

European Rule of Law Mechanism: updated and additional input from Hungary with reference to the meeting held in the framework of the virtual country visit

2023 Rule of Law Report

I. Justice System

1. *Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding the justice system (if applicable)*

Hungary undertook to address both recommendations under the implementation of its Recovery and Resilience Plan (RRP):

- Strengthen the role of the National Judicial Council, while safeguarding its independence, to effectively counter-balance the powers of the President of the National Office for the Judiciary.
- Adapt the rules related to the Kúria to remove judicial appointments outside the normal procedure, to strengthen eligibility criteria for the Kúria President, and to strengthen control by judicial bodies over the Kúria President, taking into account European standards, and to remove the possibility of reviewing the necessity of preliminary references, in line with EU law requirements.

See milestones 213 to 216 (measures C9.R15 to C9.R18) set out in the Annex to the Council implementing decision on the approval of the assessment of the recovery and resilience plan for Hungary.

As we promised, after the adoption of the so-called ‘judicial package’ we hereby send the updated information related to the justice system.

Act X of 2023 amending, with regard to the Hungarian Recovery and Resilience Plan, certain Acts governing justice (hereinafter referred to as the ‘Act implementing the judicial milestones’) was adopted by the National Assembly on 3 May and was promulgated on 10 May. The act entered into force on 1 June 2023.

A. Independence

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

Pursuant to the entry into force of the Act amending the judicial milestones, legislative provisions are in force concerning the post of the president of the Curia which ensure that the candidates for the post of the president of the Curia have at least five years’ experience as a judge; the president of the Curia cannot be re-elected; the National Judicial Council (hereinafter referred to as the ‘NJC’) gives a motivated binding opinion on the suitability of the candidates for the post of president of the Curia that can be proposed by the President of the Republic. The suitability criteria, including independence, impartiality, probity and integrity are set out in the act. The provisions ensure that the candidates found unsuitable by the NJC have access to an accelerated judicial review before the competent court.

Pursuant to section 114 (1) of Act CLXI of 2011 on the organisation and administration of the courts (hereinafter referred to as the ‘Court Organisation Act’) as amended by section 36 of the Act implementing the judicial milestones, **the president of the Curia** shall be elected by the National Assembly from among the judges appointed for an indefinite term with at least 5 years of judicial service who have at least 2

years' experience as judge of the Curia and have the independence, probity, impartiality and integrity required for holding the office of president of the Curia. Section 114 (1) of the Court Organisation Act also stipulates that the president of the Curia shall not be re-elected.

Pursuant to section 67 (2a) to (2f) of the Court Organisation Act, as amended by section 22 (2) of the Act implementing the judicial milestones, which applies by virtue of reference contained in section 114 (3) of the Court Organisation Act, as amended by section 36 of the Act implementing the judicial milestone, the procedure for the election of the president of the Curia is as follows.

The proposal on the candidate for the president of the Curia is still to be made by the President of the Republic to the National Assembly, however, the President of the Republic shall make his or her proposal from amongst those persons in respect of which the NJC stated in a decision that they meet the statutory requirements required for the position of the president of the Curia.

In the course of the procedure, the President of the Republic, as part of the preparation of a proposal for the president of the Curia, shall publish a call for applications for the post of the president of the Curia. The call shall specify the deadline for applications, the place of submission of the application and the statutory requirements for holding the post of president of the Curia. In the next step, the President of the Republic shall send to the NJC the list of candidates for the post of the president of the Curia and the curricula vitae of the applicants. Subsequently, the NJC shall make for each applicant a decision on compliance with the statutory requirements. The NJC shall make the decision, taking also into account the interviews with the applicants, within 45 days of receipt of the list and the curricula vitae of the applicants. The NJC shall provide reasoning for its decisions. The NJC shall communicate each decision to the applicant concerned and to the President of the Republic. If, in its decision on compliance with the statutory requirements, the NJC finds that the applicant does not comply with the statutory requirements, the applicant may as a requesting party object to the decision. The objection shall be adjudicated by the Budapest-Capital Regional Court in a simplified court proceeding. The lawfulness of the decision of the NJC is being reviewed by the Budapest-Capital Regional Court and in case it finds that there is an infringement, it shall annul the decision of the NJC and require it to make a new decision. No further procedural remedy shall lie against the judgment.

According to the rules of the Court Organisation Act which were already in force prior to the entry into force of the Act implementing the judicial milestones, in case the term of office of the president of the Curia does not terminate upon expiry of the term of office, rather upon any other reason, then the President of the Republic had to make a proposal on the post of the president of the Curia within 30 days. Due to the new rules introduced by the Act implementing the judicial milestones as described above, the period of 30 days is not sufficient to make a proposal, therefore section 36 of Draft Act implementing the judicial milestones added section 114 (3a) to the Court Organisation Act by extending this deadline to 100 days.

