

2024 Rule of Law Report - targeted stakeholder consultation

Fields marked with * are mandatory.

Introduction

The annual Rule of Law Report lies at the centre of the Annual Rule of Law Cycle, which acts as a preventive tool, deepening multilateral dialogue and joint awareness of rule of law issues. So far, four editions of the Rule of Law Report have been published in 2020, 2021, 2022 and 2023.

The Commission would like to invite stakeholders to provide contributions to the 2024 Rule of Law Report. This survey provides information on the type of information and topics that will be covered in the 2024 Rule of Law Report, in order to allow stakeholders to provide input. More targeted input may be requested at a later stage of preparation of the 2024 Rule of Law Report, including in the context of country visits, or bilateral contacts.

The 2024 Rule of Law Report will continue to deepen the assessment under the existing four pillars, and will also follow-up on the implementation of the recommendations to Member States, that were issued as part of the 2023 Rule of Law Report. The contribution to be provided should include **(1) information on measures taken to implement the recommendations addressed to the Member State in the 2023 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter and (2) any other significant developments since January 2023^[1] falling under the ‘type of information’ outlined in section II.**

The input should consist of a short summary, if possible in English, covering the areas referred to below. Legislation or other documents may be referenced with a link. Contributions should focus on significant developments since the last Rule of Law Report both as regards the legal framework and its implementation in practice.

[1] Unless the information was already submitted in the input for the previous Rule of Law Reports.

Type of information

The topics are structured according to four pillars: I. Justice system; II. Anti-corruption framework; III. Media pluralism; and IV. Other institutional issues related to checks and balances. The replies could include aspects set out below under each pillar. This can include challenges, current work streams, positive developments and best practices:

A) Legislative developments

- Newly adopted legislation
- Legislative drafts currently discussed in Parliament
- Legislative plans envisaged by the Government

B) Policy developments

- Implementation of legislation
- Evaluations, impact assessment, surveys
- White papers/strategies/actions plans/consultation processes
- Follow-up to reports/recommendations of Council of Europe bodies or other international organisations
- Important administrative measures
- Generalised practices

C) Developments related to the judiciary / independent authorities

- Important case law by national courts
- Important decision/opinions from independent bodies/authorities
- State of play on terms, nominations and expired mandates for high-level positions (e.g. Supreme Court, Constitutional Court, Council for the Judiciary, heads of independent authorities included in the scope of the questionnaire[2])

D) Any other relevant developments

- Respondents are free to add any further information, which they deem relevant; however, this should be short and to the point.

Please also indicate whether the developments reported are linked to the implementation of reforms and investments under the RRP, where applicable.

If there are no changes, it is sufficient to indicate this and the information covered in the contributions for the previous Rule of Law Reports should not be repeated.

[2] Such as: media regulatory authorities and bodies, national human rights institutions, equality bodies, ombudsman institutions, supreme audit institutions and, where they exist, transparency authorities.

About you

* I am giving my contribution as

- ☐ Academic/research institution
- ☐ Business association
- ☒ Civil society organisation/NGO

- ☐ International organisation
- ☐ Judicial association or network
- ☐ Media organisation or association
- ☐ Public authority or network of public authorities
- ☐ Other

* Organisation name

250 character(s) maximum

Amnesty International Hungary

Main Areas of Work

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

If "Other", please specify

LGBTQI rights, gender equality, human rights education

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

500 character(s) maximum

<https://www.amnesty.hu/>

Transparency register number

Check if your organisation is in the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making

* Country of origin

Please add the country of origin of your organisation

- ☐ Afghanistan
- ☐ Albania
- ☐ Algeria
- ☐ Andorra
- ☐ Angola
- ☐ Antigua and Barbuda
- ☐ Argentina
- ☐ Armenia
- ☐ Australia
- ☐ Austria
- ☐ Azerbaijan

- ☐ Bahamas
- ☐ Bahrain
- ☐ Bangladesh
- ☐ Barbados
- ☐ Belarus
- ☐ Belgium
- ☐ Belize
- ☐ Benin
- ☐ Bhutan
- ☐ Bolivia
- ☐ Bosnia and Herzegovina
- ☐ Botswana
- ☐ Brazil
- ☐ Brunei Darussalam
- ☐ Bulgaria
- ☐ Burkina Faso
- ☐ Burundi
- ☐ Cabo Verde
- ☐ Cambodia
- ☐ Cameroon
- ☐ Canada
- ☐ Central African Republic
- ☐ Chad
- ☐ Chile
- ☐ China
- ☐ Colombia
- ☐ Comoros
- ☐ Congo
- ☐ Costa Rica
- ☐ Côte D'Ivoire
- ☐ Croatia
- ☐ Cuba
- ☐ Cyprus
- ☐ Czechia
- ☐ Democratic Republic of the Congo
- ☐ Denmark
- ☐ Djibouti
- ☐ Dominica
- ☐ Dominican Republic
- ☐ Ecuador
- ☐ Egypt
- ☐ El Salvador
- ☐ Equatorial Guinea
- ☐ Eritrea
- ☐ Estonia
- ☐ Eswatini
- ☐ Ethiopia

- ☐ Fiji
- ☐ Finland
- ☐ France
- ☐ Gabon
- ☐ Gambia
- ☐ Georgia
- ☐ Germany
- ☐ Ghana
- ☐ Greece
- ☐ Grenada
- ☐ Guatemala
- ☐ Guinea
- ☐ Guinea Bissau
- ☐ Guyana
- ☐ Haiti
- ☐ Honduras
- ☒ Hungary
- ☐ Iceland
- ☐ India
- ☐ Indonesia
- ☐ Iran
- ☐ Iraq
- ☐ Ireland
- ☐ Israel
- ☐ Italy
- ☐ Jamaica
- ☐ Japan
- ☐ Jordan
- ☐ Kazakhstan
- ☐ Kenya
- ☐ Kiribati
- ☐ Kuwait
- ☐ Kyrgyzstan
- ☐ Laos
- ☐ Latvia
- ☐ Lebanon
- ☐ Lesotho
- ☐ Liberia
- ☐ Libya
- ☐ Liechtenstein
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Madagascar
- ☐ Malawi
- ☐ Malaysia
- ☐ Maldives
- ☐ Mali

- ☐ Malta
- ☐ Marshall Islands
- ☐ Mauritania
- ☐ Mauritius
- ☐ Mexico
- ☐ Micronesia
- ☐ Monaco
- ☐ Mongolia
- ☐ Montenegro
- ☐ Morocco
- ☐ Mozambique
- ☐ Myanmar
- ☐ Namibia
- ☐ Nauru
- ☐ Nepal
- ☐ Netherlands
- ☐ New Zealand
- ☐ Nicaragua
- ☐ Niger
- ☐ Nigeria
- ☐ North Korea
- ☐ North Macedonia
- ☐ Norway
- ☐ Oman
- ☐ Pakistan
- ☐ Palau
- ☐ Panama
- ☐ Papua New Guinea
- ☐ Paraguay
- ☐ Peru
- ☐ Philippines
- ☐ Poland
- ☐ Portugal
- ☐ Qatar
- ☐ Republic of Moldova
- ☐ Romania
- ☐ Russian Federation
- ☐ Rwanda
- ☐ Saint Kitts and Nevis
- ☐ Saint Lucia
- ☐ Saint Vincent and the Grenadines
- ☐ Samoa
- ☐ San Marino
- ☐ Sao Tome and Principe
- ☐ Saudi Arabia
- ☐ Senegal
- ☐ Serbia

- ☐ Seychelles
- ☐ Sierra Leone
- ☐ Singapore
- ☐ Slovakia
- ☐ Slovenia
- ☐ Solomon Islands
- ☐ Somalia
- ☐ South Africa
- ☐ South Korea
- ☐ South Sudan
- ☐ Spain
- ☐ Sri Lanka
- ☐ Sudan
- ☐ Suriname
- ☐ Sweden
- ☐ Switzerland
- ☐ Syrian Arab Republic
- ☐ Tajikistan
- ☐ Tanzania
- ☐ Thailand
- ☐ Timor-Leste
- ☐ Togo
- ☐ Tonga
- ☐ Trinidad and Tobago
- ☐ Tunisia
- ☐ Turkey
- ☐ Turkmenistan
- ☐ Tuvalu
- ☐ Uganda
- ☐ Ukraine
- ☐ United Arab Emirates
- ☐ United Kingdom
- ☐ United States of America
- ☐ Uruguay
- ☐ Uzbekistan
- ☐ Vanuatu
- ☐ Venezuela
- ☐ Viet Nam
- ☐ Yemen
- ☐ Zambia
- ☐ Zimbabwe

First name

Aron

Surname

Demeter

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

[Redacted]

*** Publication of your contribution and privacy settings**

You can choose whether you wish for your contribution to be published and whether you wish your details to be made public or to remain anonymous.

- ☐ Anonymous - Only your type of respondent, country of origin and contribution will be published. Organisation name, URL, transparency register number, first name and surname given above will not be published. **To maintain anonymity, please refrain from mentioning the name of your organisation and any details from which your organisation can be identified in the rest of your contribution.**
- ☒ Public - Your personal details (name, organisation name, transparency register number, country of origin) will be published with your contribution).
- ☐ No publication - Your contribution will not be published. Elements of your contribution may be referred to anonymously in documents produced by the Commission based on this consultation.

☒ I agree with the personal data protection provisions.

[Specific privacy statement targeted stakeholder consultation 2024 rule of law report.pdf](#)

Questions on horizontal developments

In this section, you are invited to provide information on general horizontal developments or trends, both positive and negative, covering all or several Member States. In particular, you could mention issues that are common to several Member States, as well as best practices identified in one Member State that could be replicated. Moreover, you could refer to your activities in the area of the four pillars and sub-topics (an overview of all sub-topics can be found below), and, if you represent a Network of national organisations, to the support you might have provided to one of your national members.

Overview topics for contribution

[List of topics 2024 RoL Report.pdf](#)

Please provide any relevant information on horizontal developments here

5000 character(s) maximum

[Redacted]

Questions for contribution

The following four pillars (I.-IV.) are sub-divided into topics (A., B., etc.) and sub-topics (1., 2., 3., etc.). For each of the topics and sub-topics, you are invited to provide (1) information on measures taken to implement the recommendations addressed to the Member State in the 2023 Rule of Law report, as well as

developments with regard to the points raised in the respective country chapter of the 2023 Rule of Law Report and (2) any other significant developments since January 2023[3]. Please always include a link to and reference relevant legislation/documents (in the national language and/or where available, in English). Significant developments can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices.

If there are developments you consider relevant under each of the four pillars that are not mentioned in the sub-topics, please add them under the section "other - please specify". Only significant developments should be covered.

Information provided in reply to the first question under each pillar, related to the follow-up to the recommendations, does not need to be repeated in subsequent parts of the questionnaire, but can be cross-referenced in the subsequent questions, where relevant. All other questions are not limited to the recommendations, but as in previous years, cover the entire scope of the Report.

[3] Unless already covered in the input for the previous Rule of Law Reports.

Member State covered in contribution [only one choice possible]

If you wish to submit information concerning several Member States, please fill in the questionnaire separately for each Member State. There is no limit to the number of contributions submitted by a single participant.

- ☐ Austria
- ☐ Belgium
- ☐ Bulgaria
- ☐ Croatia
- ☐ Cyprus
- ☐ Czechia
- ☐ Denmark
- ☐ Estonia
- ☐ Finland
- ☐ France
- ☐ Germany
- ☐ Greece
- ☐ Hungary
- ☐ Ireland
- ☐ Italy
- ☐ Latvia
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Malta
- ☐ Netherlands
- ☐ Poland
- ☐ Portugal
- ☐ Romania
- ☐ Slovak Republic
- ☐ Slovenia
- ☐ Spain

I. Justice System

Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the justice system (if applicable)

5000 character(s) maximum

Until the cut-off date of the present CSO contribution (9 January 2024) no steps have been taken by the Hungarian government and the Parliament to address the recommendation (regarding the case allocation system) formulated by the European Commission (EC) with respect to the independence of the judiciary in the 2023 Rule of Law Report – Country Chapter on the rule of law situation in Hungary (hereafter referred to as: 2023 Rule of Law Report). In line with the commitments of Hungary under the Recovery and Resilience Plan (RRP) and the horizontal enabling conditions of 10 different operative programmes, the rules governing the case allocation system of the Kúria (the apex court of Hungary) have been amended by Act X of 2023 on the Amendment of Certain Laws on Justice related to the Hungarian Recovery and Resilience Plan (hereafter referred to as: Judicial Reform) to enhance the transparency of case allocation of the Kúria, but no legislative measures have been taken to improve the transparency of case allocation systems in lower-instance courts, as recommended by the 2023 Rule of Law Report.

A. Independence

Appointment and selection of judges, prosecutors and court presidents (incl. judicial review)

(The reference to 'judges' concerns judges at all level and types of courts as well as judges at constitutional courts)

5000 character(s) maximum

As a main rule, judicial appointments are granted via an ordinary application procedure that includes certain guarantees against arbitrary appointments. With respect to the appointment of judges and court presidents, several concerns raised in the 2020, 2021, 2022 and 2023 CSO contributions remain relevant.

(1) The distorted points system for the assessment of applications for judicial posts remains in force forming a crucial element in the career of judges. The points system is problematic in many respects, amongst others for giving preference to candidates for a judicial post who apply from the executive branch over candidates who apply from within the judiciary. Although the Judicial Reform granted the National Judicial Council (NJC) the power to give a motivated binding opinion on future modifications of the points system, it did not set a deadline for the submission of a new draft regulation. By not introducing transitional rules that guarantee the effective application of the new powers of the NJC, the Government can keep up the distorted points system for an indefinite period, leaving the Judicial Reform meaningless in this respect. Promoting the amendment of the regulation in force, the NJC adopted a draft modification.

(2) Although the Judicial Reform has pro futuro terminated the possibility of members of the Constitutional Court (CC) to be appointed to the ordinary court system without following the standard application procedure, it has provided a solution that is still concerning from the perspective of judicial independence. With effect from 1 June 2023, those members of the CC who got appointed as judges by the legislative branch via (later withdrawn) ad hominem legislation circumventing the standard application procedure and without the involvement of judicial self-governing bodies, cannot be directly appointed to the Kúria, but they can still choose to be transferred to any Court of Appeal, the second highest court instance within the four-tier ordinary court system of Hungary. This solution maintains the original concern raised by the EC according to which "in practice, the election by Parliament to the Constitutional Court, which does not entail

the involvement of a body drawn in substantial part from the judiciary, can in itself lead to the appointment as a judge". Applying the new rules on transfer to the ordinary court system, one former CC member was already appointed as judge of the Metropolitan Court of Appeal after the termination of his mandate.

