a bribery in relation to the provision of health care service is committed.

As of 1st January 2021 the sentence of a perpetrator of passive bribery in the private sector who is authorized to act on his own may be indefinitely reduced if he reports the crime to the authorities before the offence comes to the knowledge of the authorities. Such regulation encourages the above mentioned persons to cooperate with the authorities.

Legal framework: Act C of 2012 on the Criminal Code

28. Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)

The question of immunities and the prosecution of corruption-cases continue to be governed by the rules set out in the Input 2020.

It shall be reiterated that when a criminal proceeding is postponed on the grounds of personal immunity, and by virtue of the fact that the immunity was not suspended by the authority having powers to do so, or because such authority did not consent to have the proceeding initiated or continued, this period of time shall not be included in the period of limitations. According to the practice followed by the Parliament in cases of criminal offences that are prosecuted by the public prosecutor (e.g. bribery offences), at the request of the Prosecutor General, the immunity of the MP allegedly involved in the commission of such an offence is suspended in every case.

While recalling that "high-level" corruption is not defined (such a category does not exist in criminal law), it shall be stressed that the Prosecution Service carefully examines cases followed by public interest.

Legal framework: Act XC of 2017 on the Criminal Proceedings (CCP)

Other – please specify

The firm commitment of the Hungarian authorities towards the fight against corruption is demonstrated among others by the fact that the relevant state authorities have an intense cooperation in this regard. 23rd September 2020, the Ministry of the Interior, the State Audit Office, the Curia, the General Prosecutor's Office, the National Judicial Office, the Public Procurement Authority, the Hungarian National Bank and the Hungarian Competition Authority have issued a joint declaration reaffirming their commitment to foster integrity, ethical conduct and fight against corruption.[51] At the 9th Integrity Roundtable the leaders of these authorities confirmed their commitment to maintaining the integrity and transparency of public life even in the times of the pandemic.[52]

[51] See text of the declaration at: https://www.asz.hu/hu/sajtokozlemenyek/a-korrupcio-elleni-fellepesben-2011-tol-egyuttmukodo-allami-szervezetek-vezetoinek-kozos-nyilatkozata

[52] https://www.mnb.hu/sajtoszoba/sajtokozlemenyek/2020-evi-sajtokozlemenyek/jarvany-idejen-meg-inkabb-szukseges-a-korrupcioellenes-osszefogas

III. Media pluralism

A. Media authorities and bodies

29. Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies

The legal status of media regulatory authorities and bodies continues to be governed by the rules set out in the Input 2020. The National Media and Infocommunications Authority (NMHH) is an autonomous regulatory agency subordinated solely to the law. The Media Council and its members are also subject only to the law and cannot be instructed in their activities. The independence of NMHH as well as the foreseeability and predictability of the administrative procedures concerned is properly safeguarded.

Legal framework: Act CLXXXV of 2010 on Media Services and Mass Communication (Media Act),[53]

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

There have not been substantial changes in this regard as compared to the information provided in the Input 2020. The rules of election, the high professional requirements, the length of mandate as well as the prohibition of re-election ensure the independence of chairperson and members of the Media Council.

Legal framework: Media Act Sections 124, 118, 129.

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

There are many self-regulatory based professional media organizations in Hungary, including organizations of different types of media, as well as journalists and the advertising industry.

Examples of these self-regulatory based professional media organizations are the following: Self-regulatory Advertising Collage (ORT); Association of Hungarian Television Broadcasters (MEME); Association of Hungarian Newspaper Publishers; Association of Hungarian Content Providers (MTE), National Association of Hungarian Journalists (MÚOSZ); Hungarian Catholic Association for the Press (MAKÚSZ), European Association of Hungarian Journalists and Producers; Community of Hungarian Journalists (MÚK); National Association of Local Radios (HEROE) etc.

The Media Act expressly states that self- and co-regulatory bodies and procedures shall be respected in the application of the media law. According to the legal definition, these are self-regulatory trade organizations comprising the media service providers, publishers of press products, intermediary service providers and broadcasters.

The Hungarian media regulation provides an opportunity for self-regulatory bodies to cooperate with the Media Authority to accomplish specific tasks. This co-operation is voluntary in all cases; the formal framework is defined by the Media Act. This co-regulation offered by media regulation is therefore voluntary, as its subjects are free to decide whether or not to conclude an administrative contract with the Media Council as defined by law.