The Act implementing the judicial milestones ensures that the NJC gives a motivated binding opinion on the suitability of candidates for the post of **vice-president of the Curia** that can be proposed by the Curia President. The suitability criteria, including independence, impartiality, probity and integrity are determined by the law. The legislative provisions ensure that candidates found unsuitable by the NJC have access to an accelerated judicial review before the competent court.

This is provided by section 39 of the Act implementing the judicial milestones which amended/inserted section 128 (1), (1a) and (1b) of the Court Organisation Act, by a cross reference rule in section 22 (2) of the Act implementing the judicial milestones which inserted section 67 (2c) to (2f) of the Court Organisation Act and by section 36 of the Act implementing the judicial milestones which amended section 114 (1) of the Court Organisation Act.

Pursuant to the Act implementing the judicial milestones, the vice-president of the Curia shall be

appointed from amongst the applicants who have been found to meet the statutory requirements for the president of the Curia, in other words those judges who are appointed for an indefinite term with at least 5 years of judicial service, who have at least 2 years' experience as judge of the Curia and have the independence, probity, impartiality and integrity required for holding the office of president of the Curia and is not a relative of the president of the Curia.

Following the expression of the opinion on the applicants by the plenary session of the Curia, the president of the Curia shall send to the NJC the list and the curricula vitae of the applicants to the position of the vice-president of the Curia in order for the NJC to make a decision on whether the applicants meet the statutory requirements.

The president of the Curia may recommend the appointment as the vice-president of the Curia of an applicant as regards whom the NJC established in a decision that the applicant concerned meets the statutory requirements for the vice-president of the Curia.

Pursuant to the entry into force of the Act implementing the judicial milestones, legislative provisions are in force which established stronger powers for the judicial council of the Curia and the divisions ('kollégium') concerned, ensuring that they shall give a binding opinion on candidates for the post of **division head and deputy division head** (the same posts as the following posts referred to in the milestone as 'chairs and vice-chairs of departments of judges'), **panel chairs** (the same posts as the following posts referred to in the milestone as 'presiding judges') **and the Secretary General of the Curia**.

The Act implementing the judicial milestones provides the right to the judicial council and divisions of the Curia to give binding opinion as regards the applicants to the post of division head, deputy division head, panel chair of the Curia and secretary-general of the Curia.

Section 131 d) of the Court Organisation Act, as amended by Section 40 of the Act implementing the judicial milestones, stipulates that in case of division head, deputy division head and panel chair of the Curia the judicial council and then the division of the relevant section of the Curia express their opinion on the applicants. According to point e) of the same section, in case of the secretary-general of the Curia the judicial council and then the divisions of the Curia express their opinion on the applicants. In this regard, section 132 (4a) of the Court Organisation Act, as amended by Section 41 (2) of the Act implementing the judicial milestones, stipulates that the president of the Curia with the right of appointment is bound by the recommendation of the judicial council and the division as regards a division head, deputy division head, secretary-general and panel chair of the Curia.

These powers are also reflected in the provisions listing the functions of the judicial council and the division of the Curia. Section 151 (2) a) of the Court Organisation Act, as amended by Section 43 of the Act implementing the judicial milestone, lays down this right as to the judicial council of the Curia, whereas Section 151 (1) d) of the Court Organisation Act, as amended by Section 44 of the Act implementing the judicial milestones, stipulates the right of the division of the Curia.

The Act implementing the judicial milestones provides that the NJC shall give a motivated binding opinion on the annulment, by the President of the NOJ, of **appointment procedures for judicial and court executive positions** where there is at least one eligible candidate who has been supported by the judges of the given court.

This is ensured by the Act implementing the judicial milestones both in the case of the declaration of ineffectiveness by the president of the NOJ and by the president of the Curia in

- section 30 (6) which amended section 103 (3) o) p) of the Court Organisation Act,
- section 42 (1) which amended section 133 (1a) of the Court Organisation Act,
- section 50 which amended section 18 (6) of the Act CLXII of 2011 on the legal status and remuneration

of judges (hereinafter referred to as the 'Judge Status Act') and which is, based on a cross-reference rule in section 19 of the Judge Status Act, is applicable in relation to the Curia president, too.

The Act implementing the judicial milestones provides that the NJC shall give a motivated binding opinion on the suitability of candidates for the post of **president and vice-president of the National Office for the Judiciary** (NOJ) that can be proposed by the President of the Republic or the President of the NOJ, respectively.