(3) The Judicial Reform radically limited the pool of potential judge candidates for the position of the Kúria President by introducing a new condition that requires the Kúria President to "have at least two years of experience as a Kúria judge". Thanks to the introduction of the new eligibility criterion, the pool for potential candidates was significantly narrowed from the former ca. 2,500 judges to approximately 100 judges without any reasonable explanation. This new criterion cannot be linked anyhow to the professional qualities required for the position (independence, impartiality, integrity, probity and a trustful experience as a court leader) and also raises concerns in light of the court capture process carried out with respect to the Kúria in the past years.

(4) No legislative amendment has been adopted to regulate multiple applications (when several calls for applications for judicial posts are published simultaneously) and the order of considering such applications in order to exclude the possibility of determining (through the arbitrary order of deciding on applications) the outcome of applications and to circumvent the right to consent by the NJC in a non-transparent manner. In 2022, both the Kúria President and the President of the National Office for the Judiciary (NOJ President) appointed several judges to the bench in ways circumventing the right to consent by the NJC through opening several positions in one package and then manipulating the outcome of the application procedure by considering the applications in an arbitrary order. In the absence of legislative amendments, this loophole is still available to circumvent the merit-based appointment system.

(5) The legislation finally meets the requirement of good governance by partially requiring the Kúria President and the NOJ President to state reasons for their administrative decisions, albeit only for decisions subject to the agreement or binding opinion of the NJC. In order to comply with basic principles of the rule of law, all administrative decisions should be duly reasoned.

(6) As a significant positive development, the Judicial Reform granted a right to veto to the NJC against the decade-long powers of the NOJ President to declare any judicial application procedure unsuccessful without any external control or a need for a transparent reasoning even after the establishment of the ranking of applicants by the judicial councils.

Irremovability of judges, including transfers, (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)

5000 character(s) maximum

(1) The Judicial Reform amended the rules on different types of temporary transfers of judges ensuring that the NJC gives a binding opinion on certain decisions. Despite the enhanced supervisory function of the NJC, the legislation on transfers still lacks fundamental guarantees for the irremovability of judges.

In case of secondments ("kirendelés"), the law only requires the NJC's consent to secondments (or their prolongation), but not their termination. As the practice of the NOJ President shows, secondments may be terminated unilaterally, with immediate effect, by a resolution of the NOJ President even before the pre-established term of secondment expires. The legislation still lacks objective criteria regarding when the legal conditions of a secondment are met, for the designation of the receiving court, the selection of the seconded judge or for determining the term of the secondment.

In case of assignments ("kijelölés"), the law only requires the NJC's consent to the termination of assignment in lack of consent of the judge concerned. Assignments continue to be granted by full discretion of the NOJ President (with respect to judges serving at lower tier courts) or the President of the Kúria (with respect to

judges serving at the Kúria), while from the perspective of irremovability, both an assignment and the termination thereof entail a removal of the judge from their former position.

Transfers of judges (“beosztás”) outside the judiciary to a wide range of administrative organs continue to raise serious concerns as to their purpose. According to the law, such transfers concurrently aim that judges gain professional experience and that they support the administrative organ with their own professional experience. This aim is most doubtful in case of judges dealing with criminal or civil cases, who do not have or need any relevant experience at administrative organs. While the aim of the transfer remains unclear, its consequences are explicit. Judges transferred to an administrative organ get a significantly higher remuneration and bonus during the term of the transfer. The transfer also entails handing over employer’s rights (including the right to evaluate the judge) and disciplinary rights to the leader of the administrative organ (e.g. a member of the Government in case of a ministry).

(2) Transfers create a bypass in judicial careers enabling the transferred judge – under the pertaining legislation – to acquire a judicial leadership position circumventing the ordinary promotion proceedings upon the termination of the transfer. Due to the fact that the minimum term of the transfer is not regulated by law, short term transfers can be applied as a disguised promotion.

(3) According to the law, in case a court leader is dismissed unlawfully, and their reinstatement is subsequently ordered by the court deciding on the matter of the dismissal, they can only be reinstated into their leadership position if that has not been filled in the meantime. This loophole can be used to overhaul certain judicial leadership positions.

(4) In 2023, at several meetings of the NJC, when the agenda of the NJC included tasks related to the first and second instance Service Courts or the Disciplinary Court of Bailiffs, the Kúria President, as ex officio member of the NJC, publicly questioned the legitimacy of these courts, claiming that these courts are established as “separate courts”. According to the Kúria President, the Seventh Amendment to the Fundamental Law “abolished all kinds of separate courts, therefore since the Seventh Amendment, except for district courts, regional courts, courts of appeal and the Kúria, no other courts can be established”. The Kúria President repeatedly claimed that “the constitutional basis for the existence of service courts and disciplinary courts has ceased to exist” anticipating the necessity of reorganising these courts for fully theoretical reasons.

(5) The Hungarian legislation allows certain individuals to get transferred from outside the judiciary to the judicial system, even if their former position was highly political. Former MPs and MEPs can be appointed as judges in case they had served as judges before taking their seat as MPs or MEPs. Once their mandate as MPs or MEPs terminates, they shall be appointed as judge upon their own request, automatically, without a cooling off period and without an application procedure and may be appointed to any court higher than the one they had served at before and may become a “head of panel” without the otherwise necessary separate application procedure. Neither the consent nor the non-binding opinion of the NJC is required for their appointment. Similarly, former university rectors can be appointed as judges upon their request in case they had served as judges before taking their seat as university rectors.

Promotion of judges and prosecutors (incl. judicial review)

5000 character(s) maximum

As a main rule, judicial promotions and leadership positions shall be granted in the framework of an ordinary application procedure, but the legislation allows for a wide range of exceptions. Decisions on promotions without an application procedure lie in their entirety in the hands of administrative leaders, who may also have full discretion to grant judicial leadership positions, which eliminates the guarantees attached to a transparent application procedure. No judicial remedy is available against appointments made without an appointment procedure. Concerns with respect to the elimination of an application procedure for judicial leadership position of head of panel after the termination of a transfer remain unaddressed (see also above at Question I.3.).

Even the outcome of a standard application procedure can be manipulated by court leaders through several means. Applications for judicial leadership positions (such as the position of head of panel or deputy-college leadership positions) are assessed by the president of the relevant court in a fully discretionary manner. Judge peers hold the right to form a non-binding opinion on the candidates by secret ballots. Although the opinion is non-binding, court presidents should consider it when assessing the candidates. Despite the above, due to the lack of guarantees, court presidents may appoint judicial leaders even against the manifest opposition of judicial peers. The appointment of a judge (the wife of the Kúria President) as head of panel at the Metropolitan Court of Appeal became public as an outstanding example of disregarding the votes of judge peers.

Besides formal appointments, the legislation provides for a variety of informal means to promote a judge. Informal appointments include (i) the possibility to assign administrative tasks to a judge (or terminate such assignment) and (ii) in the case of the Kúria, the possibility to assign special judicial positions via the case allocation scheme of the Kúria. Informal appointments are made on the basis of non-transparent decisions.

An outstanding example for an informal appointment in 2022 was to one of the highest judicial leadership positions at the top tier: it was the de facto assignment of a deputy-college leader at the Kúria for eight months. The leadership position was granted by the sole discretion of the Kúria President despite the fact that no deputy-college leadership positions were open during that term.

Another outstanding example for an informal appointment at the Kúria in 2023 was assigning additional “administrative tasks” to judge Barnabás Hajas (former State Secretary who was appointed as judge by the Kúria President without any former experience as a judge based on an unlawful appointment procedure). Judge Hajas was assigned by the Kúria President with additional administrative tasks “to provide professional support in commenting on legislation, to coordinate the staff responsible for monitoring, reviewing and organising draft laws, legislation published in the National Gazette and organisational regulations, to participate in the monitoring of the legislative and rule-making process, to participate in the process of preparing internal regulations”.

The Kúria President also ordered the payment of a 30% extra supplement for the additional administrative tasks assigned. The decision on granting additional administrative tasks to Judge Hajas and the extra remuneration were taken in a completely non-transparent manner by the Kúria President. Neither the criteria of nor the terms for an assignment for specific administrative tasks, nor the termination thereof are set out by law.

Allocation of cases in courts

5000 character(s) maximum

(1) The rules of case allocation at the Kúria were amended by the Judicial Reform with effect from 1 June 2023, but concerns remain with respect to the proper implementation of the new rules. Amongst others, the existence of an electronic system guaranteeing the automated case allocation without human intervention is

questionable. Based on the answers provided to freedom of information requests, neither the Kúria nor the NOJ could provide proof that a proper IT system guarantees the due application of the new rules on case allocation at the Kúria. Confirming the doubts around the functioning of the new case allocation system, the Kúria President publicly claimed in a radio interview that the Judicial Reform was externally driven and imposed on Hungary, is unimplementable, causes legal instability in the operation of the Kúria and was ultimately “ordered” to petrify the Hungarian judicial system.

Special concerns can be raised with respect to electoral cases. In all electoral cases, the adjudicating panels shall consist of three judges. Instead of establishing fix three-member panels for electoral matters with a transparent and foreseeable case allocation system between them, the current case allocation scheme of the Kúria defines the composition of electoral panels applying exceptional rules (under which the three-member panel can be established out of a five-member chamber) from which further derogation is allowed (in case the first exceptional rule cannot be applied for any reason). The fact that electoral panels are not fixed, but are established through the application of special rules, from which further derogation is allowed, makes it difficult for parties to a case to track back whether the panel was established in accordance with the case allocation scheme. In addition to the above, in case of electoral matters, submissions can be filed not only electronically (but also on paper). When a case is not filed electronically, nothing guarantees the application of the newly established automated system, as the pertaining legal provision only prescribes the use of the automated scheme for electronically initiated cases.

(2) With respect to the case allocation system of lower tier courts, all concerns raised in the 2023 CSO contribution remain relevant. The possibility to modify the case allocation scheme is unlimited in time. Modifications of the case allocation schemes are carried out on a regular basis, sometimes from one day to the other. Court presidents have an exclusive and unlimited right to establish the case allocation scheme. Judicial self-governing bodies are not entitled to exert meaningful control over the process of adopting case allocation schemes. The process of case allocation is not automated, but reliant on direct human intervention. The law provides for a wide range of exceptional rules without establishing guarantees against their inappropriate application. Parties in a court proceeding cannot verify the proper application of the scheme and whether any of the wide range of exceptional rules were applied in allocating their case.

(3) The CC does not have a case-allocation scheme at all. Since 2012, the CC has had the competence to review final and binding judgments delivered by ordinary courts with respect to their compliance with the Fundamental Law. The safeguards attached to the right to a lawful judge shall be applied at least in relation to the resolutions regarding the review of ordinary court decisions, however, the CC does not have a case allocation scheme and cases are handed down to judges as rapporteurs under non-transparent rules.

(4) At appeal courts in Hungary, judges are assigned to chambers and the case allocation schemes also determine which chambers deal with which types of cases. There is no legal obstacle to apply the case allocation scheme as an informal method to transfer judges from one adjudicating chamber to another arbitrarily, without their consent and thereby reshuffle or even to fully dissolve well-functioning adjudicating chambers. Such transfers are widely applied despite having a substantial impact both on the status of individual judges and on the adjudication of specific types of cases. On one hand, arbitrary transfers affect the status of the judge as being the member of a specific chamber determines a judge’s areas of work, and the types of cases they shall deal with. On the other hand, the reshuffling of chambers may affect the adjudication of specific types of cases heard by the chambers. An outstanding example for reshuffling the composition of chambers was the dissolution of a full and well-functioning chamber at the Kúria as an alleged response to dissent. No judicial remedy is available against this type of transfers as it is practically carried out on the basis of an amendment to the case allocation scheme (which determines which judges shall make up a given chamber, and what types of cases that chamber will adjudicate).

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

5000 character(s) maximum

Effective from 1 June 2023, the Judicial Reform significantly improved the legal status and competences of the NJC, which is a step in the right direction.

After establishing stronger powers for the NJC under the Judicial Reform – so it can effectively exercise its constitutional role in supervising the central administration of courts – it is also extremely important to safeguard the independence of the NJC by ensuring that its composition represents the will of the judges and is free from any formal or informal pressure. Only an independent NJC may fulfil its constitutional role in line with its newly strengthened powers.

Several factors prove, however, that significant political and administrative pressure was exerted on the election process.

- Referring to the fact that the Judicial Reform exceptionally allowed for current NJC members to get re-elected, Gergely Gulyás, the Minister heading the Prime Minister's Office hinted at a news conference that some NJC members acted in their own interests. To disprove this claim and to protest against ad hominem legislation, elected members of the NJC waived their right to be re-elected, arguing that they had not sought for such a right.
- Another reported example is the top-down interference of the President of Hungary's largest regional court in Budapest, the Metropolitan Regional Court, who instructed court leaders to convene open plenary "consultations" at their judicial departments to choose the electors. This is problematic because the law prescribes full secrecy of the voting process. Despite concerns publicly raised by current members of the NJC, the "consultations" were held, breaching the rules of the election process.
- According to news reports, the Kúria President sent a letter to the Hungarian Association of Judges (MABIE), in which he expressed that he would "consider it fortunate" if the electors would elect as member of the NJC one or two administrative leaders falling within the power of appointment of the NOJ President. The NJC publicly stated that the letter questions whether the Kúria President respects the electors' autonomy in their decision-making and the fairness of the NJC election and also pointed out that the electors could easily identify the "administrative heads" referred to by the Kúria President.

The Judicial Reform failed to establish a conflict-of-interest rule whereby judicial leaders appointed by the NOJ President and with respect to whom the NOJ President exercises the employer's rights are excluded from becoming members of the NJC. The lack of such conflict-of-interest rule is problematic for the future election and operation of the new NJC, as (i) non-judicial leader NJC members may not dare to challenge judicial leader NJC members on issues within the NJC decision-making processes; (ii) it is questionable whether judicial leaders appointed by the NOJ President are able to exercise independent and impartial supervision over the NOJ President exercising the rights of employer with respect to them; and (iii) judicial leaders' formal and informal influence at courts makes it easier for them to be elected as NJC members at the NJC's Assembly of Delegates.

As regards to the last point, a concerning example is that at the Veszprém Regional Court, only court leaders were elected as delegates in the current NJC election procedure. According to the first news, one of the 14 elected members for the next six-year term of the NJC is a regional court president.

Court leaders, government politicians and pro-government media outlets continued to discredit the operation and question the integrity and independence of the NJC in 2023:

- On 2 March 2023, the Kúria President spoke to ambassadors based in Budapest. In his speech, in

relation to the draft of the Judicial Reform, he stated that NJC's new functions and powers "do not correspond to the European standards". He also commented that district court members of the NJC "despite their lack of professional experience at the highest court level, have a say in the administrative affairs of the Kúria which is unprecedented in Europe".

- On 5 July 2023, the Kúria President released a public statement on the Kúria's official website, stating that the 2023 EC Rule of Law Report adopted "without verification, the arbitrary opinion of the National Judicial Council on the Kúria" (see more under Question IV.16. of this contribution). Minister Gulyás also commented publicly that "it is difficult not to agree with the words of the Kúria President", referring to the Kúria President's earlier comment.
- Smear campaigns discrediting judges who are members of the NJC continued, also putting pressure on potential candidates of the new NJC.

Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)

5000 character(s) maximum

The Integrity Policy issued by the NOJ President can still be used as a tool to silence judges who want to speak up inter alia for judicial independence, by claiming that the topic is political and/or an activity that infringes their integrity. The NOJ President has not amended the Integrity Policy since his election.

The disciplinary cases of judges are decided by service courts, the operation of which is not public according to the law. For years, not even the individual decisions of the service courts were published in any way, only aggregated data were provided by the NOJ President regarding the number and the outcome of the disciplinary proceedings. From November 2022, the NJC has started to publish on its website some recent anonymized disciplinary decisions for the years 2021 (14 decisions), 2022 (eight decisions) and 2023 (11 decisions).

The Kúria President implicitly questioned the legitimacy of the service courts on at least two occasions, claiming that the Seventh Amendment to the Fundamental Law cancelled all special courts other than the ordinary courts.

In the first half of 2022, four judges received written warnings, three of them for misconduct in the performance of their duties and one for a behaviour harming the dignity of the judiciary. In the first half of 2022, disciplinary proceedings were initiated against six judges before the first instance service court (in four cases for misconduct in the performance of their duties and in two cases for a behaviour harming or endangering the dignity of the judiciary). In the first half of 2022, three proceedings ended with the imposition of disciplinary sanctions (one case of rebuking, one case of reprimanding, one case of reduction by one salary level).

Judgment C-564/19 of the Court of Justice of the European Union (CJEU) remains non-executed, as the Judicial Reform failed to address the effects of the binding precedential decision by the Kúria, according to which referring a question to the CJEU is unlawful under Hungarian law if the question referred is not relevant to and necessary for the resolution of the dispute concerned (see more at Question IV.10. of this contribution). This is particularly concerning, as the mere act of referring a question to the CJEU served as the basis for initiating a disciplinary action against a judge in the past.

In March 2023, the Plenary Meeting of the Group of States against Corruption (GRECO) adopted a new interim compliance report regarding corruption prevention in respect of members of Parliament, judges and prosecutors. The report concluded that there are still serious deficiencies regarding the implementation of GRECO's recommendations, including the ones regarding the immunity of judges or the immunity of public prosecutors that remain not implemented or the one regarding the disciplinary proceedings against prosecutors that is only partly implemented.

The procedure regarding the constitutionality of the new, NJC-adopted Code of Ethics at the CC is still pending, and the ongoing dispute and the chilling effect that it exerts on the NJC and the judges continues to have a negative impact on judges' freedom of expression and participation in professional debates.

Remuneration/bonuses/rewards for judges and prosecutors, including observed changes (significant and targeted increase or decrease over the past year), transparency on the system and access to the information

5000 character(s) maximum

The salary of judges and court staff is critically low in Hungary, does not commensurate with the status, dignity and responsibility of the judicial office and endangers the independence of the judiciary (see more at Question I.13. of this contribution)

The Hungarian legislation provides a wide discretion to the NOJ President and judicial leaders in determining the bonuses of their employees, therefore, self-censorship can easily be achieved by cutting (or granting) bonuses. There is no closed statutory list or definition of the types and forms of support that the NOJ President and other judicial leaders can distribute among judges, nor are there clear criteria as to what can serve as the basis for such decisions. For instance, the internal regulations list premiums and bonuses that can be granted in the framework of the labour force preservation programme of the court system. Regarding these supplements and bonuses, it is often the discretionary decision of the employer whether to allow the judge to participate in the activities that serve as the basis for granting the bonus, e.g., a court president can prevent a judge from participating in projects, acting as an instructor for younger judges or being a member in judicial working groups, which automatically deprives them from the possibility of receiving certain types of bonuses.

Tamás Matusik NJC President and Judit Oltai, former MABIE President lately also criticized the lack of transparency of paying allowances.

The Judicial Reform Act gave competence to the NJC over the “other allowances”, as the law from 1 June 2023 provides that “[t]he amount and the detailed conditions and rates of the allowances provided for in Paragraphs (1) and (2) [of Article 189], including the conditions for the granting of allowances, shall be laid down by the NOJ President in their internal regulations, in cooperation with the representative bodies, and with the NJC’s consent”. However, the Judicial Reform did not set a deadline for amending the current internal regulations that have been in effect since 2013 (amended last from 1 January 2023). The NOJ President has not amended the internal regulations in question, i.e. NOJ President Order 5/2013. (VI. 25.) in 2023 and therefore the NJC could not exercise its right to consent yet. An approach in line with rule of law principles require the NOJ President to amend the part of the internal regulations dealing with “other allowances”, the draft of which would be shared with the NJC for its consent. There is a risk that the NOJ President will not amend the internal regulations, thus preventing the NJC from influencing the detailed conditions and rates of the allowances for judges.

Furthermore, the law provides that other allowances including bonuses must be given “in cooperation with the representative bodies”. However, the MABIE President – regarding the year-end bonus of minimum HUF 650,000 (€ 1,700) to judges and court staff – claimed that the MABIE was not consulted before making the proposal for such bonuses neither in 2022 nor in 2023.

The CC rejected a complaint based on a freedom of information lawsuit which sought to access data on the bonuses paid to the NOJ’s senior staff (see in more detail under Question IV.5. of this contribution).

Independence/autonomy of the prosecution service

5000 character(s) maximum

The concerns raised by the 2023 Rule of Law Report in relation to the organisation of the prosecution service have not been addressed in any form; structural shortcomings following from the lack of internal checks and balances within the prosecution service and from the Prosecutor General's ability to unaccountably influence the work of subordinate prosecutors and to interfere in individual cases have not been tackled. Thus, the 2023 Rule of Law Report's conclusion that there is a "persistent risk of top prosecutors influencing the work of subordinate prosecutors and interfering in individual cases, which is facilitated by the strictly hierarchical architecture of the prosecution service and a lack of internal checks and balances within the prosecution service" remains valid.

Furthermore, as also pointed out by the 2023 Rule of Law Report, the "continued possibility to maintain the Prosecutor General in office after the expiry of his/her mandate" by a minority blocking the election of its successor in Parliament "could expose him/her to undue political influence". This situation was criticized by the Venice Commission as early as 2012, and GRECO also recommended that this possibility is reviewed by the Hungarian authorities, to no avail. Moreover, the Prosecutor General can only be removed from office with a two-thirds majority of Members of Parliament as a result of a 2021 amendment. The incumbent Prosecutor General was re-elected in 2019 for nine years by the governing parties.

GRECO's recommendation that the immunity of prosecutors be limited to activities relating to their participation in the administration of justice ("functional immunity") remains not implemented.

It was also recommended by GRECO that disciplinary proceedings in respect of prosecutors be handled outside the immediate hierarchical structure of the prosecution service and in a way that provides for enhanced accountability and transparency. As a result, the respective rules were amended to involve a disciplinary commissioner in disciplinary proceedings. GRECO welcomed this step, but pointed out in its 2023 compliance report that the disciplinary commissioner's "role is limited, and the superior prosecutor is still leading the overall procedure", and that "[n]o measures to increase the transparency of the process has been reported" by the Hungarian authorities.

In sum, out of the four recommendations issued by GRECO in 2015 in relation to corruption prevention in respect of prosecutors, one recommendation remains not implemented, while two remain only partly implemented.

The recommendation made by the EC in the 2023 Rule of Law Report to "[e]stablish a robust track record of investigations, prosecutions and final judgments for high-level corruption cases" (i.e. high-level officials and their immediate circles) has not been complied with.

With a view to accessing EU funds by fulfilling the respective "super milestone" set under Hungary's RRP and adopting the corresponding anti-corruption measure from among the 17 remedial measures that Hungary committed to in the framework of the conditionality mechanism, a new law was adopted that, as of 1 January 2023, provides for the judicial review of prosecutorial decisions not to open or to close an investigation in corruption-related cases. The new special remedy process allows for private prosecution in such cases, enabling both private individuals and legal entities under private law to take cases of corruption before justice. However, "the prevailing rules (short deadlines, limited access to case files, lack of the right to legal remedies) make an effective prosecution impossible.

According to information received from the National Office for the Judiciary, until the end of October 2023, 22 complaints were submitted, out of which the court dismissed 17, while the decision regarding the remaining 5 complaints was underway. Until the end of October, no motion for private prosecution was submitted. A major deficiency of the regulation is that it is only applicable in case of criminal processes terminated or crime reports submitted on 1 January 2023 or later, which is in clear contradiction with the requirements laid down in [the respective RRP] milestone."

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

5000 character(s) maximum

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

5000 character(s) maximum

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(1) In 2023, the Committee of Ministers (CM) monitoring the execution of judgments by the European Court of Human Rights (ECtHR) put on its agenda the execution of the judgment in the Baka v. Hungary case in March and subsequently in December again. In its decisions passed, the CM reiterated its utmost concern about the lack of information in response to Interim Resolution CM/ResDH(2022)47 and the absence of progress, more than seven years after the Baka judgment became final. The CM urged the authorities to present an evaluation of the guarantees and safeguards protecting judges from undue interferences, to enable “a full assessment as to whether the concerns regarding the ‘chilling effect’ on the freedom of expression of judges caused by the violations in these cases have been dispelled”. The CM invited the authorities to provide information on developments in the proceedings before the Constitutional Court initiated by the Kúria President with respect to the new Code of Ethics for Judges.

(2) Despite the enhanced monitoring of the freedom of expression of Hungarian judges in the Baka case and the fact that elections to the NJC started in September 2023, smear campaigns against judges as members of the NJC continued. On 7 July 2023, the government-aligned propaganda media released an article claiming that the NJC should be abolished for being biased. The title of the article suggested that members of the NJC are “old guttersnipes”. On 5 October 2023, another smear article claimed that members of the NJC are “service staff of the empire” (hinting at the US and its Ambassador to Hungary).

(3) The Kúria President publicly questioned on several occasions the legitimacy of the rules on court administration. On 2 March 2023, in his welcome address to ambassadors assigned to Hungary, the Kúria President discredited the supervisory functions of the NJC claiming that the “National Judicial Council has a large number of members coming from local courts who, in spite of their lack of experience at a supreme level, interfere with the [Kúria’s] management matters, which is also unprecedented in Europe”. On 3 July 2023, barely one month after the entry into force of the Judicial Reform, the Kúria President gave a radio interview in which he claimed that the Judicial Reform was externally driven and forced on Hungarians, inapplicable, causing legal instability in the operation of the Kúria and was ultimately “ordered” to petrify the Hungarian judicial system. The interview outlined a new political narrative, according to which the sovereignty of Hungary needs to be protected against the actors requiring the country to adopt the Judicial Reform.

(4) Overruling final and binding decisions of ordinary courts has been a practice of the Hungarian legislation to enforce the political will of the ruling majority. At his hearing before the Justice Committee of the Parliament, the new Minister of Justice, Bence Tuzson publicly claimed that the Ministry of Justice (MoJ) will pay attention to the content of the judgments delivered at Hungarian courts and “if the judgments do not serve the interests of Hungarian citizens and institutions” the MoJ will amend the legislation.

A first example of threatening courts with “over-legislating” a final and binding judgment was a case where a transgender woman’s right to pension after 40 years of employment was acknowledged by the court. Ruling party politician Gabriella Selmeczi claimed the ruling to be proof of the LGBTQ propaganda in Hungary and a provocation against the legislature, and envisaged the modification of the law. Ten days later, a draft law was submitted to the Parliament, excluding the possibility of trans women’s right to pension after 40 years. According to the explanatory memorandum attached to the draft law, “the amendment clarifies what the legislator’s original intention was, and what had not been in doubt under common sense until now: that the ‘women 40’ preferential pension entitlement is for those who have worked as women for 40 years [...] The Fundamental Law clearly states that Hungary takes into account the sex at birth, so it is not possible to take into account any change contrary to biological determination, but even in countries other than Hungary, which allow gender reassignment almost at will, it is inconceivable that an entitlement which recognises the prominent role played by women in society could be abused by those who, after 39 years of employment as men, suddenly feel themselves to be women.” The draft law was drawn up to be applicable with immediate effect, also in pending cases ensuring that the merit of the decision of ordinary courts is overturned.

B. Quality of justice

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section 2)

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

5000 character(s) maximum

(1) In criminal procedures, defendants are entitled to use their mother tongue, or any other language spoken /understood by them, as well as sign language. However, the law stipulates that if it is not possible to find an interpreter who meets the statutory criteria, any other person having “sufficient knowledge of a certain language” could be appointed as an ad hoc interpreter. This may cause problems in practice with regard to the quality of interpretation and translation, as there are no measurable guarantees for what is sufficient, and persons not having sufficient command of a given language may be appointed as well. The lack of a formalised quality assurance system is also a concern. There is still no central state register for independent translators and interpreters who are appropriately qualified, and Hungary has not taken any other concrete measures either to ensure that the quality of the interpretation and translations provided is sufficient to enable defendants to understand the accusation against them and in order that that interpretation can be reviewed by the national courts. It can be argued that this goes against the CJEU’s preliminary ruling handed down in Case C-564/19. The law only requires the translation of those documents that are to be served, and defendants have no right to request the translation of further documents they regard to be essential, contrary to EU law.

(2) If it is foreseen that due to their financial situation the defendant will be unable to pay the costs of the procedure or parts of it, authorities may grant them cost reduction, entailing that the fee and the costs of the defence counsel are advanced and borne by the state. However, the threshold for such cost reduction is too high: defendants have to live way below the minimum subsistence level to qualify. In addition, administrative requirements are rigid and difficult to comply with. As a result, it can be presumed that many indigent defendants are not granted a cost reduction. The high eligibility threshold applies to legal aid in other areas as well, and so concerns as regards the level of inclusiveness of the legal aid scheme in general, as raised by the 2023 Rule of Law Report, remain valid. There is no quality assurance system in place for legal aid lawyers.

(3) The Constitutional Court’s emerging practice when reviewing the constitutionality of ordinary court judgments gives rise to concerns. In general, the CC avoids to review the courts’ adjudication in concrete details, e.g. their interpretation of the applicable laws, and only sets the constitutional boundaries for interpretation. The CC does not as a general rule act as a court of appeal or super-court, it annuls a judicial decision only if it violates a fundamental right. In most cases, not even a clearly contra legem interpretation of the law is regarded to amount to a violation of the right to a fair trial. However, the CC’s jurisprudence has started to change by introducing an argument that, exceptionally, on a case by case basis defined by the CC, the contra legem interpretation of the law by ordinary courts may qualify as a breach of the right to a fair trial. This has allowed the CC to act essentially as a fourth instance court in politically sensitive cases and to annul judicial decisions unfavourable for the Government. There seems to be an imbalance in this regard, whereby, the CC is more inclined to act as a fourth instance in such cases than in relation to ordinary constitutional complaints without political connotations.