Regarding co-regulation the Media Act regulates:

- introduces a special co-regulation procedure and formalises the procedure of the organization participating in the co-regulation (Section 197-200),
- the supervision over its activities (Section 201)
- the reporting obligation to the Media Council (Section 202)
- the aims of the cooperation (Section 190. Art. 1)
- the form of cooperation (administrative contract) [Section 190. Art. 2], and
- the types of cases in which the Authority authorizes the self-regulatory body to perform self-management tasks (Section 191).
- the types of administrative cases in which the Media Council shall have powers to grant authorizations to self-regulatory bodies, e.g. exercise supervision as to compliance with Sections 14 and 16-20 of the

[53] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=133252.416667

Press Act, or any of those provisions in relation to press products and online press products, on-demand media services, or fostering, enforcement and supervision of commercial communications for alcoholic beverages with regard to on-demand media services. (Section 192)

The Hungarian self-regulatory organizations participating in the co-regulation defined by law are the following: Self-regulatory Advertising Collage (ORT); Association of Hungarian Television Broadcasters (MEME); Association of Hungarian Newspaper Publishers (MLE); Association of Hungarian Content Providers (MTE).

In addition to co-regulation, Hungarian media regulation also provides consultation powers for self-regulatory organizations:

- The Prime Minister before making the recommendation for the President – among others – asks the nation-wide self-regulatory trade organizations or interest groups of communications service providers, media content providers, broadcasters and journalists existing for at least five years to make a recommendation for the person of the president candidate.
- In the course of his proceedings relating to an infringement the Media Commissioner shall conduct verbal or written consultations with the self-regulatory trade organizations or interest groups of media service providers.

Legal framework: Media Act

B. Transparency of media ownership and government interference

32. The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference

In relation to this topic, we reiterate our conviction – as expressed during the preparation of the Rule of Law Report 2020 – that the ways of allocation of state advertising is not a rule of law related issue; there are no well-established European standards in this regard and therefore, it should not be assessed in the framework of the Rule of Law Mechanism.[54]

With reference to the statements contained in the Rule of Law Report 2020, it shall be stressed that data on the advertising market[55] do not confirm that state advertising would allow the Government to exert indirect political influence over the media.

The improper political influence over the media is also excluded as freedom of press is provided for at constitutional level; according to Article IX of the Fundamental Law Hungary shall recognize and protect the freedom and diversity of the press. This formulation lays a positive obligation on the State: The Hungarian State shall abstain from infringement, but also shall take the necessary steps in order to ensure the freedom of the press.

It is a main principle of the Hungarian media regulation that media services may be provided and press products may be published freely, as well as the contents of media services and press products may be determined freely. Freedom of the press embodies sovereignty from the State, and from any and all organizations and interest groups. These general principles as well as the safeguards for editorial and journalistic freedom, described below, ensure efficient safeguards against state / political interference.

Legal framework: Fundamental Law Section IX Paragraph 2, Media Act Section 3, Act CIV of 2010 on the Freedom of the Press (Freedom of the Press Act)[56] Section 4

[54] The fact that e.g. the Joint Guidelines for preventing and responding to the misuse of administrative resources during electoral processes, adopted by the Venice Commission and OSCE/ODIHR contains reference to certain principles of state advertising, does not change this approach. It should be emphasized that these Guidelines "*are not intended as a set of hard rules*" and only refer to the question from a very specific point of view (electoral processes).

[55] E.g. the data of the Hungarian Advertising Association show in specific sectors that the market of advertisements is dominated by private market actors; state advertising has not increased significantly even in the year of elections for the European Parliament and local self-governments.
https://mrsz.hu/cmsfiles/0e/8f/MRSZ_sajtokozlemeny_media-komm.torta_2019_2020.05.07..pdf

[56] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=132460.370110

33. Rules governing transparency of media ownership and public availability of media ownership information

The Media Act stipulates that the diversity of media services has a particularly important public value. The protection of diversity extends to avoiding the formation of ownership monopolies and any undue restriction of competition on the market. The prevention of market concentration continues to be governed by the rules described in the Input 2020.