The Act implementing the judicial milestones introduces a new system concerning the rules on the filling of positions of the president and vice-president of the NOJ.

The rules on the election of the **president of the NOJ** are set out in sections 21 and 22 of the Act implementing the judicial milestones which amended section 66 and section 67 (2) (2a) to (2f) of the Court Organisation Act.

Pursuant to the new rules introduced by the Act implementing the judicial milestones, the president of the NOJ shall be elected by the National Assembly from among the judges appointed for an indefinite term with at least 5 years of judicial service who have held a court leader position for at least 2 years and have the independence, probity, impartiality and integrity required for holding the office of president of the NOJ. The president of the NOJ shall not be re-elected.

A proposal on the candidate for the president of the NOJ is still to be made by the President of the Republic, however he or she shall propose candidates from amongst those persons in respect of which the NJC stated in a decision that they meet the statutory requirements required for the position of the president of the NOJ.

In the course of the procedure, the President of the Republic, as part of the preparation of a proposal for the president of the NOJ, shall publish a call for applications for the post of the president of the NOJ. The call shall specify the deadline for applications, the place of submission of the application and the statutory requirements for holding the post of president of the NOJ. In the next step, the President of the Republic shall send to the NJC the list of candidates for the post of the president of the NOJ and the curricula vitae of the applicants. Subsequently, the NJC shall make for each applicant a decision on compliance with the statutory requirements. The NJC shall make the decision, taking also into account the interviews with the applicants, within 45 days of receipt of the list and the curricula vitae of the applicants. The NJC shall provide reasoning for its decisions. The NJC shall communicate each decision to the applicant concerned and to the President of the Republic. If, in its decision on compliance with the statutory requirements, the NJC finds that the applicant does not comply with the statutory requirements, the applicant may as a requesting party object to the decision. The objection shall be adjudicated by the Budapest-Capital Regional Court in a simplified court proceeding. The lawfulness of the decision of the NJC is being reviewed by the Budapest-Capital Regional Court and in case it finds that there is an infringement, it shall annul the decision of the NJC and require it to make a new decision. No further procedural remedy shall lie against the judgment.

According to the rules of the Court Organisation Act which were already in force prior to the entry into force of the Act implementing the judicial milestones, in case the term of office of the president of the NOJ does not terminate upon expiry of the term of office, rather upon any other reason, then the President of the Republic had to make a proposal on the post of the president of the NOJ within 30 days. Due to the new rules introduced by the Act implementing the judicial milestones as described above, the period of 30 days is not sufficient to make a proposal, therefore section 22 (1) of Draft Act implementing

the judicial milestones amended section 67 (2) of the Court Organisation Act by extending this deadline to 100 days.

The procedure for filling the post of **vice-president of the NOJ** was amended by the Act implementing the judicial milestones, based on and in line with the above described new rules applicable as to the post of the president of the NOJ. The relevant provisions are set out by section 25 of the Act implementing the judicial milestones which added section 79 (2a) and (2b) of the Court Organisation Act and. Pursuant to the cross reference rule in section 79 (2a) of the Court Organisation Act, section 67 (2c) to (2f) of the Court Organisation Act shall also be applied.

A judge or judicial employee may be appointed as vice-president of the NOJ if that judge or judicial employee has at least 5 years of judicial service, has held a court leader position for at least 2 years and has the independence, probity, impartiality and integrity required for holding the office of vice-president of the NOJ.

The President of the NOJ shall make a proposal on the applicant for the position of vice-president of the NOJ who, according to the decision of the NJC fulfils the statutory requirements necessary to fill the position of the vice-president of the NOJ. The president of the NOJ shall send the list of applicants and the curricula vitae of the applicants to the NJC for decision making on the applicants' compliance with the statutory requirements for each applicant.

Provisions on the proposal for the position of the president of the NOJ shall apply mutatis mutandis to the position of the vice-president of the NOJ as to the decision-making by the NJC and the objection against the decision of the NJC.

The Act implementing the judicial milestones provides that the NJC shall give a motivated binding opinion on **the points system for the assessment of applications for judicial posts** within the legislative framework.

This competence of the NJC it is set out in Section 103 (3) (q) of the Court Organisation Act, as amended by Section 30 (6) of the Act implementing the judicial milestones. Pursuant to that provision the NJC gives a binding opinion on the draft decree of the Minister of justice laying down detailed rules on the assessment of applications for the position of a judge and on the number of points that may be awarded in the course of determining the ranking of applications. The Minister responsible for justice may not depart from the opinion of the NJC. The provisions of Section 14 (4) of the Judge Status Act, as amended by Section 49 of the Act implementing the judicial milestones, also confirms this competence of the NJC, as it stipulates that the Minister of justice may not depart from the opinion of the NJC in the context of the opinion on the regulation.