(4) The lack of deadlines in the CC’s proceedings, or the CC’s failure to respect the existing deadlines, constitutes a serious obstacle to access to justice. In May 2023, the CC decided after 10 years on a constitutional complaint challenging an individual judgment on a freedom of information request. The Fundamental Law stipulates that on the request of a judge, the CC should review, within 90 days at the latest, the constitutionality of the law applicable to the individual case. However, the CC occasionally ignores even the 90-day constitutional deadline, making it unforeseeable for the parties to the main proceeding when their case resumes before the ordinary court. A striking example is that it took more than one and a half years for the CC to deliver its ruling on the ban on legal gender recognition.

Resources of the judiciary (human/financial/material)

(Material resources refer e.g. to court buildings and other facilities. Financial resources include salaries of staff in courts and prosecution offices.)

5000 character(s) maximum

Regarding financial resources provided for courts by the state, for 2021, the proposed central budget expenditure was HUF 141,964.5 million (ca. € 396 million). For 2022, the proposed central budget expenditure of the courts was increased to HUF 155,649.5 million (ca. € 422 million). For 2023, the proposed central budget expenditure of the courts was HUF 160,377.3 million (ca. € 418 million). For 2024, the proposed central budget expenditure of the courts was HUF 155,662.4 million (ca. € 406 million).

The salary of judges and court staff is critically low in Hungary, does not commensurate with the status, dignity and responsibility of the judicial office and endangers the independence of the judiciary. The legislation does not guarantee the periodical review of judicial salaries to overcome or minimise the effect of inflation. The salary increase for judges made in previous years was discontinued for the year 2024. The base salary of both judges and prosecutors has been raised from gross HUF 507,730 (ca. € 1,418) for the year 2021 to HUF 566,660 (ca. € 1,538) for the year 2022 – but remained at this level both for 2023 (when the annual inflation exceeded 15%) and for 2024 (when the annual inflation exceeded 17%).

Court staff's salary consists of a base salary (that is connected to the judges' base salary) plus potentially a "place of work" supplement (if an employee works at the Kúria, the NJC or the NOJ) or a "title supplement" (that the court, the NJC or the Minister may grant to employees with more than 10 years of work experience). From 1 December 2023, the base salary may not be lower than gross HUF 266,800 (€ 698) and gross HUF 326,000 (€ 853) for posts that require secondary education. According to an NJC member the salary of a court staff with 35 years of experience is a net HUF 270,000 (€ 706).

In 2023, representatives of judges called upon the necessity of a salary increase for judges and court staff. The NJC made a statement to the news media claiming that the "NJC is also aware that the high turnover of judicial staff, due to low salaries, is a threat to the viability of the judicial organization". In June 2023, the NJC proposed an amendment of the laws that from 1 September 2023 the salaries of both judges and court staff be increased at least in line with the inflation. MABIE in a public statement "drew the attention of the Minister of Justice to the worrying situation in the organisation of the judiciary, which is already threatening the functioning of the courts and the independence of the judiciary". On 4 January 2024, the MABIE issued another public statement in which it stated that despite the high inflation in the last years, the salaries at courts have not been increased, while salaries in other public sectors have been, which could mean that "not only the functioning of the judiciary but also compliance with the rule of law in the EU is at stake!" and which jeopardizes the material aspect of judiciary independence.

The low salaries and the increased workload mean that according to news reports many people are leaving the judicial system at some courts. A few dozen judges also signed a petition in May 2023 that requested the salary increase of court staff helping their work. According to the 2022 annual report of the President of the biggest Hungarian court, the Metropolitan Regional Court, between 1 January and 31 December 2022 the actual number of judges working at the court decreased by 35 (the allowed the number of judges was 764 on 31 December 2022) and the actual number of court staff working at the court decreased by 88 (the allowed number of court staff was 2156 on 31 December 2022).

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

5000 character(s) maximum

It is the NOJ President who decides on and supervises the implementation of the central training program

and who determines, with the NJC's consent, the rules for the judicial training system and fulfilling training obligations. The NOJ President publishes the annual training plan on the central court website. Since 2021, an expert group of 16 judges, invited by the NOJ President, has also assisted in preparing and executing the central training plan.

The Hungarian Academy of Justice (Magyar Igazságügyi Akadémia, MIA) is responsible for the training of judges and others involved in the administration of justice and carries out the task of the uniform, central training of judge trainees ("fogalmazók"). MIA operates within the NOJ, and its head is appointed by the NOJ President. The information on the MIA website is very scarce; not even the name of MIA's director is indicated.

The NJC makes a proposal for the central training plan. Since the Judicial Reform entered into force, it can exercise the right to consent regarding the rules for the judges' training system.

Participation in different training programs and teaching is important for judicial career development. These activities are rewarded with points in judicial applications. In recent years, the NJC has urged a more transparent and merit-based system for selecting judge trainers and providing equal access to national and international training.

In April 2023, the NJC made some proposals regarding the 2024 central training plan, which concerned mainly the principles of the judicial training system. The NJC emphasised that training plans should reflect the demands of practising judges to the greatest extent possible. It argued for organising training programs with other legal professionals, such as prosecutors, attorneys and notaries, and stressed that preference should be given to in-person training. The NJC highlighted that a "trainer database" should be established and made public, and equality of access to training should also be safeguarded. In December 2023, when the NJC discussed revising the scoring system for judicial applications, some NJC members raised similar concerns.

According to the 2024 training plan, as a very recent development, MIA established the required "trainer database". Trainers for the database can be recommended by the expert group, professional court leaders, but judges can also apply voluntarily. The expert group will select the trainers for a particular event based on their previous professional work and training evaluation record. The database will be searchable based on fields of law and updated every two years. No further information about the database is yet available. Compulsory trainings are organised primarily for junior judges appointed for a fixed three-year term, court clerks and judge trainees, aiming to prepare for the judicial office. As the Hungarian judiciary is traditionally built on a career system, judges are selected mainly among court clerks who previously entered the judiciary as judge trainees. Therefore, judges are typically trained and socialised within the judicial organisation, making compulsory training important. Court executives should participate in leadership training; in 2023, district court presidents and vice-presidents had to take part in such training. The 2024 training plan envisages training for the presidents and vice-presidents of regional courts and regional courts of appeal.

In March 2023, when the draft of the Judicial Reform was under negotiations, the Kúria organised an international conference titled "Institutional safeguards of judicial independence". The conference was not publicly advertised, and NGOs, academics and journalists who sought to register for the event were not allowed to attend on the grounds that the conference was already full, thus preventing any debate from developing on the spot. Even the NJC complained at one of its meetings that it had not been invited to the conference. Later, the Kúria President argued that everything was done to ensure full publicity for the event: the conference was broadcast live in the hall of the Kúria, and the presentations were soon made available on YouTube.

In December 2022, representing Hungary as an observer member of the Organisation of Turkic States (OTS), the NOJ joined the Turkic Judicial Training Network (TJTN) as the sole member from the EU. The TJTN was established to draw an institutional frame under the umbrella of the OTS and "facilitate cooperation and coordination in the field of judicial training". Reminding of the fact that thousands of Turkish

judges have been sacked or jailed in recent years, members of the NJC pointed out that taking part in the TJTN goes against acknowledging the independence of judges and being solidary with judges who were persecuted and harassed for their independence, therefore the NJC requested the NOJ President to review the participation of the NOJ in the TJTN.

Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, procedural rules, access to judgments online)

5000 character(s) maximum

As far as the legal framework is concerned, in criminal procedures, if the technical conditions are in place, the use of a telecommunication device (i.e. a remote hearing) shall be the main rule for procedural acts requiring the presence of the defendant in certain cases (e.g. if the defendant is detained). Prescribing remote hearings as a general rule is problematic due to the breach of the principle of immediacy that remote hearings necessarily entail, also with a view to the ECtHR's related case-law. Furthermore, it gives rise to concerns that there is no right of appeal against the rejection of a request to use a telecommunication device, and, as a main rule, against the ordering of a remote hearing. This is problematic because the use of a telecommunications device may have a material impact on the evidence obtained in the course of the hearing, particularly in the case of digitally vulnerable persons (the elderly, or persons with intellectual disability, psychosocial disability or certain mental disorders).

Under the law, the interrogation of the defendant in the course of the investigation may also be conducted via telephone conference. This can carry a risk for the defendant, e.g. because potential coercion may be more difficult to detect. These concerns also apply to the interrogation of witnesses as well, who can be questioned via a telephone conference in any phase of the procedure.

When a remote connection is established between several separate locations and in the case of having multiple cameras at the location of the procedural act in a criminal procedure, simultaneous transmission of all camera recordings at the location of the procedural act and at each separate location shall be ensured as far as possible. However, the procedural act may be conducted even if the simultaneous detection of the camera recordings of the procedural act or from the separate locations cannot be ensured, i.e. if not all of the transmissions are visible to the proceeding authority and the participants of the procedural act. The latter possibility may raise concerns as regards the right to defence and the effective right to be present at the trial.

As far as the practice is concerned, the preliminary findings of an empirical research currently being carried out by the Hungarian Helsinki Committee in the framework of the EU-funded project "DigiRights - Digitalisation of defence rights in criminal proceedings" show that while it is true that digital tools are widely available in the criminal justice system and in general in the judicial system in Hungary in comparison with other EU jurisdictions (as also shown by the country's respective rankings in the EU Justice Scoreboard as cited by the 2023 Rule of Law Report), but stakeholders are mostly left to their own devices in terms of acquiring the soft skills necessary for running a digital justice system, and effective trainings for judges, prosecutors and attorneys seem to be lacking. From the attorneys' point of view, it can be burdensome that several digital systems are operated and need to be used by them simultaneously, and, naturally, each of them can be accessed and work differently. At the same time, digital skills are not part of the curriculum of the basic and advanced legal training. Furthermore, there are large geographical differences in the efficiency of digital document management.

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)

5000 character(s) maximum

The NOJ President conducted surveys on the perception of judges about the threats to their independence and integrity yearly between 2015 and 2019. In the years 2020, 2021, 2022 and 2023 however, the NOJ President has not conducted such surveys.

Annual reports on judicial administration data by the NOJ President get published with a considerable delay: it was only on 15 November 2023 that the central judicial website published the NOJ President's annual review for the first half of 2022 that the Parliament had just approved. Data in the review include caseload, arrival and termination of cases, timeliness, soundness of the judgments, efficiency, the changes of laws affecting courts' operation, human resources, composition of the judiciary, judicial career, material resources, management of the judicial organization, disciplinary proceedings, education, functioning of the NOJ.

In June and in July 2023 the NJC had to request additional information from the Kúria President to be able to assess his practice for appointing judges and court leaders in 2022. Eventually, the NJC deemed that the Kúria President provided the necessary information which, however, is not available to the public.

The publication of the detailed minutes uniquely contributes to the transparency of court administration, however, the law only prescribes the publication of the excerpt of the minutes of the NJC meetings, not the minutes themselves, which is only made available by the current NJC's practice. This provides much needed transparency over the central court administration and the Kúria administration. As a response to criticism and undermining the evident need for the transparency of decision-making with respect to court administration decisions, the Kúria launched an "investigation" after information with respect to the adoption of a new case allocation scheme became public. Parallel to the press release issued by the Kúria, an anonymous article in the propaganda media appeared, suggesting that a judge from the Kúria leaked classified data when sharing information with respect to the process of adoption of the case allocation scheme of the Kúria.

Geographical distribution and number of courts/jurisdictions ("judicial map") and their specialization, in particular specific courts or chambers within courts to deal with fraud and corruption cases

5000 character(s) maximum

The Hungarian court system went through a definite centralisation process between 2019-2021 through a series of legislative steps adopted in the form of omnibus acts. The centralisation was particularly strong in the administrative section of adjudication, where the stakes for the Hungarian government are high and where judges decide in matters of fundamental rights (e.g. elections, administrative decisions by the police, asylum or the exercise of the right to peaceful assembly) and in cases with significant economic relevance (e.g. disputes over taxation and customs, media, public procurement, construction and building permits, cases of land and forest ownership, land and real estate public records or even market competition matters). In the new system, an overwhelming part of the administrative judicial powers is concentrated in the hands of the Kúria. The centralisation process modified the court system in a manner that increased the likelihood of adjudicating politically sensitive cases in a way that is favourable for the Government.

The centralisation process progressed further in 2023. Besides new narrowed rules on eligibility for the position of Kúria President (see above under Question I.2.), a new regulation was introduced with respect to the composition of uniformity complaint chambers. The composition of uniformity complaint chambers is of high importance from the perspective of both the outcome of individual cases and the jurisprudence of all Hungarian courts, due to the fact that uniformity complaint chambers are entitled to review and overrule the final and binding decisions of other chambers of the Kúria and issue uniformity decisions establishing mandatory interpretations of the law. Due to the fact that uniformity complaint chambers function as a supreme court within the supreme court, membership in the uniformity complaint chamber practically means the highest possible professional position within the ordinary court system.

The new rules on the uniformity complaint chamber govern its size, quorum, composition, and the chamber's case allocation, converting the formerly applicable rules arbitrarily established and introduced by the Kúria President into cardinal law. While uniformity decisions are a very powerful tool to control the content of adjudication and may even serve to "balance external judicial influences" (i.e. to counter decisions of international courts, ECtHR and the CJEU), the new rules do not adequately guarantee the required level of autonomy and professionalism in decision-making. The size of the chamber is not defined with sufficient clarity, leaving a wide margin for manoeuvring in practice. The rules on the composition of the chamber do not ensure professionalism in decision-making. The judge rapporteur is not automatically appointed, and the rules do not require any adjustment of the chamber's composition depending on the subject matter of the case. The Kúria President has a central role holding the right to preside over uniformity complaint cases, and the administrative powers to appoint judges who may become members of the chamber. Through this privileged role, the Kúria President holds a strong formal and informal power in the adjudication of individual cases and in shaping the mandatory interpretation of the law.

C. Efficiency of the justice system

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section 2)

Length of proceedings

5000 character(s) maximum

As reported in previous years, in response to the long-standing demand by the Committee of Ministers of the Council of Europe supervising the execution of ECtHR judgments, with a view to complying with the pilot judgment handed down in 2015 in the *Gazsó v. Hungary* case concerning the excessive length of judicial proceedings, the Parliament adopted Act XCIV of 2021 on the Enforcement of Pecuniary Satisfaction Relating to the Protractedness of Civil Contentious Proceedings, which introduced a compensatory (financial) remedy for the excessive length of certain proceedings as of 1 January 2022.