As far as the public availability of media ownership information is concerned, the Hungarian legislation contains transparency regulations on media ownership in two cases:

- Linear media service providers have to make declaration about their ownership structure in the registration procedure at the Authority. (Media Act Section 42)
- In tender procedures concerning the usage of state-owned limited analogue resources (frequency spectrum) the Tenderer (linear media service provider) have to make declaration about its ownership structure. (Media Act Section 56)

Since all companies in Hungary must be registered with the Court of Company Registration, each must disclose its ownership structure and any changes in it, this information is available on individual request.

The National System of Company Information and Company Registration (Országos Céginformációs és Cégnyilvántartási Rendszer) among others contains data concerning the ownership of all companies included media service providers. The Authority also uses this open, public database to get trustworthy and current information in connection with media service providers under their competence.

Legal framework: Media Act

C. Framework for journalists' protection

34. Rules and practices guaranteeing journalist's independence and safety

Hungarian law offers an all-around protection for journalist’s independence. Safeguards for editorial and journalistic freedom of expression include, among others, the following: right to professional sovereignty and independence from the owners of the media content provider, persons on whose behalf any commercial communication is made in any media content, as well from sponsors; right to labour law protection in case of instructions in violation of editorial or journalistic freedom of expression; right to protect the source of information; criminal law protection for investigative journalism. The details of these rights are set out in the Input 2020 and the legal provisions described therein.

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

Hungarian legal institutions effectively safeguard the constitutional value of press freedom and ensure the direct legal protection of journalists representing it. Besides the remedies described in our Input 2020, the measures serving the physical protection of journalists shall also be addressed.

The Hungarian investigative authorities carry out their activities in accordance with the legislation in force, ensuring the efficient and orderly initiation and conduct of the necessary proceedings and the timely taking of any necessary protection measures by properly handling any reports and complaints related to acts threatening the identity, life and physical integrity of journalists.

In the current Hungarian legal environment, the protection of journalists relies on two legal pillars, one is criminal procedure law and the other is press or media law.

When examining the measures serving the protection of journalists, primarily the following institutions shall be mentioned:

(a) The legal institution of special treatment provided for in Section 81 CCP may be applied in relation to both a victim and an uninjured witness, in particular as regards the relationship of those persons concerned with other persons involved in the criminal proceedings. With regard to persons in need of special treatment, the competent authorities shall apply, inter alia, special procedural rules which result in the possibility of separation from other persons subject to the procedure and of the possibility of closed processing in order to protect their identity.

b) Section 86 CCP ensures the protection of a person in need of special treatment, in particular in cases where their life, physical integrity and personal liberty are endangered in connection with the participation of the persons concerned in criminal proceedings. Tools have been installed for this legal institution, which serve the procedural isolation of the persons concerned even more effectively.

c) Section 90 CCP allows a press officer in need of special treatment to be declared a particularly protected witness, one of the grounds for which would be a serious threat to his or her own life, physical integrity or personal liberty if his or her person or his or her interrogation was disclosed. In the case of procedural acts committed with respect to a particularly protected witness, the accused and his or her counsel may not be categorically present, and closed data management is not an option but a mandatory one.

d) Personal protection under Section 94 CCP may extend not only to a person in need of special treatment, but also to another person with regard to him, therefore a press worker not otherwise positioned as a victim or witness may receive the same protection as the victim or witness.

e) In the same way, the journalist concerned may participate in the Protection Program in the absence of a procedural position, which will allow him or her to acquire a new identity because of his or her vulnerability.

The right to protect the source of information; criminal law protection for investigative journalism as provided for in the Freedom of the Press Act also contribute to the extensive protection of journalists.

The fact that journalists' safety is not at risk in Hungary, is demonstrated among others by the fact that since 2015 there has been only one alert on the Council of Europe's Platform to promote the protection of journalism and safety of journalists alleging attack on physical safety and integrity of journalists.

Legal framework: Freedom of the Press Act, Act XC of 2017 on the Criminal Proceedings (CCP)

36. Access to information and public documents

There have not been substantial changes in the general legislative framework of access to information as compared to the information provided in the Input 2020.