If the Minister of justice were to deviate from the opinion of the NJC, the regulation would be invalid under public law. This is ensured by the provisions of Section 108/A of the Court Organisation Act as amended by Section 34 of the Act implementing the judicial milestones. Should the Minister of justice deviate from the binding opinion of the NJC on the draft ministerial decree the assessment of applications for the position of a judge and on the number of points that may be awarded in the course of determining the ranking of applications, the NJC may appeal to the Constitutional Court against that ministerial decree. In this case, if the Constitutional Court finds that the NJC's appeal is well-founded, it shall annul the ministerial decree.

According to Section 108/A (6) of the Court Organisation Act, as enacted by section 34 of the Act implementing the judicial milestones, the Constitutional Court may suspend the entry into force of the ministerial decree, provided that an immediate measure is required to avoid a serious and irreparable damage or detriment, or to protect the Fundamental Law or legal certainty.

In order to ensure that this rule is effectively enforceable, Section 103 (4b) of the Court Organisation Act, as inserted by Section 30 (9) of the Act implementing the judicial milestones, provides that the period between the date of promulgation and the date of entry into force of the decree shall not be shorter than 60 days.

The Act implementing the judicial milestones established non-discretionary rules on **the designation of ad interim court presidents** through a pre-set order of positions within a court as follows: in the absence of a court president, the president's competences are exercised by the vice-president; in the absence of a vice-president, the president's competences are exercised by the head of a department of judges with the longest tenure as a judge; in the absence of a head of department, the president's competences are exercised by the presiding judge with the longest tenure as a judge.

Section 133 (2) of the Court Organisation Act, as amended by Section 42 of the Act implementing the judicial milestones, eradicated the possibility of filling the court president and vice-president position by means of an appointment. Section 123 (1) of the Court Organisation Act prescribes that if the court president is prevented from acting, including a situation where the position is vacant, he or she shall be substituted by the vice-president. Section 123 (1a) of the Court Organisation Act, inserted by section 38 (1) of the Act implementing the judicial milestones, sets out that who shall substitute the president of the court if the vice-president is prevented from acting, including a situation where the position is vacant. The substitution order is set out in accordance with the milestone, thus the division head having the longest judge's service relationship shall act, in case he or she is prevented to act, the judicial council president holding the position of judicial council president for the longest period shall act in the president's place. Stemming from the fact that there is no division at district courts and there are no head of division, the president of the district court is substituted by the vice-president. In case the vice-president is prevented from acting, the group head having the longest judge's service relationship shall act in the president's place. If there is no group head at a district court or the group heads are prevented from acting, including a situation where the position is vacant, the judge with the longest judge's service relationship shall act in the president's place.

Section 38 (2) of the Act implementing the judicial milestones amended Section 123 (2) of the Court Organisation Act and thereby specified the rules on **the substitution of the president of the Curia**, since there are several vice-presidents at the Curia. If the president of the Curia is prevented from acting, not including a situation where the position is vacant, the vice-presidents of the Curia shall act in place of the president of the Curia in an order set by the latter. If the position of the president of the Curia is vacant, the vice-president having the longest judge's service relationship with the Curia shall act in place of the president of the Curia. If the vice-presidents of the Curia are prevented from acting, including a situation where the position is vacant, the division head with the longest judge's service relationship shall act in place of the president of the Curia.

Furthermore, section 133 (2) of the Court Organisation Act, as inserted by section 44 (2) of the Act implementing the judicial milestones, provides that '(s)hould the new call for applications be ineffective, the entity with the right of appointment may, with the exception of the court leader position of a

president or vice-president of a court, fill the court leader position concerned by means of assignment for a period of not more than a year’.

Section 47 c) of the Act implementing the judicial milestones repealed section 133 (3) of the Court Organisation Act which provided, prior to the entry into force of the Act implementing the judicial milestones as follows: ‘If the president and vice-president of the court is absent or unable to discharge his duties for over two months at the same time - including if the position is vacant - the President of OBH shall have powers to appoint an executive from among the ones of the given court to the post of president or vice-president for up to six months.’

The Act implementing the judicial milestones **removed the possibility for members of the Constitutional Court to become judges and then be appointed to the Curia without following the normal application procedure.**

The Act implementing the judicial milestones abolished the possibility for future that judges of the Constitutional Court judges apply for appointment as judges. To achieve this, section 15 a) and c) of the Act implementing the judicial milestones repealed sections 10/A and 69 (10) of Act CLI of 2011 on the Constitutional Court (hereinafter referred to as the ‘Constitutional Court Act’), under which a member of the Constitutional Court could apply to the President of the Republic for appointment as a judge prior to the entry into force of the Act implementing the judicial milestones.