However, the law (which took five years, 14 CM decisions and three CM interim resolutions to get adopted after the pilot judgment) introduced the compensatory remedy only for excessively lengthy civil proceedings (civil law trial cases). Thus, no compensatory remedy is available for protracted administrative court procedures or criminal proceedings, and the law does not cover non-contentious (non-trial) procedures either, such as enforcement proceedings, or constitutional review procedures. In its latest decision, issued in June 2023, the CM "expressed their serious concern that despite the authorities' announcements for a draft legislation by June 2023 and the [CM's] request for an accelerated planning, no information has been communicated as regards the outstanding administrative and criminal remedies; urged the authorities to intensify their efforts in these respects and to provide the [CM] with a concrete timetable for the legislative process for administrative and criminal remedies without further delay; given that the compensatory remedy in Act No. XCIV of 2021 is not applicable to non-contentious civil proceedings, firmly invited them to find a solution ensuring that all kinds of civil proceedings falling under the scope of Article 6 of the Convention (in particular non-contentious proceedings) are covered by a remedy for excessively lengthy proceedings as required by the [European Convention on Human Rights] and the [ECtHR's] case-law". However, no legislative steps have been taken to date to comply with the CM's decision in this regard.

In its decision of 30 March 2023 delivered in the case of *Szaxon v. Hungary*, the ECtHR found that the newly introduced compensation scheme guaranteed in principle a genuine redress for violations of the European Convention on Human Rights originating in the protractedness of contentious civil proceedings. In light of the ECtHR's decision, the CM decided to end its supervision in the *Gazsó* case in respect of contentious civil

proceedings in June 2023.

However, it has to be highlighted that the new compensation (pecuniary satisfaction) scheme suffers from deficiencies. The law determines the durations that are regarded as excessive, but these are more lenient vis-à-vis the courts than the ECtHR jurisprudence or the time periods that the statistical analysis of the NOJ itself uses when analysing the performance of courts from the point of view of “reasonable length”. While Hungarian courts can deviate from the default rule and determine a shorter (or longer) length of time that counts as reasonable in a specific case, but the criteria for doing so are not specified in the law. Furthermore, the daily amount of pecuniary satisfaction is arguably insufficient, even in the context of the Hungarian “economic realities”: the daily amount of pecuniary satisfaction is HUF 400 (ca. € 1) per day, which in practice means that e.g. the sum of the pecuniary satisfaction for one year of protractedness is 3% of the average yearly net income.

According to the statistics issued by the NOJ, the overall number of pending court cases considered as protracted under the NOJ’s methodology decreased by 8.5% by 30 June 2023 as compared to the first half of 2022. The number of court cases pending for over 5 years also decreased by 8.6% by the end of the first half of 2023 as compared to the first half of 2022. The NOJ concluded that overall, the decrease in protracted court cases had continued also in 2023, but added that certain sub-scores, typically criminal case numbers have increased.

Other - please specify

5000 character(s) maximum

(1) Despite substantial reforms of the criminal procedure law resulting from the entering into force of the new Criminal Procedure Code in 2018, whose alleged aim was to create a system where cases are adjudicated more expeditiously, processes in major corruption cases are still protracted due to malfunctions of the judicial administration. For example, in the so called “Quaestor-case”, the prosecution service pressed charges in early 2016 for embezzlement and fraud committed in a criminal organisation, and there is still no first instance court decision. The case had to be reassigned and, consequently, the process restarted in the court’s first instance twice, due to a change of the judge hearing the case. In the “Simonka-case”, the prosecution service indicted former government MP György Simonka for budgetary fraud committed in a criminal organisation in 2019 and three and a half years did not suffice for the first instance court to decide in the merits of this case. Again, this case was also reassigned twice following indictment, and had to be restarted due to the change of the judge. In February 2024, this process starts from the first hearing for the third time. These incidents indicate that despite the reforms, the judicial administration is still not capable of dealing with complex criminal cases in a timely manner. The protraction of criminal proceedings violates the fair trial principles, and, according to long-standing judicial practice, if it is imputable to the authorities, it entails the mitigation of the sanction. Protraction therefore not only places the enforcement of fair trial principles into doubt, but, due to compulsory mitigation, it results in disproportionately soft punishments.

(2) Despite the regulatory reforms, concerns relating to freedom of information litigations prevail. Although changes to the freedom of information legal framework introduced in 2022 removed some of the most burdensome legal barriers of accessing information, many obstacles remain. A fundamental shortcoming of the enacted changes is that none of them addressed the widespread practice of data holders to not comply with requests or to reject them with vague justifications that can only be contested efficiently before court. This empties out the freedom of information framework for many who do not have capacities to engage in litigation.

Due to the reforms, courts are expected to expeditiously rule in all instances in legal disputes relating to the accessibility of public interest information. These provisions are applicable since 1 January 2023 and the first

experiences are promising, although not all the courts respect the new regulations when setting the deadlines of hearings. Transparency International Hungary suggested in the Anti-Corruption Task Force that the Ministry of Justice assesses if these new regulations are properly enforced by all courts concerned in practice. On the other hand, the reform enables third party litigants to intervene in order to prevent the publication of business secrets, which puts disproportionate burden on the plaintiff. Furthermore, the reform fails to repeal all legal obstacles thrown in the way of accessing information introduced since 2012, and it omits to amend rules on legal remedies in freedom of information cases, which, at present, do not reflect the principle of equality of arms in a court process, and disproportionately distribute the burden of proof. This results from court precedents that allow for the defendant to present new evidence and invoke new grounds to justify the denial of the public interest information request during the process.

(3) From 1 July 2021, the Kúria President established a research institute (Werbőczy István Országbíró Kutatóintézet) at the Kúria, operating directly subordinated to him. Its budget was HUF 80 million, ca. € 211,000 (excluding the salaries of the staff) for 2023. According to the Kúria, there are 26 consultants ("főtanácsadó") working at the research institute as part of the court staff. Their job is both to help the research activities of the Kúria (e.g. writing papers for the 300-year anniversary of the Kúria) and to assist with their research work the Kúria's judges in their adjudication. As to the latter, while participating in the preparation of judgments, they may also access court files. These consultants are selected via "calls for application or by individual applications, with the involvement of college leaders", which makes their selection procedures lacking any kind of transparency and may pave the way for arbitrary selection of court staff accessing court files and influencing Kúria judgments.

II. Anti-Corruption Framework

Where previous specific reports, published in the framework of the review under the UN Convention against Corruption, of GRECO, and of the OECD address the issues below, please make a reference to the points you wish to bring to the Commission's attention in these documents, indicating any relevant updates, changes or measures introduced that have occurred since these documents were published.

Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the anti-corruption framework (if applicable)

5000 character(s) maximum

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

List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic and with foreign authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable)

5000 character(s) maximum

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

5000 character(s) maximum

Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators

5000 character(s) maximum

B. Prevention

Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct, ethics training)

5000 character(s) maximum

General transparency of public decision-making (including rules on lobbying and their enforcement, asset disclosure rules and enforcement, gifts policy, transparency of political party financing)

5000 character(s) maximum

Rules and measures to prevent and address conflicts of interest in the public sector. Please specify the features and scope of their application (e.g. categories of officials concerned, types of checks and corrective measures depending on the category of officials concerned)

5000 character(s) maximum

If available to you, for the three preceding questions, you are also invited to provide figures on their application, such as number of detected breaches/irregularities of the various rules in place and the follow-up given (investigations, sanctions, etc.).

Measures in place to ensure whistleblower protection and encourage reporting of corruption, including the number of reports received and the follow-up given

5000 character(s) maximum

Sectors with high-risks of corruption in your Member State:

- Measures taken/envisaged for monitoring and preventing corruption and conflict of interest in public procurement

- List other sectors with high risks of corruption and the relevant measures taken/envisaged for monitoring and preventing corruption and conflict of interest in these sectors (e.g. healthcare, citizen /residence investor schemes, urban planning, risk or cases of corruption linked to the disbursement of EU funds, other), and, where applicable, list measures to prevent and address corruption committed by organised crime groups (e.g. to infiltrate the public sector)

5000 character(s) maximum

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

5000 character(s) maximum

C. Repressive measures

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

5000 character(s) maximum

Data on the number of investigations, prosecutions, final judgments and application of sanctions for corruption offences (differentiated by corruption offence if possible) including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds

5000 character(s) maximum

Potential obstacles to investigation and prosecution as well as to the effectiveness of criminal sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, cross-border cooperation, pardoning)

5000 character(s) maximum

Information on effectiveness of non-criminal measures and of sanctions (e.g. recovery measures and administrative sanctions) on both public and private offenders

5000 character(s) maximum

Other - please specify

5000 character(s) maximum

III. Media pluralism and media freedom

Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding media pluralism and media freedom (if applicable)

5000 character(s) maximum

A. Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

Measures adopted to ensure the independence, enforcement powers and adequacy of resources (financial, human and technical) of media regulatory authorities and bodies

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

B. Safeguards against government or political interference and transparency and concentration of media ownership

Measures taken to ensure the fair and transparent allocation of state advertising (including any rules regulating the matter)

5000 character(s) maximum

Safeguards against state / political interference, in particular:

- safeguards to ensure editorial independence of media (private and public)
- specific safeguards for the independence of heads of management and members of the governing boards of public service media (e.g. related to appointment, dismissal), safeguards for their operational independence (e.g. related to reporting obligations and the allocation of resources) and safeguards for plurality of information and opinions

- information on specific legal provisions and procedures applying to media service providers, including as regards granting/renewal/termination of licenses, company operation, capital entry requirements, concentration and corporate governance

5000 character(s) maximum

Transparency of media ownership and public availability of media ownership information, including on direct, indirect and beneficial owners, as well as any rules regulating the matter

5000 character(s) maximum

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

Rules and practices guaranteeing journalists' independence and safety, including as regards protection of journalistic sources and communications, referring also, if applicable, to follow-up given to alerts lodged with the Council of Europe's Platform to promote the protection of journalism and safety of journalists

5000 character(s) maximum

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

5000 character(s) maximum

Access to information and public documents by public at large and journalists (incl. transparency authorities where they exist, procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities, possible obstacles related to the classification of information)

5000 character(s) maximum

Lawsuits (incl. SLAPPs - strategic lawsuits against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguard against manifestly unfounded and abusive lawsuits

5000 character(s) maximum

Other - please specify

5000 character(s) maximum

IV. Other institutional issues related to checks and balances

Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the system of checks and balances (if applicable)

5000 character(s) maximum

Relevant recommendation: “Foster a safe and enabling civic space and remove obstacles affecting civil society organisations, including by repealing legislation that hampers their capacity of working, in particular the immigration tax.” – The Hungarian government made no move to implement this recommendation. Restrictive legislation, including the immigration tax, remains in effect, though not enforced in practice. No measures were introduced to foster an enabling civil space, to the contrary: government-coordinated smear campaigns and vilification of independent civil society organisations remained a routine practice. No new funding options for independent CSOs were opened either. Some progress was made regarding CSO participation in official consultative bodies (in the Monitoring Committees that oversee the spending of EU funds at national level, or the Anti-Corruption Task Force), but these are offset by Act LXXXVIII of 2023 on the Defence of National Sovereignty (hereafter referred to as: Defence of Sovereignty Act) adopted at the end of the year, with potentially wide-ranging consequences and further silencing any critical voice.

A. The process for preparing and enacting laws

Framework, policy and use of impact assessments and evidence based policy-making, stakeholders'[1] /public consultations (including consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process both in the preparatory and the parliamentary phase

[1] This includes also the consultation of social partners

5000 character(s) maximum

The transparency and quality of the legislative process and the efficiency of public consultations in practice remain a source of concern despite the amendment of Act CXXXI of 2010 on Public Participation in Preparing Laws, which was adopted in 2022 with the aim of complying with milestones set under the RRP. As detailed in our previous contribution, the new rules do not provide a real solution. Key regulatory flaws include that (i) laws adopted in breach of public consultation rules can still become/remain part of the legal system, (ii) the range of exceptions when draft laws do not have to or must not be subject to public consultation remains wide, and (iii) the Government Control Office which can now impose fines on ministries for violating the rules on public consultation is subordinated to the Government.

The 2023 Rule of Law Report concluded that the “practical impact of new rules on formal public consultations remains to be assessed”. Experience from 2023 shows that this impact remains rather limited, and the practice of public consultation remains deeply flawed.

Similar to 2022, several significant laws were not published for public consultation in 2023 either, such as the Twelfth Amendment to the Fundamental Law, the law that severely curtailed the Hungarian Medical Chamber’s powers after it protested against regulatory steps affecting the medical profession, the law which was supposed to transpose the EU’s Whistleblower Directive, and a bill related to asset declarations. The Government failed to inform the Anti-Corruption Task Force as well that it intends to submit the latter two bills to the Parliament.

Ministries almost never provide a longer consultation period than the statutory minimum of eight days, irrespective of the length and complexity of the draft law. The quality of impact assessments is often

inadequate. The way in which draft laws are published only formally meets the legal requirements: purely technical amendments are put to consultation, and the titles and summaries of the published legislative packages rarely indicate clearly the subject matter of the proposals. The draft law authorising the Government to extend the state of danger and a draft omnibus law (that extended the asylum system that the CJEU had found to be in violation of EU law – see Question IV.11.) were both published for consultation with a one-sentence reasoning, in violation of the respective rules. A bill on third-country nationals was submitted to the Parliament 10 minutes after it was published for public consultation, also violating the law. The overwhelming majority of opinions submitted by the public are rejected by the Government without any real reasoning, e.g. that they “do not align with government policies”.

In an attempt to circumvent obligatory public consultation, the Government returned to its practice of introducing laws to the Parliament that are clearly part of government policy via governing majority MPs. In November 2023, the bill on the defence of national sovereignty was submitted by governing party MPs, including the head of the Fidesz parliamentary group. Another avenue used is the Legislative Committee of the Parliament, a super committee the composition of which reflects that of the Parliament and which can introduce amendments to any bill directly prior to the plenary vote. This opportunity was used twice in relation to the Judicial Reform adopted in 2023 to access EU funds: in May, the Legislative Committee introduced the final judicial package as an amendment to a bill on asset declarations, violating the Parliament’s Rules of Procedure; while in December, a last-minute amendment to an unrelated bill changed the rules related to preliminary references to the CJEU. A problematic provision that amended election rules and excluded by-elections in the period between the elections and 1 April of the preceding year was also tabled by the Legislative Committee.

In violation of Milestone 235 of the RRP, which would have been due by the end of 2022, there is no public information that would indicate that any steps have been taken to develop the capacity of the Office of the Parliament to help MPs and parliamentary committees to prepare impact assessments and conduct stakeholder consultations for the bills proposed by them.

Other forms of public participation in law-making beyond the commenting on draft laws have not been strengthened in any way. Public hearings have been weakened: in April, an emergency government decree opened up the possibility of not holding personal public hearings in administrative authorities’ procedures and by local governments; while as of 1 January 2024, an Act of Parliament allows local governments, nationality self-governments and administrative authorities to hold public hearings without the personal attendance of the public, and even only via publishing materials on their websites.