However, it shall be recalled that the Government – with the adoption of Government Decree 179/2020 (V. 4.) on certain derogations from certain data protection and access to data provisions during the period of state of danger – introduced certain extraordinary measures in the field of access to information which was in force between May 5th of 2020 and June 18th of 2020. These extraordinary measures allowed data controllers to – provided that strict conditions laid down in the Government Decree were met – extend the deadline for complying requests. Under these rules the request could be fulfilled by the public service body within 45 days (contrary to the general rule of 15 days) after the receipt of the request, if it was probable that the fulfilment of the request in the 15-day time limit would endanger the performance of state of danger related public tasks performed by the data controller public body. The already extended deadline could also be extended for no more than another 45 days if these conditions still applied. It should be noted that the extension of deadlines only applied if the public body data controller intended to fulfil the data request in question; the extensions were not applicable to the dismissal of the data request. The Government Decree also stated that requests could not be submitted orally (e.g.: in person) and the request could only be fulfilled in the form requested by the requesting party if it did not otherwise require the personal appearance of the requesting party before the public body concerned.

The Hungarian Government re-introduced the same exact COVID-specific measures related to access to public information in Government Decree 521/2020 (XI. 25.) on certain derogations from access to data provisions during the period of state of danger that applied during the first wave of the pandemic.

The temporal scope of the measure is connected to the termination of the state of danger; therefore, it only applies for a limited period of time. It serves a legitimate purpose (maintaining the proper functioning of state authorities under special circumstances and thus contributing to the efficiency of protective measures) and is proportionate with this aim (it only provides for the extension of deadlines and a divergent rule for the limitation of personal contacts being necessary during a pandemic). This way it establishes a proper balance between the right to access to public information, the increased workload of state authorities and the efficiency of protective measures in the current health crisis.

Legal framework: Act CXII of 2011 on the right to informational self-determination and on the freedom of information (Info Act)[57]*, Government Decree 179/2020 (V. 4.) on certain derogations from certain data protection and access to data provisions during the period of state of danger,*[58] *Government Decree 521/2020 (XI. 25.) on certain derogations from certain access to data provisions during the period of state of danger*[59].

37. Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse

"*Imparting information to the public about events of public interest was an essential element of press activity and played a central role in forming democratic public opinion. The communication of information of public interest, including the statements made and the positions taken by public figures, was the primary constitutional duty of the press. Nobody should be condemned for performing their duty under the Fundamental Law.*"[60] This statement of the Hungarian Constitutional Court shows that Hungarian law (constitutional and judicial case-law, as well as legislation) offers a throughout protection for the freedom of the press and public debates.

The case law of the Constitutional Court and the national courts have limited the scope of application of criminal law both in the cases of defamation and slander. The Constitutional Court has established an approach concerning criticism against political figures in line with international standards since the beginning of its functioning. The Constitutional Court firstly examined the collision of the freedom of speech and the freedom of the press with the protection of the personality rights of public figures in criminal law context. In the Decision 36/1994. (VI. 24.) AB the Constitutional Court held that the freedom of speech "*requires special protection when it relates to public matters, the exercise of public authority, and the activity of persons with public tasks or in public roles. In the case of the protection of persons taking part in the exercise of public authority, a narrower restriction on the freedom of expression corresponds to the constitutional requirements of a democratic State under the rule of law*". [Decision 7/2014. (III. 7.) AB[61]; similarly: Decision 3263/2018. (VII. 20.) AB[62]]

The test of the Constitutional Court ensures a high level of protection for expressing opinions in public matters. At the same time, it expresses the interpretation that constitutional protection shall not apply to the falsification of facts. Furthermore, it takes into account that a value judgement, i.e. somebody's personal opinion is always covered by the freedom of expression, regardless of its value, truth and emotional or rational basis.[63] "*In a democratic State under the rule of law, the free criticism of the institutions of the State and of the local governments – even if done in the form of defaming value judgements – is a fundamental right of the citizens, i.e. the members of the society, which is an essential element of democracy.*"[64]

This way a proper balance is ensured between the rights of individual public figures and the rights attached to public discourse. At the same time, this nuanced and consistently applied case-law results that lawsuits for expressing critical views (e.g. on the Internet) in the public discourse or for stating factually correct information by journalists cannot cause chilling effect on the freedom of expression. A further safeguard against unfounded lawsuits against journalists is that any person who a) before an authority, falsely accuses another person of committing a criminal offence, or b) informs an authority of a piece of fabricated evidence against another person concerning a criminal offence is guilty of false accusation under the Criminal Code.