Section 62 (a) of the Act implementing the judicial milestones repealed section 3 (4a) of the Judge Status Act, which also provided that if a member of the Constitutional Court had applied for appointment as a judge under the Constitutional Court Act, the President of the Republic would have appointed him or her as a judge for an indefinite term without a call for applications.

Section 62 (b) of the Act implementing the judicial milestones also repealed section 88 (1a) b) of the Judge Status Act, which provided that the service relationship of a person appointed under section 3 (4a) of the Judge Status Act shall be suspended until the termination of his or her Constitutional Court membership.

The amendment of section 8 (1) a) of the Judge Status Act, by Section 48 of the Act implementing the judicial milestones is linked to the repeal of section 3 (4a) of the Judge Status Act. The amendment entails that section 8 (1) a) no longer refers to the repealed provision.

With the repeal of the above referred provisions, the possibility for a person who is not a judge at the time of his or her election to the Constitutional Court to apply for appointment as a judge after his or her election to the Constitutional Court was abolished.

Following the amendment to the Judge Status Act, a member of the Constitutional Court can only have judge’s service relationship if he or she was already a judge when elected as a member of the Constitutional Court.

For such a case, section 88 (3) of the Judge Status Act, as amended by section 57 of the Act implementing the judicial milestones, sets out a provision, which only provides for the assignment of these judges upon termination of their Constitutional Court membership, when the suspension of their service relationship also ceases.

These judges shall be assigned to the service post they held before their election as a member of the Constitutional Court. Section 96 (3) of the Judge Status Act, as amended by section 61 of the Act implementing the judicial milestones also only contains a provision regarding these judges.

Section 59 of the Act implementing the judicial milestones laid down the necessary transitional rules by inserting section 232/X (1) of the Judge Status Act. These transitional rules settle the situation of those members of the Constitutional Court who have applied for and have been appointed as judges under the rules prior to the entry into force of the Act implementing the judicial milestones. The judge's service relationship of these members of the Constitutional Court is suspended until the termination of their Constitutional Court membership. Upon termination of their memberships, these Constitutional Court judges will be assigned to the regional court of appeal. The transitional rules also deal with the situation where one of these judges attains the general retirement age during the suspension of the judge's service relationship. In such case, the president of the Constitutional Court shall submit a proposal to the President of the Republic for the dismissal of that judge.

3. 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)

The Act implementing the judicial milestones provides that the NJC shall give a motivated binding opinion **on the transfer of judges, including secondments, to another court by the President of the NOJ** referred to in Sections 27, 27/A, 31 and 32 of Act CLXII of 2011, **except for secondments to the NOJ.**

In connection with the assignment of the judge to the NOJ, the Curia or the organ concerned, it is to be mentioned that the president of the NOJ may assign the judge to the NOJ, the Curia or the organ concerned. Assignment of the judge to the Curia or to the organ concerned shall bear the consent of the NJC. This is ensured by the Act implementing the judicial milestones, since the right of consent is stipulated in the Court Organisation Act both at the list of tasks of the president of the NOJ and at the powers of the NJC, in the Judge Status Act amongst the rules of assignment.

The following provisions of the Act implementing the judicial milestones ensure the right of consent of the NJC in relation to the secondment of the judge by the NOJ:

- section 23 (7) which amended section 76 (5) h) of the Court Organisation Act
- section 30 (6) which added section 103 (3) m) mc) to the Court Organisation Act
- section 54 which added section 32(1a) (1b) to the Court Organisation Act.

It is to be noted as regards the assignment and secondment of judges by the president of the NOJ, except for assignment to the NOJ pursuant to sections 27, 27/A, 31 and 32 of the Judge Status Act that the president of the NOJ is entitled to assign a judge to the NOJ, the Curia or to the organ concerned. The consent of the NJC is required for the assignment to the Curia or to the organ concerned. This is ensured by the following provisions of the Act implementing the judicial milestones:

- section 23 (6) which amended section 76 (5) f) of the Court Organisation Act,
- section 30 (6) which inserted section 103 (3) m) mb) of the Court Organisation Act,
- section 51 which amended section 27 (3) of the Judge Status Act,
- section 52 which amended section 27/A (2) of the Judge Status Act.

Pursuant to sections 27 and 27/A of the Judge Status Act, the president of the Curia does not have powers with regard to the assignment of a judge to the NOJ, to the Curia or to the organ concerned. Such decision cannot be made by the president of the Curia, therefore the right of consent of the NJC cannot be interpreted in respect of the president of the Curia in this regard.