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)

5000 character(s) maximum

Parliamentary Resolution 10/2014. (II. 24.) OGY on Certain Provisions of the Rules of Procedure establishes three main fast-track parliamentary procedures: the “discussion with urgency” (“sürgős tárgyalás”), the “exceptional procedure” (“kivételes eljárás”), and the “derogation from the provisions of the Rules of Procedure” (“a határozati házszabályi rendelkezésektől való eltérés”).

A discussion with urgency may be initiated by the stakeholder submitting the bill, but if the bill was submitted by an MP, the initiative for a discussion with urgency shall be supported by at least 25 MPs. The Parliament shall decide on ordering a discussion with urgency with a two-thirds majority of the MPs present. A discussion with urgency may be ordered by the Parliament not more than six times in any six-month period. The initiator may propose, among others, that the general debate on the bill would begin on the day of the

sitting specified by the proposal, but not earlier than two days after the day on which the bill is submitted (instead of the ordinary six days); that the time limit for the submission of proposed amendments to the bill be shorter than the time limit provided for in the ordinary rules. A discussion with urgency shall be ordered in a way that at least six days must elapse between ordering it and the final vote on the bill.

An exceptional procedure may be initiated by the stakeholder submitting the bill, but if the bill was submitted by an MP, the initiative for an exceptional procedure shall be supported by at least one-fifth of the MPs. The Parliament shall decide on ordering an exceptional procedure with a majority of the votes of all the MPs. An exceptional procedure may be ordered up to four times every six months, and there are certain topics regarding which no exceptional procedure may be conducted: the adoption or amendment of the Fundamental Law, international treaties, cardinal provisions, the Parliament's Rules of Procedure, and the laws on the central budget and its execution. When ordering an exceptional procedure, the Parliament decides on the various procedural deadlines. Bills debated in an exceptional procedure can be adopted even the day after their submission.

A derogation from the provisions of the Rules of Procedure may be ordered by the vote of at least four-fifths of the MPs present, upon the proposal of the House Committee. No derogation may be ordered with respect to the adoption or amendment of the Fundamental Law, international treaties, and the Parliament's Rules of Procedure. Since no minimum time limits are set out, the derogation from the provisions of the Rules of Procedure can mean that the bill is adopted the same day as it is submitted.

From among the 121 Acts of Parliament promulgated in 2023, only one was adopted in a discussion with urgency procedure, Bill T/3131. on asset declarations, the content of which was entirely replaced by the Judicial Reform adopted to access EU funds through an amendment submitted by the Legislative Committee, in breach of the Parliament's Rules of Procedure. Four Acts of Parliament were adopted in an exceptional procedure, one of them being the law that severely curtailed the powers of the Hungarian Medical Chamber after the Chamber protested against regulatory steps affecting the medical profession. The respective bill was submitted to the Parliament without public consultation on 27 February 2023, was adopted the next day, and entered into force on 1 March. No Act of Parliament was adopted via derogation from the provisions of the Rules of Procedure in 2023.

From among the 33 parliamentary resolutions promulgated in 2023, one was adopted in a discussion with urgency procedure, one in an exceptional procedure, and one via derogation from the provisions of the Rules of Procedure.

Rules and application of states of emergency (or analogous regimes), including judicial review and parliamentary oversight

5000 character(s) maximum

The Government continues to have excessive emergency regulatory powers, and continues to use its mandate to issue emergency decrees extensively and in an abusive manner. Thus, the concern included in the 2023 Rule of Law Report that "[l]egal certainty has been undermined by [...] the extensive and prolonged use of the Government's emergency powers, also interfering with the operation of businesses in the single market" remains valid. The legal framework and the practice are in stark contrast with the requirements set out by the Venice Commission.

The Government first acquired excessive emergency powers with a view to the pandemic in spring 2020: it declared a "state of danger", a special legal order regime, while the legislative framework was transformed in a way that the Government had a carte blanche mandate to override any Act of Parliament via emergency decrees once a state of danger was declared. The Government has been maintaining a "rule by decree"

system ever since, with only a few months of intermission, most recently using the war in Ukraine as a pretext for keeping its excessive regulatory powers. The constitutional and statutory framework governing special legal order regimes was amended as of November 2022, and these amendments cemented the problematic practices developed during the pandemic. Main concerns include the following:

- The legal framework allows the Government to override basically any Act of Parliament in emergency decrees during a state of danger due to the excessive, carte blanche mandate the Government was granted by law in terms of the scope and subject matter of these decrees – also to suspend or restrict most fundamental rights beyond the extent permissible under ordinary circumstances.
- There is no automatic and regular parliamentary oversight over individual emergency decrees, also depriving the opposition from the possibility to contest the decrees publicly in the Parliament.
- The effective and swift constitutional review of emergency decrees is not ensured.

The Government extended the state of danger declared with a reference to the war in Ukraine two times in 2023 with the statutory maximum of 180 days. In both instances, CSOs shared their concerns in the form of opinions submitted in the framework of the public consultation on the draft laws that provided parliamentary authorisation to the Government to extend the state of danger. However, the Government did not take these into account. The state of danger is currently extended until 23 May 2024.

The Government continues to use its mandate to issue emergency decrees extensively: in 2022, 42% of all government decrees (267 out of 637) were adopted as emergency decrees, while in 2023, 29.5% (203 out of 688).

The practice of regularly adopting emergency decrees for purposes not related to the cause of the state of danger (previously the pandemic, presently the war) continues as well. Examples from 2023 include the following:

- Government Decree 4/2023. (I. 12.) changed the rules of how employers can dismiss employees of educational institutions (extending the deadline from 15 days to long months to be counted from the alleged violation of the labour obligations), thus putting more pressure on teachers who participated in civil disobedience due to the fact that their right to strike had been curbed.
- Government Decree 146/2023. (IV. 27.) opened up the possibility of not holding personal public hearings in administrative authorities' procedures and by local governments.
- As a reaction to the growing number of foreigners convicted of human smuggling, it was set out in Government Decree 148/2023. (IV. 27.) that such detainees shall be released into "reintegration detention", which in practice means that they are simply released and must leave the country on their own accord within 72 hours. This prompted the EC to launch an infringement procedure in July.
- Government Decree 207/2023. (V. 31.) interfered with the right of the municipality of Budapest to decide on entering into a contract regarding the use of advertising space on electricity poles.
- Government Decree 432/2023. (IX. 21.) allows the environmental protection authority to conclude an "environmental protection authority contract" with companies violating environmental rules in which the violator undertakes to cease the violation, without being subjected to consequences otherwise prescribed by law. This "backdoor" was used by the Government to "save" the metallurgical plant Dunafer.
- Government Decree 523/2023. (XI. 30.) negates the protection granted to buildings and local heritage requirements established by local municipalities in the case of certain investments of strategic importance for the national economy. The mayor of the 8th district of Budapest claimed that the decree was designed to facilitate the building of the new campus of the Pázmány Péter Catholic University in the district.

In 2023, four new justices were elected to the Constitutional Court to replace those whose terms of office expired. The new justices were nominated in a process that lacked transparency and prior consultation with the opposition and was governed by new rules adopted by the Fidesz-KDNP majority alone in the summer of 2022. Only the governing parties, having a two-thirds majority in Parliament, voted for the candidates. As a result, the selection procedure lacked any guarantees for the independence of the new justices. The 2023 Justice Reform, adopted in exchange for Hungary's access to frozen EU funds, made an important change to the powers of the CC. The reform abolished the possibility of public authorities to challenge judicial decisions before the CC on the grounds that their rights guaranteed by the Fundamental Law were violated. This amendment ended a highly controversial practice, enabling the CC to annul judicial decisions detrimental to the interest of the Government.

The problem, indicated in recent years' CSO contributions, that the CC failed to confront the Government, also persisted in 2023. The CC found no human rights violation regarding the 2020 law that banned legal gender recognition. The legal issue concerned the question of whether the right to human dignity and the right to privacy are disproportionately restricted if gender and name change can no longer be registered. However, the CC evaded addressing the genuine human rights issues by focusing on the question of whether registering sex at birth is compatible with the Fundamental Law. The reasoning of the CC completely ignored its previous decisions and the relevant case law of the ECtHR.

The CC failed to find the disciplinary powers of the Speaker of the Parliament unconstitutional, which enable him to impose, on vaguely formulated grounds, heavy fines on MPs (namely the reduction of MPs' monthly salaries) for violating the effective functioning and authority of the Parliament. In recent years, the Speaker has used these powers extensively against opposition MPs, thereby restricting their rights, including their freedom of expression.

The CC also rejected a complaint based on a freedom of information lawsuit which sought to access data on the bonuses paid to the senior staff of the National Office for the Judiciary. The practice of NOJ Presidents awarding bonuses to employees in a discretionary, non-transparent way has long been criticized by the NJC and domestic watchdog institutions. However, the CC argued that even though the NOJ is an organisation managing public funds, freedom of information does not constitute a right to access information about the bonuses of all senior staff members.

When referendum questions were brought before the CC in 2023, the justices ruled almost exclusively in favour of the Government, thereby blocking attempts to challenge important government policies. This happened in relation to organizing local referendums on the construction of Chinese-owned battery factories and also when the CC annulled the Kúria's judgments that gave the green light to a referendum on issues related to public education. In the former case, the CC was reluctant to review the challenged judicial decision that had refused to validate the referendum question based on the lack of clarity. The CC emphasized that the clarity of the question to be put to a referendum is, in general, not a question of constitutionality, so the CC has no jurisdiction to review judicial decisions on these grounds unless the interpretation is arbitrary. However, when the Kúria validated questions regarding public education, the CC annulled these judgments on the ground that by stretching the criteria of clarity, the Kúria's interpretation was arbitrary and, therefore, violated the right to a fair trial.

The Commissioner for Fundamental Rights turned to the CC requesting the abstract interpretation of the Fundamental Law related to life imprisonment sentences. While the 2011 Fundamental Law explicitly provides for a sentence of life imprisonment without parole, Article III declares the prohibition of torture, inhuman or degrading treatment or punishment. The Commissioner asked whether Article III requires that detainees must be given the possibility for release in a pre-determined, foreseeable period, which is set at a statutory level. Hungary has long refused to execute those ECtHR judgments that found the Hungarian legal regime regarding whole-life sentences in breach of basic human rights standards. Notwithstanding the

problems mentioned above, the CC did not examine the issue on merit. The CC held that the questions to be put to interpretation could not be answered based on the Fundamental Law alone, and the relevant statutory framework provides for the possibility of release in a foreseeable period, so it regulates precisely what the Commissioner's question was aimed at.

B. Independent authorities

Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions

(Cf. the website of the European Court of Auditors: <https://www.eca.europa.eu/en/Pages/SupremeAuditInstitutions.aspx#>)

5000 character(s) maximum

The finding by the 2023 Rule of Law Report that "[c]oncerns regarding the independence and effective functioning of the Commissioner for Fundamental Rights persist" remains valid. As recalled in our previous contribution, the GANHRI Sub-Committee on Accreditation (SCA) downgraded the Commissioner for Fundamental Rights (CFR) as Hungary's NHRI from an A to a B status since its inactivity in a number of areas evidenced a lack of independence. In particular, the SCA found that the CFR has not substantiated that it is "fulfilling its mandate to effectively promote and protect all human rights", that it is "effectively carrying out its mandate in relation to vulnerable groups such as ethnic minorities, LGBTQI people, human rights defenders, refugees and migrants, or related to important human rights issues such as media pluralism, civic space and judicial independence". Its "engagement with the constitutional court and international human rights mechanisms in relation to cases deemed political and institutional" was also deemed insufficient. In addition, concerns were raised that the CFR's selection and appointment process is not sufficiently broad and transparent.

The deficiencies pointed out by the SCA as a reason for the downgrading continue to exist. The rules of the selection and appointment process have not been amended, and respective concerns have not been addressed. Furthermore, the publicly available information on the CFR's work evidences that it still does not effectively promote and protect all human rights and vulnerable groups. An overview of the titles of the 106 reports published by the CFR in 2023 (including OPCAT reports) shows that the CFR did not issue any public reports that dealt with the rights of LGBTQI people or refugees and migrants, despite the wide-ranging rights violations suffered by these groups in Hungary, and did not focus in any of its public reports on the situation of human rights defenders, media pluralism or judicial independence either. The public statements available on the CFR's website do not cover any of the above topics or vulnerable groups either. In its 2022 annual report, the word "LGBTQ" is mentioned only once, in relation to a conference the CFR's representative attended. The report also states that the CFR did not submit a constitutional review request to the Constitutional Court in 2022.

At the same time, it should be mentioned that according to its annual report, in 2022 the CFR provided assistance and monitored the situation of persons fleeing Ukraine, and the Deputy Commissioner for the Rights of National Minorities considered, among others, the situation of Ukrainian and Roma persons fleeing from Ukraine as a priority topic in 2022. In December 2023, the Deputy Commissioner organised a conference together with a judicial association on vulnerable groups in the courtroom, with a special focus on children and refugees.

As highlighted by previous CSO contributions as well, there has been a trend to merge all specialised human right protection institutions into the CFR's Office: as of 2021, Hungary's equality body under EU law, the Equal Treatment Authority, was merged into the CFR's Office (a move criticized by the Venice Commission and CSOs); the same happened to the Independent Law Enforcement Complaints Board in 2020; and in

2022, the CFR's Office was designated as Hungary's independent mechanism established under the UN Convention on the Rights of Persons with Disabilities. Moreover, the CFR's Office was designated as Hungary's national preventive mechanism (NPM) under the OPCAT as of 2015.

This level of concentration of mandates is highly problematic due to not only the lack of functional independence of the CFR's Office, which has led to its downgrading as Hungary's NHRI, but also due to the inevitably decreased institutional focus and resources these topics can receive in a large organisation with multiple mandates. Organisational concerns include that, based on the information on the CFR's website, both the Directorate General for Equal Treatment and the Directorate General for Disability Affairs operate within the CFR's Office without directors having been appointed for them, even though the appointment of directors is foreseen by the law. In 2022, the Directorate General for Equal Treatment dealt with 465 equal treatment cases (including pending cases from previous years), which is much lower than the 868 cases the Equal Treatment Authority received in 2019.

Statistics/reports concerning the follow-up of recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years

5000 character(s) maximum

C. Accessibility and judicial review of administrative decisions

Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)

5000 character(s) maximum

Judicial review of administrative decisions:

- short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review)

5000 character(s) maximum

Judicial review of administrative decisions takes place on three different ordinary court levels and on four different instances. (i) First instance judicial review is carried out by eight designated regional courts. Exceptionally, in certain cases defined by law, such as electoral and referendum cases and freedom of assembly cases, the Kúria acts as first instance court. (ii) Second instance judicial review of administrative decisions is carried out by the Metropolitan Court of Appeal (with respect to decisions delivered by regional courts) and the Kúria (with respect to decisions delivered by the Metropolitan Court of Appeal). (iii) Extraordinary review of final and binding judgments is exclusively carried out by the Kúria. In addition, and constituting a fourth instance of review, (iv) the Kúria's uniformity complaint chamber holds powers to review and overrule the final and binding decisions delivered by other chambers of the Kúria. The chamber may also issue uniformity decisions establishing mandatory interpretations of the law for lower tier courts and administrative organs.