Other – please specify

[57] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=139257.381624, and the English translation at: http://njt.hu/translated/doc/J2011T0112P_20200101_FIN.PDF.
[58] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=219363.382629
[59] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=222948.419758
[60] Source of quotation: http://www.codices.coe.int/NXT/gateway.dll/CODICES/precis/eng/eur/hun/hun-2017-3-003
[61] http://hunconcourt.hu/uploads/sites/3/2017/10/en_0007_2014.pdf
[62] http://public.mkab.hu/dev/dontesek.nsf/0/4CF02CF91345CA89C1257F4F005DD2F4?OpenDocument
[63] These factors have been taken into account by the Constitutional Court as it decided on the constitutionality of the special criminal law provision of fearmongering in time of special legal order.
The decision is available at:
http://public.mkab.hu/dev/dontesek.nsf/0/BD83430C4D2A942AC125855E005C4028?OpenDocument
[64] http://hunconcourt.hu/uploads/sites/3/2017/10/en_0007_2014.pdf

IV. Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

38. Framework, policy and use of impact assessments, stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), and transparency and quality of the legislative process

The legal institutions described in the Input 2020 are still applicable. Public consultations are to be carried out within the framework of general or direct consultations. The website of the Parliament ensures the complete transparency of the legislative process. All pieces of legislation (acts, decrees, public law regulatory instruments etc.) that are currently in effect are available free of charge at a single website (National Legislation Database – njt.hu).

Legal framework: Act CXXXI of 2010 On Public Participation in Developing Legislation[65], Government Decree 338/2011. (XII. 29.) on the National Legislation Database[66], Courts' Administration Act

39. 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)

The legal institutions described in the Input 2020 are still applicable. According to the Rules of Procedure of the Parliament, discussion with urgency, exceptional procedure and derogation from the provisions of the Rules of Procedure are available to accelerate the discussion of a proposal. In case of discussion with urgency and exceptional procedure it is defined by law how many times and by what majority it can be ordered, as well as which drafts cannot be discussed in such procedures.

Legal framework: Resolution 10/2014. (II. 24.) OGY on certain provisions of the Rules of Procedure[67]

40. Regime for constitutional review of laws

The legal institutions described in the Input 2020 are still applicable. The institutional structure, procedural rules and competences of the Constitutional Court ensure an efficient and comprehensive system for the protection of fundamental rights even during the COVID-19 pandemic (as described below).

Legal framework: Fundamental Law Article 24, Act on the Constitutional Court

41. COVID-19: provide update on significant developments with regard to emergency regimes 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 by Parliament of emergency regimes and measures in the context of COVID-19 pandemic; measures taken to ensure the continued activity of Parliament (including possible best practices)

It has been a basic principle of tackling the pandemic that access to justice and the continuity of the pending court proceedings shall be ensured even during the period of state of danger. The institution of the state of danger as well as the measures adopted during the first period of state of danger in relation to the operation of courts have been described in a detailed manner in the Addendum to the Input 2020. Even during the current period of state of danger, all courts are operational. Special procedural rules facilitate the functioning of courts for example in case of any epidemiological measures. Time limits continue to run during the period of the state of danger. If it is justified by epidemiological measures, the hearing may also be held by electronic means or other means capable of transmitting electronic images and sound. During the period of state of danger, as a general rule procedural acts that need to be performed at a location subjected to an epidemiological measure shall not be performed.

The Fundamental Law expressly provides that under a special legal order, the application of the Fundamental Law may not be suspended, and the operation of the Constitutional Court may not be restricted. According to the new Section 48/A of the Act on the Constitutional Court the meetings of the Constitutional Court may also be held by electronic means, based on the decision of the President. The new Section 68/A of the same Act stipulates that at a time of special legal order a.) the President and the Secretary-General shall ensure the continuous functioning of the Constitutional Court and shall take the necessary organisational, operative,

[65] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=132784.366975
[66] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=142900.365658
[67] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=167220

administrative and decision-preparing measures and b.) the President may authorize a derogation from the rules of procedure of the Constitutional Court.