Pursuant to section 31 (1) of the Judge Status Act, the president of the Curia is not entitled to the secondment of a judge. This provision reads as follows: 'Section 31 (1) In case secondment takes place between a regional courts and a district court or between district courts, operating at the area of the regional court, the president of the regional court is entitled to the secondment. In other cases, the

president of the NOJ is entitled to the secondment of the judge.’

The Act implementing the judicial milestones provides for the right of consent of the NJC in case of secondment by the president of the NOJ by the following provisions:

- section 23 (7) which amended section 76 (5) h) of the Court Organisation Act,
- section 30 (6) which amended section 103 (3) m) mc) of the Court Organisation Act,
- section 54 which inserted section 32 (1a) and (1b) of the Judge Status Act.

Pursuant to the entry into force of the Act implementing the judicial milestones, legislative provisions are in force which established stronger powers for the judicial council of the Curia and the divisions (‘kollégium’) concerned, ensuring that they shall give a binding opinion on **secondments to the Curia**.

The Act implementing the judicial milestones provides for the right of consent of both the judicial council and divisions of the Curia in case of secondments to the Curia, as follows. Section 76 (5) h) of the Court Organisation Act, as amended by Section 23 (7) of the Act implementing the judicial milestones stipulates that the president of the NOJ shall decide on the secondment of a judge to the Curia only with the consent of the NJC, the judicial council of the Curia and the division of the Curia in the section corresponding to the section of the judge to be seconded.

These powers are also reflected in the provisions listing the functions of the judicial council and the division of the Curia. In the case of the former, this right of consent is set out in subpoint ba) of section 151 (2) b) of the Court Organisation Act, as amended by Section 43 (2) of the Draft, whereas section 155 (3) of the Court Organisation Act, as amended by Section 44 of the Act implementing the judicial milestones provides this right in case of the division of the Curia.

The Act implementing the judicial milestones also sets out this power among the rules on the secondment of judges in Act CLXII of 2011 on the legal status and remuneration of judges (hereinafter referred to as the ‘Judge Status Act’). Section 32 (1b) of the Judge Status Act, as amended by Section 54 of the Act implementing the judicial milestones, stipulates that when the president of the NOJ intends to order the secondment to the Curia of the judge, the consent of the judicial council of the Curia and of the division of the section corresponding to the section of the judge to be seconded to the Curia shall be requested before requesting the consent of the NJC; the consent of the judicial council, the division and the NJC is required for such a secondment.

4. Promotion of judges and prosecutors (incl. judicial review)

The Act implementing the judicial milestones **removed the possibility for members of the Constitutional Court to become judges and then be appointed to the Curia without following the normal application procedure**. See the details described under point 2.

The act implementing the judicial milestones **prohibits the reintegration, by the president of the NOJ, of judges, following their secondment, to a court instance higher than the court in which they adjudicated before their secondment**.

Pursuant to section 58 (3) of the Judge Status Act, as amended by section 56 of the Act implementing the judicial milestone, following the termination of the official assignment, the judge shall be assigned to an actual judge position or, where justified, to a panel chair position without a call for applications, or appointed to the service post of the judge before his or her official activities or to an equal-level service post of, where possible, the domicile of the judge. This new provision does not allow a judge to be assigned for any reason from a court at a level prior to his or her term of office to a higher court.

This rule, by virtue of section 62/C (3) of the Judge Status Act and the by reference in section 64 (2) of the same Act, applies to the assignment of a judge assigned to the body concerned and to the actual judicial position following the termination of the assignment of a judge assigned to the Curia, too.

5. Allocation of cases in courts

Pursuant to the entry into force of the Act implementing the judicial milestones, legislative provisions are in force concerning **the case allocation scheme of the Curia** which ensure that: electronically filed cases are given a case number without human intervention; cases are allocated to chambers following pre-established, objective criteria; the bench hearing the case are composed following an algorithm prescribed in advance; the parties to proceedings are able to verify on the basis of the case file whether the rules on case allocation have been duly applied; the judicial council of the Kúria and the divisions ('kollégium') concerned give a binding opinion on the case allocation scheme.

Section 10 (4) to (7) of the Court Organisation Act, as amended by section 18 of the Act implementing the judicial milestones, lay down the rules on case assignment order of the Curia. Section 10 (4) of the Court Organisation Act stipulates that the criteria set out in the milestone shall apply to the case assignment order of the Curia. Section 10 (5) of the Court Organisation Act specifies the cases in which it is possible to deviate from the case assignment order. However, section 10 (6) of the Court Organisation Act provides that, even in the case of a departure from the case assignment order, the provisions of paragraph (4) must be observed. Section 10 (7) of the Court Organisation Act ensures that the parties are provided with the possibility to check whether the rules governing case assignment are complied with. To this end, paragraph (7) stipulates that the case assignment system shall for each and every case log the complete case assignment process, which the Curia shall publish on its website.