The jurisprudence of the chamber is of key importance from the outcome of individual administrative cases

and the jurisprudence of all Hungarian courts in administrative matters.

Despite the key importance of its adjudicative activity, the new provisions introduced by the Judicial Reform on the composition of the uniformity complaint chambers do not adequately guarantee the required level of autonomy and professionalism in its decision-making. The Kúria President holds strong formal and informal powers in the uniformity complaint proceeding and the size of the chamber is not defined by law with sufficient clarity. No adjustment of the chamber's composition depending on the subject matter of the case is legally required, posing a risk that cases will not be adjudicated in a professional manner.

In practice, the uniformity complaint chamber may overturn a long-standing administrative jurisprudence of the Kúria with a uniformity decision delivered even if it is not composed in majority of judges assigned to administrative cases. The system of judicial review of administrative decisions has not changed in 2023, except that effective from 1 June 2023, the Judicial Reform stripped state authorities of the ability to submit constitutional complaints at the CC.

As a general rule, judicial review does not suspend the execution of administrative decisions. However, parties seeking judicial review may request the court for interim measures, including suspension of execution or pretrial collection of evidence.

Since 1 March 2020, appeals against first instance decisions of administrative authorities have to be challenged before the court instantly. Moreover, from 1 March 2022, the law opened the way to some first instance administrative cases to be decided solely by the Metropolitan Regional Court of Appeal (although so far, only one type of case has been set by the law), further limiting access to court in those cases.

Judges dealing with administrative cases shall explicitly be assigned for this task within the ordinary court system. Assignments are granted based on the proposal of court presidents, but the final decision is taken by full discretion of the NOJ President (or the Kúria President with respect to judges serving at the Kúria). The assignment can be terminated by the NOJ President or the Kúria President any time without the consent of the assigned judge, however, in such a case the NJC's consent must be obtained and the decision must be justified effective from 1 June 2023. Neither the criteria nor the terms of an assignment or the termination thereof are set out by law.

The use of assignment for an entire branch of adjudication could lead to misuse of powers, since the failure or refusal to assign a judge to an administrative judicial post may prevent the filling of the judicial post which has been awarded via a formal application procedure. Further guarantees are required against misuse of powers, including criteria for assignment in law and extending the right of consent of the NJC so that it covers the decision on assignment, in addition to its termination.

Available data show that there has been a reduction in the number of review applications filed between 2021 and 2022 by 5%, raising concerns that the recent amendments could have impacted people's access to justice regarding the decisions of public authorities.

Rules and practices related to the application by all courts, including constitutional jurisdictions, of the preliminary ruling procedure (Art. 267 TFEU)

5000 character(s) maximum

(1) By 1 February 2024, a new authority will be established under the Defence of Sovereignty Act to "protect the constitutional identity" of Hungary. The new authority, called the Office for the Defence of Sovereignty (ODS), is mandated to (i) investigate activities carried out "in the interests of a foreign body, organisation or natural person regardless of its legal status," including activities influencing the decision-making process of persons exercising public authority if such activities could harm or threaten the sovereignty of Hungary; (ii) investigate individual cases and publish on its website the results of its case-by-case investigations,

including the facts found during the investigations, as well as the findings and the conclusions based thereon; (iii) prepare an annual national sovereignty report including on legislation affecting national sovereignty and the effectiveness of its application, problems of implementation and enforcement, and analysis of enforcement and administrative practice and recommendations to the competent bodies and an assessment of how the competent bodies have taken into account previous reports and recommendations.

The anticipated activities of the ODS interfere with Hungarian judges' right to request a preliminary ruling from the CJEU on several grounds. First, the right of the ODS to investigate individual cases of activities conducted in the interest of a foreign body may be interpreted to include the right to investigate preliminary references, as those serve the EU's common interest for a uniform interpretation of the EU law. This means that the ODS may investigate the adjudicating activity of individual judges and the content of their preliminary reference to the CJEU to assess whether that harms the sovereignty of Hungary. And if the ODS finds that a preliminary reference submitted to the CJEU threatens the sovereignty of Hungary, it will publish a report in which the name of the individual judge and the preliminary reference as an activity breaching national sovereignty may appear. Second, the ODS prepares an annual report that identifies legislation affecting national sovereignty. This allows the ODS to create a pool of national legal provisions, the applicability of which cannot be questioned without endangering national sovereignty. This way, the ODS may forecast that questioning the compatibility of these laws with the *acquis* via a preliminary reference will necessarily trigger the proceeding of the ODS. Third, the ODS can prevent judges from requesting a preliminary ruling from the CJEU by formulating recommendations to judges on protecting national sovereignty and assessing compliance with its recommendations. Recommendations may entail that judges refrain from questioning the compatibility of certain national laws with the *acquis*. These powers of the ODS not only create an obstacle for national judges to request a preliminary ruling under Article 267 TFEU but also breach Article 19 TEU as the adjudicating activities of the national judge might be exposed to the investigation of an administrative authority.

(2) Despite holding the power to review final and binding judgments of ordinary courts, the Constitutional Court has never turned to the CJEU with a preliminary reference. Even in cases where the compatibility of the Hungarian legislation with the *acquis* was questioned by the EC, the CC avoided initiating a dialogue under Article 267 TFEU with the CJEU by suspending the proceedings.

(3) Despite modifications of the Criminal Procedure Code required under the horizontal enabling conditions, Judgment C-564/19 of the CJEU remains partially unimplemented and may prompt Hungarian judges to refrain from referring questions for a preliminary ruling to the CJEU. While the Judicial Reform fully abolished the procedural obstacles to making a preliminary reference, it failed to address the effects of the binding precedential decision by the Kúria, according to which referring a question to the CJEU is unlawful under Hungarian law if the question referred is not relevant to and necessary for the resolution of the dispute concerned. In order to exclude the direct effect of the precedential decision of the Kúria, all relevant procedural codes should be modified expressly declaring that requesting a preliminary ruling from the CJEU is a right of Hungarian judges, the exercise of which falls within their judicial discretion and cannot constitute a breach of the law.

Follow-up by the public administration and State institutions to final (national/supranational, including the European Court of Human Rights) court decisions, as well as available remedies in case of non-implementation

5000 character(s) maximum

(1) Non-execution of domestic court decisions:

The concern included in the 2022 Rule of Law Report that there are "cases where state bodies refuse to execute decisions of the domestic courts; several of these concern access to documents" continues to apply,

and court decisions issued e.g. in press rectification and personality rights lawsuits launched against government-affiliated media are often not executed either (or only after repeated sanctions are imposed on the media outlets by the courts overseeing the execution of judgments). As detailed in our previous contribution, one of the systemic problems contributing to this is the lack of effective and genuinely coercive enforcement tools: the sanction regime for non-execution has no deterrent/dissuasive effect, and the enforcement proceedings are excessively long. CSOs argued that this amounts to the non-implementation of the ECtHR judgment in the *Kenedi v. Hungary* case, and subsequently, the Department for the Execution of Judgments requested the authorities “to submit a revised action plan or report by 1 December 2023, containing information on the adoption of targeted general measures [...] considering that, according to the information submitted by the NGOs, it appears that the violations in the [...] case cannot be considered an isolated incident”. As of 9 January 2024, the Government has not submitted a new action report.

Decisions of the Constitutional Court are not always implemented either. As of 9 January 2024, there were 12 decisions in which the CC declared that a legislative omission resulted in the violation of the Fundamental Law, but the Parliament had failed to remedy the situation. The court-set deadline expired in 11 of these cases, the oldest one in 2013.

(2) Non-execution of European court judgments:

The 2023 Rule of Law Report’s conclusion that the “ineffective implementation by state authorities of the judgments of European courts remains a source of concern” continues to apply.

Hungary’s record of implementing ECtHR judgments remains poor. As included in the 2023 Rule of Law Report, on 1 January 2023, Hungary had 43 leading ECtHR judgments pending implementation, and the rate of leading judgments from the past 10 years that remain pending was at 76%, an increase from 2022. This was the highest within the EU and the fourth highest within the Council of Europe. On 9 January 2024, the number of pending leading judgments was 45. Pending leading cases concern crucial human rights issues, including unchecked secret surveillance, freedom of expression of judges, excessive length of judicial proceedings, whole life imprisonment, police ill-treatment, and discrimination of Roma children in education. In 2023, five Hungarian cases under enhanced procedure were on the agenda of CM-DH meetings. The Committee of Ministers of the Council of Europe found implementation insufficient in four of them, issued interim resolutions in two cases, and found partial compliance in only one of them. There is still no separate national structure to bring together various actors to coordinate the implementation of ECtHR judgments; meaningful parliamentary oversight is lacking.

In the past few years, severe problems have emerged with regard to the execution of CJEU judgments as well, amounting to non-compliance. A 2022 study showed that Hungary had not (or only partially) implemented 9 out of 13 CJEU judgments issued in the field of asylum and migration. Non-executed CJEU judgments include the following:

- The judgment in Case C-808/18 concerned, among others, the domestic legalisation of collective expulsions. In December 2020, the CJEU found Hungarian law and practice to be in breach of EU law. As the Government refuses to implement the judgment and push-backs continue, the EC referred Hungary back to the CJEU, requesting the imposition of fines. This is the first such case in the history of Hungary’s EU membership.
- In 2021, the CJEU found in Case C-821/19 that the so-called “Stop Soros” law that criminalised assistance to asylum-seekers was in breach of EU law. As a result, in 2022, the original provisions were amended, but this amendment has failed to implement the CJEU’s judgment, since the law continues to have a deterring effect on the provision of legal assistance to asylum-seekers.
- In June 2023, the CJEU found in Case C-823/21 that the so-called “embassy system” was in breach of EU law. The embassy system was introduced in May 2020: it sets a compulsory precondition for those seeking asylum to first submit a statement of intent at the Hungarian embassy in Belgrade or Kyiv. The system was introduced under the guise of the special legal order declared due to the pandemic and has

been extended on an annual basis ever since. Following the judgment, the Parliament adopted a bill that extends the embassy system until the end of 2024.

D. The enabling framework for civil society

Measures regarding the framework for civil society organisations and human rights defenders (e.g. legal framework and its application in practice incl. registration and dissolution rules)

5000 character(s) maximum

The overall legal framework for CSOs, Act V of 2013 on the Civil Code, Act CLXV of 2011 on the Freedom of Association, Public Benefit Status and the Operation and Financing of Civil Society Organisations and other relevant regulations, including the provisions for registration, operation and dissolution of CSOs effectively did not change in 2023, and generally conform to European standards. CSOs (associations and foundations) pursuing any legal objectives may be registered freely, and with the use of electronic means relatively easily, too. According to the latest statistical data, in 2022, approximately 53,000 CSOs operated in Hungary, with only slight fluctuations in numbers observed in the past five years, typically with a decrease in the number of foundations offset by an increase in associations. In 2023, there were no reports of forced dissolution of any organisation. Up until the adoption of the Defence of Sovereignty Act at end of the year, no new legislation affecting civil society (positively or negatively) was passed either, however, some problematic acts remained in effect and continue to pose threats to civil society, the following in particular:

- The Government has still not fully implemented the CJEU's ruling in Case C-821/19, issued in November 2021, and has not repealed the provisions of the so-called "Stop Soros" legal package passed in 2018, criminalising persons providing aid and support to asylum-seekers and refugees (see also Question IV.11.). Likewise, the 25% punitive "special immigration tax" remains in the books. Albeit no individual or organisation has been subjected to these provisions so far, the threat to CSOs and their activists working with migrants and refugees remain.
- Based on the provisions of Act XLIX of 2021 on the Transparency of Organisations Carrying out Activities Capable of Influencing Public Life, in 2022 the State Audit Office obligated hundreds of CSOs falling under this legislation (i.e. having annual income above HUF 20 million) to submit data and documents, primarily their internal financial regulations. Up to now the State Audit Office has apparently not followed up on its report published at the end of 2022, nevertheless, affected CSOs have been kept in uncertainty. The major legal development affecting (among others) civil society arrived at the end of 2023, in the form of the so-called Defence of Sovereignty Act passed on 12 December, consisting of two main elements:
 - forbidding individual candidates and nominating organisations, including associations running or supporting candidates in elections (European, national and local) to receive support from foreign sources, plus also forbidding funds from domestic legal entities and anonymous donations with regard to nominating organisations; and
 - establishing a new Office for the Defence of Sovereignty with broad and ill-defined competences to collect information (even via using the intelligence services) and publish a report on any person or organisation it suspects of serving foreign interests and/or receiving funding, with no legal remedies available.

The (likely) intentionally vague wording of the law can potentially threaten any critical person or organisation – including CSOs, journalists, philanthropic donors, trade unions or churches – with smear campaigns, intimidation and harassment (ab)using the data published by the Office for the Defence of Sovereignty, and it can also form the basis of further procedures carried out by other state agencies (e.g. the tax authority). The new authority is to be established in early 2024. The Commissioner for Human Rights of the Council of

Rules and practices having an impact on the effective operation and safety of civil society organisations and human rights defenders. This includes measures for protection from attacks – verbal, physical or on-line –, intimidation, legal threats incl. SLAPPs, negative narratives or smear campaigns, measures capable of affecting the public perception of civil society organisations, etc. It also includes measures to monitor threats or attacks and dedicated support services

5000 character(s) maximum

Smear and vilification campaigns against human rights defenders, CSOs engaged in advocacy or critical of certain government policies remained a routine practice in government-controlled media, and in the communication of associated social media influencers in 2023, too. Mostly no more serious (e.g. physical) forms of intimidation or harassment were reported in the year on the one hand, but of course no monitoring or support services were available either on the other. The most recurring narrative remained unchanged, accusing certain CSOs as being members of the “Soros-network” and/or part of the (foreign-funded) political opposition and thus allegedly undermining Hungarian national interest. This led to a generally depressed atmosphere in and a marked polarisation within civil society whereby many organisations do not dare speak out on public issues and/or refuse to be associated with organisations perceived as “problematic” or political. While many organisations are regularly labelled as such, in 2023 several cases of extended attacks may be highlighted:

(1) The Association of Alternative Communities in Debrecen (East-Hungary) that provided a community space for the citizens protesting against a planned car factory battery (see also below) to organise and coordinate their activities was accused in both local and national media with being the “instigator” of the protests and a politically biased and controlled organisation. A journalist even camped outside their office for days with a video camera, taking pictures of those who entered the premises.

(2) The From Streets to Homes Association, a Budapest-based CSO that provides (among other activities) low-rent housing to people emerging from homelessness was attacked for their cooperation with the municipality of the 19th district and accused of bringing “filth and deviance” to the neighbourhood. It was also implied that they are closely connected to the opposition leadership of the city, and thus, act on their behalf.