The National Assembly has been holding regular plenary and committee sessions since the state of danger was proclaimed. [68] The Government shall report to the National Assembly about its measures introduced to curb the coronavirus pandemic regularly. This solution ensures the democratic control over the activities of the Government.

The Ninth Amendment to the Fundamental Law adopted by the National Assembly in December 2020, significantly renew the rules concerning the special legal order with effect from 1 July 2023, providing this way adequate preparation time. Instead of the previous six, the cases of special legal order will be reduced to three cases – state of war, state of emergency and state of danger. The provisions ensure that after the promulgation of the special legal order, fast, operative and responsible decision-making can take place in both political and legal sense. The circumstances for declaring a state of war (the present state of national crisis) and a state of emergency will be expanded, taking into account the requirements of the changing security environment (for example, a cyberattack that does not constitute an act of violence or an attack in the form of environmental pollution), and the Parliament will still be the only organ entitled to declare them. In case of state of danger the Parliament will primarily have control over the maintenance of the special legal order. This way the new rules on special legal order will offer an even more transparent constitutional framework, while maintaining the basic safeguards for the protection of human rights and the rule of law: the application of the Fundamental Law may not be suspended, certain rights listed in the Fundamental Law cannot be subject to further limitations even under special legal order, the continuous operation of the National Assembly shall be ensured, the operation of the Constitutional Court may not be restricted.

Legal framework: Fundamental Law Article 54, Ninth Amendment to the Fundamental Law,[69] Act on the Constitutional Court

B. Independent authorities

42. Independence, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and courts of auditors/national audit offices

The Commissioner for Fundamental Rights

As compared to the information provided in the Input 2020, there have not been substantial changes in the legal status of the National Authority on Data Protection and Freedom of Information.

The constitutional framework and the basic safeguards of independence in case of the Commissioner for Fundamental Rights (NHRI) have also remained unchanged.

However, Act CXXVII of 2020 integrated the Equal Treatment Authority (EBH) to the Office of the Commissioner for Fundamental Rights offering this way a higher level of protection for the right and principle of equal treatment since cases of violations of equal treatment are heard by an institution that is primarily concerned with the protection of fundamental rights. As it is apparent from the Input 2020, the Commissioner for Fundamental Rights, unlike EBH, is a constitutional institution. It is guaranteed at constitutional level that the Commissioner's proceedings may be requested by anyone and that the Commissioner shall report annually to Parliament on his or her activities. In the latter mentioned annual report the Commissioner gives information on his or her fundamental rights protection activities, on the reception and outcomes of his initiatives and recommendations, and evaluates the situation of fundamental rights on the basis of statistics compiled on the infringements related to fundamental rights. The Commissioner may also initiate ex-post norm control before the Constitutional Court.

The Commissioner for Fundamental Rights is elected by Parliament from among those lawyers who have outstanding theoretical knowledge or at least ten years of professional experience and have considerable experience in conducting or supervising proceedings concerning fundamental rights or in the scientific theory of such proceedings.

[68] The list of committee sessions is available at: https://www.parlament.hu/web/guest/bizottsagi-meghivo-heti-bizottsagi-ulesek1. The list of plenary sessions and their records is available at: https://www.parlament.hu/web/guest/orszaggyulesi-naplo

[69] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=246609.417431

The tasks of the EBH have been taken over by the Office of the Commissioner for Fundamental Rights with full powers. In the performance of its duties specified in the Act on Equal Treatment the Office of the Commissioner for Fundamental Rights acts as an administrative authority. The new model is in line with the provisions of the relevant provisions of EU law. Moreover, it provides for more extensive powers than foreseen in the EU legislation. Therefore, complaints about equal treatment will be dealt with by an institution surrounded by stronger constitutional guarantees than before.

The State Audit Office

The Fundamental Law and the cardinal act on the State Audit Office (ÁSZ Act) as foreseen in Article 43 Paragraph (4) of the Fundamental Law ensure the organizational, legal, financial and personal independence of the State Audit Office (ÁSZ) as well as its operation without influence. The ÁSZ has been stipulated as the organ of the National Assembly responsible for financial and economic audit by the Constitution as well as by the Fundamental law since its foundation.