The Act implementing the judicial milestones provides the judicial council and the divisions (in Hungarian: kollégium, which is the same body as translated in the milestone as 'department of judges') of the Curia with a right of consent on the case assignment order. Section 9 (1) of the Court Organisation Act, as amended by section 17 of the Act implementing the judicial milestones, stipulates that, in the case of the Curia the case assignment order shall be determined by the president of the Court, i.e. the president of the Curia, in accordance with the consent of the judicial council and the division.

This power is also reflected in the provisions listing the functions of the judicial council and the division. Section 151 (2) (b) (bb) of the Court Organisation Act, as amended by section 43 (2) of the Act implementing the judicial milestones, sets out this right of consent for the judicial council of the Curia, and section 155 (2) of the Court Organisation Act, as amended by section 44 of the Act implementing the judicial milestones, sets out this right for the division.

Section 41/A (1) of the Court Organisation Act, as amended by section 20 of the Act implementing the judicial milestones, determines the number of the members of the uniformity complaint panel of the Curia. It also lays down the rules on determining the membership of the part-panels in case where the uniformity complaint panel sits in two part-panels, as well as the rules on assigning the cases to the two part-panels in such cases.

6. 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)

The Act implementing the judicial milestones provides **the NJC with legal capacity**. Section 88 (2) of the Court Organisation Act, as amended by section 27 of the Act implementing the judicial milestones,

stipulates that the NJC shall be a central budgetary organ with autonomous financial management; its seat shall be in Budapest. Pursuant to section 7 (1) of Act CXCV of 2011 on Public Finances, a budgetary organ is a legal person established by law or by a statute to perform a public task. The NJC therefore has legal capacity under the new legislation.

The Act implementing the judicial milestones also provides the NJC with the necessary **budgetary autonomy**. Section 4 of the Court Organisation Act, as amended by section 16 of the Act implementing the judicial milestones, the NJC became a separate title within the Courts heading of the central budget. Act VI of 2023 amending Act XXV of 2022 on the Central Budget of Hungary for the year 2023 included the title on the NJC under the heading on Courts in the central budget of Hungary and provided additional resources of HUF 300 million to the NJC for the year 2023 with effect from 1 June 2023. The Act VI of 2023 entered into force on 6 April 2023. Pursuant to Section 11 of Act VI of 2023, in the Act XXV of 2022 on the central budget of Hungary for the year 2023, the following paragraph (5) was added to Section 22: '(5) The condition for the use of the appropriations specified in the title 3 National Judicial Council under heading VI Courts is the entry into force of the legal provision declaring the National Judicial Council to be a central budgetary organ with autonomous financial management. The day of this entry into force shall be determined by the Minister responsible for justice in an individual decision published in the Hungarian Official Gazette without delay after it becomes known.' The day of the entry into force (1 June 2023) referred to in this provision was determined by Decision No 1/2023 of the Minister of justice, which was published on 1 June 2023 of the Hungarian Official Gazette.

Pursuant to sections 23 (1) and (10) of the Act implementing the judicial milestones, amending section 76 (3) (a) of and adding section 76 (11) to the Court Organisation Act, the president of the NOJ shall, in compliance with what is defined in the heading of the courts within the Act on the central budget, and, for the NJC, by the NJC, having been sought and presented, compile his or her proposal for the budget of the courts and his or her account on its implementation, which shall be submitted by the Government, without change, as part of its legislative proposal for the central budget and legislative proposal for its implementation to the National Assembly. Under section 104 (1) of the Court Organisation Act, as amended by section 32 (1) of the Act amending the judicial milestones, the president of the NJC shall manage the budget amount allocated to the NJC; in this context, the president shall have the right to authorise payments and to undertake obligations.

Due to the amendment to section 76 (3) (c)(ca) of the Court Organisation Act, as amended by section 23 (2) of the draft the budgetary autonomy of the NJC is also strengthened, one the one hand, by the fact that the president of the NOJ shall not reallocate the appropriations of the NJC. On the other hand, under in accordance with section 103 (2) of the Court Organisation Act, as amended by section 30 (2) of the Act implementing the judicial milestones, the NJC performs the tasks of the head of the organ in charge of managing a budget heading with regard to its title.