(3) The EU Citizens, Equality, Rights and Values (CERV) programme and USAID’s Central Europe fund were also targeted with allegations that they support “Soros-organisations” and the “LBGTQI-lobby” and that thereby “Brussels” continues the work and acts under the guidance of George Soros in Europe. Most major human rights groups were named in a series of articles, and in particular the new re-granting program managed by a consortium led by Ökotárs Foundation, with pre-suppositions about which organisations would receive support from this source. After the actual grant decision, many of the grantees were exposed again in a similar negative context.

(4) In the autumn, the tax authority deducted HUF 384 million (ca. € 1,011,000) from the bank accounts of the Hungarian Evangelical Fellowship (HEF) due to outstanding public debts. This was the latest move in a long-standing dispute, as the organisation’s debts were incurred in the first place because HEF was stripped of its church status and its related funding in 2011 in violation of its rights according to the judgment of the ECtHR. Although Hungary has paid € 3,000,000 in damages accordingly in 2017, due to lack of access to grants obtainable only for incorporated churches, HEF still not being recognised as such results in a continued lack of access to certain funds.

(5) After the elections in 2022, the National Information Centre, a newly set up all-powerful intelligence

agency investigated the financial management of opposition political actors that had received foreign funding from the US-based private donor organisation, Action for Democracy, during the 2022 general election campaign. In its declassified but redacted report, the National Information Centre dedicated a chapter to a number of independent CSOs, think-tanks and media outlets that have received grants from the German Marshall Fund and the National Endowment for Democracy, portraying them in the context of threats to national security and sovereignty, thereby conveying a serious chilling message to these organisations.

In the autumn months, after Fidesz first introduced the idea of developing and adopting the Defence of Sovereignty Act, the up-to-then relatively low-key anti-NGO campaign received a new momentum, and more “news” on the alleged objectives and activities of human rights organisations in particular (e.g. Amnesty International Hungary, Hungarian Helsinki Committee) were published along with accusations of them representing foreign interests and powers.

Organisation of financial support for civil society organisations and human rights defenders (e.g. framework to ensure access to funding, and for financial viability, taxation/incentive/donation systems, measures to ensure a fair distribution of funding)

5000 character(s) maximum

The financial situation of Hungarian civil society continues to be characterised by an abundance of funding for some organisations and “starving” others. According to the latest official statistics, the sector’s overall income in 2022 continued to grow [to HUF 1,270 billion (€ 3.3 billion) from HUF 1,070 billion (€ 2.8 billion) in 2021, probably also as a result of the record-high inflation], while the share of public funding decreased somewhat, to 40% (with increasing private funding amounting to another 25%). Still, 68.5% of all CSOs operate with an annual budget of under HUF 5 million (ca. € 13,000), and only 8% have income larger than HUF 50 million (ca. € 130,000), with the average income being ca. HUF 25 million (ca. € 65,000).

Independent organisations promoting human rights and similar issues rarely are able to secure public funding. While in theory they may apply to major state grant schemes, such as the National Cooperation Fund and the Village and the Town Civil Funds, they mostly remain unsuccessful (with no special justification) or cease to try altogether. There are no dedicated sources available for the protection of human rights or democracy either. Most recently, another negative trend in state funding has affected a special subset of CSOs, i.e. independent, alternative theatres. Such groups could apply for operational funding at the Ministry of Culture and Innovation annually (albeit to a continuously shrinking budget), however, similar to 2022, in 2023 many long-standing, well-respected groups received zero support in a non-transparent, unknown decision-making process. For most of them this means that their mere survival is at grave risk, and more generally the elimination of alternative or critical voices from cultural life.

CSOs cut off from public funding remain dependent on crowdsourcing tools, which more and more of them use with increasing success, and on foreign philanthropies and donors. In this respect, in 2023, important new opportunities opened thanks to the EU Citizens, Equality, Rights and Values (CERV) and USAID’s Central Europe programs. The largest of these is the CERV re-granting program managed by Ökotárs Foundation and its partners which provided grants in the order of € 1.5 million in 2023 (and will distribute a similar amount in 2024), but the “Stronger Roots” program operated by NIOK Foundation and the grant programs of the German Marshall Fund/Transatlantic Foundation must be mentioned, too.

The increasing lack of state funding is to some extent offset by the growing amount of individual donations. In 2023, both the amount collected from the assignment of 1% of income taxes (available since 1997) and the number of taxpayers using this option grew significantly, by approximately 26% compared to 2022 [total amount HUF 15.3 billion (€ 40 million), number of taxpayers 1.8 million]. While still mainly charitable organisations are the top beneficiaries of this source, human rights and similar CSOs were able to collect

more, too [e.g. the Hungarian Civil Liberties Union, HUF 36.8 million (€ 97,000) compared to HUF 35.5 million (€ 93,500) in 2022, or the Hungarian Helsinki Committee, HUF 10 million (€ 26,500) versus HUF 7.8 million (€ 20,500) in 2022]. At the same time, tax incentives for donations remain meagre or absent: there are no tax benefits at all for private persons after their donations, and companies may decrease their corporate tax base with 20% of the donation, but only in case of CSOs with public benefit status (21% of all organisations).

Rules and practices on the participation of civil society organisations and human rights defenders to the decision-making process (e.g. measures related to dialogue between authorities and civil society, participation of civil society in policy development and decision-making, consultation, dialogues, etc.)

5000 character(s) maximum

Since 2020, the outbreak of the Covid-pandemic, the government has sustained and regularly extended the state of danger (most recently to May 2024) enabling it to “rule by decree”, which generally contributes to the unpredictable legal environment (see Question IV.4. of the present contribution for details). In spite of amending Act CXXXI of 2010 on Public Participation in Preparing Laws (in response to the milestones set under the country’s RRP), there is still little or no room for CSOs and citizens to engage with public institutions and decision-making. While pieces of draft legislation are published on the Government’s website, response times are short (usually not more than 8 days), and most often there is no meaningful feedback, e.g. on why opinions from the public were not taken into account (see Question IV.2. for details). Also, in cases generating strong public concern, participation is typically token, and instead the vilification of involved CSOs and activists could be observed (see also above).

The Defence of Sovereignty Act itself was prepared and adopted without any dialogue whatsoever – the draft was submitted to the Parliament by individual MPs instead of the Government, a recurring practice in case of the most sensitive pieces of legislation, which circumvents legal provisions for public consultation on draft laws. The Government has also continued with its practice of launching “national consultations”, this time “on the defence of our sovereignty”, i.e. a questionnaire or rather a list of misleading and distorted statements posted to all households (see also Question IV.16.).

All in all, “usual” forms of protest or expression of opinion such as petitions, statements, etc. are completely ignored by the Government, and this in some cases led both to stronger citizen action and government backlash:

- The single piece of legislation generating the broadest public interest and protest in 2023 was undisputedly Act LII of 2023 on the Legal Status of Teachers, passed in July. While the Government claimed to have organised the “broadest public consultation ever”, in fact, relevant trade unions and teachers’ associations were not allowed to speak up at meetings organised with relevant ministers and state secretaries, and most written submissions were neglected, too. This, together with the general crisis of the public education system, generated demonstrations and acts of public disobedience throughout the spring, to no avail: protesters were rather met with tear gas at least twice (when trying to access the Prime Minister’s office) in an apparently excessive police response than with real dialogue on the side of the officials. Several protestors, including high-school students (teenagers) also received heavy fines in the order of several hundred thousand HUF or face criminal proceedings for participating in “illegal assemblies” or breaching assembly rules.
- Another issue that received much public attention were the plans to build battery factories for electric cars in several locations around the country (Győr, Debrecen, etc.), engendering local protests for fear of the overuse of water supplies and pollution. These investments have mostly been prepared in secret, with the public being informed only at late stages of the process, which led to angry scenes at the compulsory public hearings organised by the local permitting authorities. In response, Government Decree 146/2023. (IV. 27.)

was passed in April (using the state of danger), changing the rules so that participation in local matters and permitting processes can be organised without personal presence, solely via electronic means, thereby saving officials from having to meet citizens face-to-face. In practice this means that relevant documents are simply placed on the website of the authority and citizens can respond only through email, or by leaving (time-limited) messages on an answerphone.

Various consultative forums continue to exist and operate but their impact is usually limited. The new Monitoring Committees of the various Operational Programmes of EU Cohesion and RRP funds have been set up in spring 2023. This time, CSOs working in relevant fields could apply to become members in an open process, and a number of independent organisations were selected to participate, too. As the Monitoring Committees meet only a few times a year, it is too early to see whether they will have an impact on decision-making in any way. Besides, an Anti-Corruption Task Force was created to assist the Integrity Authority (established in late 2022), with the participation of several CSOs, including Transparency International Hungary and K-Monitor, but the Task Force has already been criticised for adopting its first report largely neglecting CSOs' opinions and motions.

E. Initiatives to foster a rule of law culture

Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, contributions from civil society, education initiatives etc.)

5000 character(s) maximum

No government measures were introduced in 2023 to foster a rule of law culture. Also, the centralised, compulsory curriculum of public education continues to incorporate very few elements of civic education. Instead of “fostering” it, the Government took, as in the previous years, various non-legislative steps that eroded rule of law culture in Hungary, as shown below.

The Government did not organise any meaningful national level discussion about the 2023 Rule of Law Report. Referring to an observation in the 2023 Rule of Law Report, on 5 July 2023, the Kúria President released a public statement on the Kúria's official website, stating that “[t]he chapter on Hungary in the European Commission's 2023 Rule of Law Report regrettably adopted, without verification, the arbitrary opinion of the National Judicial Council on the Kúria, which is without any factual basis, that has been repeatedly refuted with data, and violates the personal integrity of many judges. It can be stated that not a single word of the findings is true.”

In its response, the NJC publicly stated that “all the data necessary for the NJC's annual mandatory opinion on the practice of the Kúria President's and the NOJ President in the appointment of judges and court executives are provided by the Kúria President and the NOJ President, and that the proposals are discussed in meetings open to the judges”. Furthermore, the NJC stated that “[the Kúria President's] latest statement has drawn the NJC into the political arena, even though he himself is a member of this body”. The Minister heading the Prime Minister's Office, Gergely Gulyás, also publicly commented that “it is difficult not to agree with the words of the Kúria President”, referring to the above comments of the Kúria President, which from the Government's side questioned the authenticity and professionalism of the Rule of Law Report.

From 17 November 2023, the Government launched a new so-called “national consultation” on “Hungary's sovereignty” and started to mail the questions thereof to the population. “National consultations” are not adequate tools to ensure meaningful public consultations on key issues. They tend to ask manipulative questions on issues politically important for the Government, and not necessarily those important to have public discussions about. Responses are counted in a methodologically neither sound nor controlled manner, therefore, they are not suitable to replace meaningful public consultation, and rather serve as

propaganda tools. In this latest national consultation questionnaire, the Government asked questions about EU institutions ("Brussels") and more specifically the European Commission, and asked the public questions about foreign funding of Hungarian organisations, the Propaganda Law (see Question IV.17. on the latter), the financial and military support to Ukraine and Ukraine's EU membership.

On 27 March 2023, the Kúria organised a conference dedicated to the "Institutional Guarantees of Judicial Independence". Hungarian CSOs requested to attend the conference but were rejected by the organisers "due to lack of space". The NJC and the Hungarian Association of Judges were not invited to the conference.

Other - please specify

5000 character(s) maximum

The Propaganda Law passed in 2021 amending several laws and restricting freedom of expression and stigmatising LGBTQI people is still in effect. Article 9/A of the amended law on national public education limits schools from providing programs or lectures on certain topics, such as sex education, drug prevention, and internet usage. These programs or lectures can only be provided by individuals or organisations registered with a "state agency defined by law". If a school violates this rule and works with an unregistered organisation or individual, the head of the school and the person or member of the unregistered organisation may face petty offence proceedings. In its Explanatory Report on the Propaganda Law to the Venice Commission, the Government justified the registration of CSOs as a precondition to be permitted to provide sex education in schools as necessary to exclude organisations of "questionable professional credibility" that have been set up to "represent a specific sexual orientation". The minister in charge of education is required to appoint a state agency to maintain a register and specify the registration criteria. This has not yet happened. As a result, several CSOs have been denied access to public schools. Teachers and school psychologists have also reported being pressured to stop discussing LGBTQI topics. Limiting children's access to information in such a manner impacts several of their human rights.

In August 2021, a new Government Decree was passed amending the existing decree on commercial activities (hereafter referred to as: Packaging Decree). It prescribes that products which propagate or portray so-called "divergence from self-identity corresponding to sex at birth, sex change or homosexuality" can only be sold if they are wrapped and separated from other goods and are not allowed to be marketed within 200 metres of any entrance to educational, child and youth protection institutions, churches and other places of religious practice. These rules are not subject to the ongoing infringement procedure, however the Packaging Decree also unduly restricts people's right to access information in a manner that is inconsistent with EU law and international human rights law and standards, as its provisions are vague, they do not serve any legitimate aim, and the Government has failed to demonstrate how these restrictions are necessary or proportionate. Based on the Packaging Decree, Lira Book Zrt. was fined HUF 12 million (€ 31,200) over the book "Heartstopper", which "portrays homosexuality", for categorising and selling it as a youth book without wrapping it. The Consumer Protection Authority also fined Libri-Bookline Zrt. for HUF 1 million (€ 2,600) based on the unlawful distribution of the book "Good Night Stories for Rebel Girls". According to the authority, the book contains the story of Coy, a young transgender girl which depicts "deviation from sex at birth and sex change, thus seriously violating the legal requirement to protect the physical and mental integrity of children and adolescents".

The Propaganda Law introduced blanket prohibitions in the Child Protection Act and the Family Protection Act which are not addressed to specific entities and can be applied to any form of portrayal of LGBTI-related issues. It violates the principles of the rule of law, such as legal certainty, that the Propaganda Law lacks the specificity essential for any regulation limiting the right to freedom of expression. Therefore, it is unpredictable which content will be restricted, and the consequences of violating the Child Protection Act and the Family Protection Act are also unforeseeable, as the rules do not specify sanctions. The provisions

in question were used in the October 2023 decision of the National Museum of Hungary which announced that people under 18 years of age were not allowed to purchase tickets for the World Press Photo exhibition in Budapest because some of the exhibited photos portrayed LGBTQI people. However, the restriction was not enforced in practice, as the museum is not authorised to check ID cards, resulting in the dismissal of the museum's director general.

Smear campaigns continued against CSOs working on LGBTQI rights in 2023. The government-aligned media commonly labelled LGBTQI rights organisations as "LGBTQP", P standing for paedophilia. This is exemplified by a case involving the Labrisz Lesbian Association and their publication of "A Fairytale for Everyone", a children's book in 2020. Magyar Nemzet, a government-aligned newspaper, labelled Labrisz as a "paedophile organisation". Even though the organisation took legal action against these claims, the Kúria found that the article did not violate their right to a good reputation. On 26 September 2023, the Constitutional Court found that Kúria's decision was constitutional.

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