The Fundamental Law defines its independence both from the point of view of structure and competences. The President of ÁSZ shall be elected with the votes of two thirds of the Members of the National Assembly for twelve years. The required majority as well as the length of mandate (extending beyond a parliamentary term) contribute to a high level of independence. A further safeguard is that persons who, during the previous four years, were members of the Government or held any elected senior position in the national (central) organisation of any political party may not be nominated for President of ÁSZ. Strict rules apply for the conflict of interest as well.

The legal status and the powers of the State Audit Office of Hungary are set forth in the Fundamental Law and the ÁSZ Act. As far as the competences are concerned, it shall be stressed that the ÁSZ has general powers in auditing the responsible financial management of public funds as well as of state and local government assets. ÁSZ shall work on the basis of an audit plan approved by its President. According to the ÁSZ Act, the President of ÁSZ shall determine and make public the procedural rules and methods of public sector audits. The President of ÁSZ shall inform the National Assembly about the audit plan and any amendments thereto. Within its statutory competence, the ÁSZ is only obliged to conduct audits pursuant to decisions taken by the National Assembly.

The financial independence of ÁSZ is ensured by the fact that the budget of ÁSZ shall be drawn up in a way that it should not be less than the amount laid down in the central budget for the previous year. ÁSZ shall compile its proposal for its own budget and its report on the implementation of its budget, which shall be submitted without any change by the Government to the National Assembly as part of the bill on the central budget and its implementation. Any other tasks can be assigned to ÁSZ by law only if the funds necessary for the performance of such tasks are also provided at the same time.

Thus, the President, Vice-President, managers and auditors of the State Audit Office are widely protected against the possibility of operating along other interests to the detriment of the public interest. The implementation of the safeguards of independence is regularly described by the President of the ÁSZ.[70]

Legal framework: Fundamental Law Article 30, Act CXI of 2011 on the Commissioner for Fundamental Rights[71], Act CXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities (Equal Treatment Act)[72], Act LXVI of 2011 on the State Audit Office of Hungary.[73]

C. Accessibility and judicial review of administrative decisions

43. Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data) and judicial review (incl. scope, suspensive effect)

The legal institutions described in the Input 2020 are still applicable and ensure proper, effective and independent judicial review of administrative decisions.

[70] https://www.asz.hu/storage/files/files/Ellenorzes_szakmai_szabalyok/Ellenorzes_szakmai_szabalyok_rendszere/02_a_fuggetlenseget_biztosito_garancialis_elemek.pdf?download=true
[71] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=139247.393075
[72] See the text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=76310.403627
[73] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=138681.376588

44. Implementation by the public administration and State institutions of final court decisions

The legal institutions described in the Input 2020 are still applicable and ensure proper, effective and independent judicial review of administrative decisions.

D. The enabling framework for civil society

45. Measures regarding the framework for civil society organisations (e.g. access to funding, registration rules, measures capable of affecting the public perception of civil society organisations, etc.)

In line with the information provided in the Input 2020, it shall be reiterated that Hungary recognises the vital contribution of nongovernmental organisations to the promotion of common values and goals. Several legislative, administrative and financial tools facilitate their activities.

In 2020, due to a modification to Act CLXXV of 2011 on the Freedom of Association, on Public-Benefit Status, and on the Activities of and Support for Civil Society Organizations, which affected chapter VIII paragraphs 51-52/A of the legislation, Civil Community Service Centres, as parts of a nationwide organisational network, provide services free of charge to associations and foundations in their community building and awareness raising activities.

The National Cooperation Fund is a financing tool designed to support the operation and activities of self-regulatory civil bodies, to reinforce their national cohesion and their role in the completion of the common good, and the procedures of financing are regulated by the ministerial decree No. 5/2012 (III. 16.) signed by the Minister for Public Administration and Justice.

The 2020 modifications of the said decree include measures that are beneficial for bidders, for example taking out normative budgetary support from the annual total income of the organisations, which renders it possible for maintaining organisations (typically organisations working in the social or educational field) to apply for NEA funds. Or, for example, the enhancing of the supplementary support to be paid in proportion to the collected donations, which further encourages non-profit organisations to collect donations and build networks with the for-profit sector. Or the raising of the amount of the so called simplified support which is a source for small, local associations and funds or the enabling of civil organisation in the field of gender equality to bid for tenders in the communal body of the National Cooperation Fund.

With reference to the Rule of Law Report 2020 mentioning the judgment of the Court of Justice of the European Union in case C-78/18, the following shall be reported: Although in June 2020, the Court of Justice found certain violations of EU law in connection to the Hungarian legislation on the transparency of foreign-funded civil society organisations, at the same time, the Court explicitly endorsed the objective of the Hungarian legislation by stating that some civil society organisations may, having regard to the aims which they pursue and the means at their disposal, have a significant influence on public life and public debate and that the objective consisting in increasing transparency in respect of the financial support granted to such organisations may constitute an overriding reason in the public interest.

The legitimate aim of the legislation has been acknowledged by the Venice Commission as well (in the process of adoption of the law, Hungary complied with 3 out of 5 of the recommendations by the Venice Commission).

The elaboration and adoption of the adjusted legal framework in line with the EU Court's guidance and in close cooperation with the European Commission is underway.

Legal framework: Act CLXXV of 2011 on the Freedom of Association, on Public-Benefit Status, and on the Activities of and Support for Civil Society Organizations;[74] *Decree 5/2012 (II. 16.) KIM of the Minister of Public Administration and Justice on Certain Issues Related to the National Cooperation Fund*[75]

E. Initiatives to foster a rule of law culture

46. 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, etc.)

Several measures are aimed at fostering rule of law culture, including awareness-raising campaigns targeting the public (e.g. anti-corruption campaigns as described in the Input 2020), information dissemination and specific research initiatives.

[74] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=139791.384195
[75] See text at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=143944.376437

In the context of information dissemination, the following examples can be provided: The Constitutional Court launched an information dissemination program for secondary school students aiming to present the tasks and operation of the Constitutional Court, and thereby increase students' knowledge of constitutionality and fundamental rights.[76] The Office of the National Assembly regularly publishes a call for applications for an internship program as well as a call for papers in the topic "Hungary and the Central European Region in the European Union, the European Union in the World".[77] The basic features of the State structure and Hungary's membership in the EU are also part of the curriculum in schools.[78]

The Hungarian constitutional organs and state authorities have extensive professional contacts both at national and international level,[79] contribute to the scientific discourse through the publication of journals,[80] organize conferences and workshops.[81]

Through its research institutes conducting priority strategic research the József Eötvös Research Center of the University of Public Service (EJKK)[82] engages in strategic, multidisciplinary research in specific areas, the scientific results of which are integrated into the educational activities of the faculties, generally enrich the University's research activities and strengthen cooperation with researchers from other higher education and scientific institutions. Some examples for the overarching activities of EJKK are the following: The European Strategy Research Institute conducts multidisciplinary research in the field of the development of Hungary's European policy, the analysis of Hungarian and European processes, the history, functioning and future of the European Union and the values shared by European states. The Central European Research Institute conducts multidisciplinary research concerning the common historical and cultural heritage, political and administrative traditions and future cooperation opportunities of the Central European states and nations, as well as the system of relations with other European states. The Information Society Research Institute aims to study regulatory issues related to infocommunication services as well as the effects of new technologies on people, society, the enjoyment of fundamental rights and democratic publicity.

Other - please specify

Budapest, 4th March 2021

[76] https://alkotmanybirosag.hu/kozepiskolasok-az-alkotmanybirosagon
[77] https://www.parlament.hu/web/guest/palyazati-kiirasok-tvig
[78] http://njt.hu/cgi_bin/njt_doc.cgi?docid=149257.388616
[79] See e.g. the professional contacts of ÁSZ: https://www.asz.hu/belfoldi-szakmai-kapcsolatok or of the Hungarian Competition Authority: https://www.gvh.hu/en/gvh/international_relations/international_organisations/4258_en_international_organisations
[80] See e.g. the Constitutional Court Review: https://alkotmanybirosag.hu/alkotmanybirosagi-szemle or the Court Review: https://birosag.hu/birosagiszemle/koszonto
[81] See e.g. the European level conference on constitutional identity organized by the Constitutional Court: https://alkotmanybirosag.hu/kozlemeny/europai-szintu-csucskonferenciat-szervezett-az-alkotmanyos-identitasrol-az-alkotmanybirosag-budapesten
[82] For details see: https://ejkk.uni-nke.hu/