The Act implementing the judicial milestones laid down transitional provisions to provide the NJC with the necessary support and infrastructure to carry out its secretarial and administrative tasks during the transitional period necessary for the establishment of the NJC as a central budgetary organ with autonomous financial management. In accordance with section 197/F (2) to (8) of the Court Organisation Act, inserted by section 45 of the Act implementing the judicial milestones, this support shall be provided to the NJC by the NOJ for a period of 9 months.

As for the year 2023, section 197/F (9) of the Court Organisation Act, inserted by section 45 of the Act implementing the judicial milestones, sets out that the budget funds necessary for the operation in 2023 of the NJC shall be allocated in accordance with Act XXV of 2022 on the 2023 central budget of Hungary. Act VI of 2023 amending Act XXV of 2022 on the Central Budget of Hungary for the year 2023 provided,

with effect from 6 April 2023, additional resources of HUF 300 million to the National Judicial Council for the year 2023.

Section 35 (1) of the Act implementing the judicial milestones stipulates that **judges-members of the NJC are entitled to be relieved from their adjudicating duties to the extent regional court presidents are relieved from their adjudicating duties.**

Judges-members of the NJC cannot be re-elected except for the next term of office. Section 197/F (1) of the Court Organisation Act as inserted by Section 45 of the Act implementing the judicial milestones stipulates that members of the NJC operating at the time of the entry into force of the Act amending the judicial milestones may be re-elected when electing the members of the subsequent NJC.

The Act implementing the judicial milestones stipulates that **judges-members of the NJC elect from among themselves the chairperson of the NJC.**

Section 89 (2) of the Court Organisation Act, as amended by Section 28 (1) of the Act implementing the judicial milestones, sets out the rule that the members of the NJC shall elect the president and vice-president of the NJC from among themselves. The provision also sets out the period of the term of office of the president and vice-president elected by the members of the NJC and the rules on their election. The Act also states that the president and vice-president may be re-elected.

Furthermore, section 197/F (2) of the Court Organisation Act enacted by section 45 of the Act implementing the judicial milestones provides that following the entry into force of the Act amending the judicial milestone, the NJC may elect at any time its new president and vice-president in accordance with section 89 (2) and (2a). If the term of office of the president and vice-president holding the office of president and vice-president did not yet expire at the time of the election of a new president and vice-president, that term of office shall terminate at the time of the election of the new president and vice-president.

Pursuant to Section 105 (5) of the Court Organisation Act as inserted by section 32 of the Act implementing the judicial milestones, **court presidents and vice-presidents as members of the NJC shall not participate in the deliberation and vote on matters relating to their administrative activities.** The provision also makes it clear that it also applies to the president of the Curia.

The Act implementing the judicial milestones sets out the provisions on **the right for the NJC to seize the competent court and the Constitutional Court to defend its prerogatives and enforce its rights.**

Sections 108/A to 108/E of the Court Organisation Act, enacted by Article 34 of the Act implementing the judicial milestones, and sections 36/A and 36/B of the Constitutional Court Act, as enacted by section 14 of the Act implementing the judicial milestones, form a complex system under which the NJC may seize the competent court and the Constitutional Court to enforce its rights.

The system of legal remedies is structured as follows.

1. Pursuant to section 108/A of the Court Organisation Act enacted by section 34 of the Act implementing the judicial milestones, the NJC may apply for legal remedy to the Constitutional Court against the Minister responsible for justice if the Minister responsible for justice did not provide an opportunity to give an opinion on a draft ministerial decree laying down detailed rules for the assessment of applications for judge positions and on points that may be awarded in the course of establishing application ranking or deviated from the binding opinion given by the NJC in the on the draft ministerial decree. Where the Constitutional Court establishes that a legal remedy application of the NJC is well-grounded, it shall annul the ministerial decree.

Upon the request submitted by the NJC, the Constitutional Court may suspend the entry into force of the

ministerial decree that has been already promulgated but has not yet entered into force, provided that an immediate measure is required to avoid a serious and irreparable damage or detriment, or to protect the Fundamental Law or legal certainty. In order to ensure that this rule is effectively enforceable, the above referred Section 103 (4b) of the Court Organisation Act, as inserted by section 30 (9) of the Act implementing the judicial milestones, provides that the period between the date of promulgation and the date of entry into force of the decree shall not be shorter than 60 days.

2. Under section 108/A (9) of the Court Organisation Act, inserted by section 34 of the Act implementing the judicial milestones, the NJC may also apply for legal remedy to the Constitutional Court if the body responsible for the preparation of the law did not enable the NJC to give its opinion on a draft law concerning the justice system. If the Constitutional Court establishes that a legal remedy application of the NJC is well-grounded, it shall annul the law.

Upon the request submitted by the NJC, the Constitutional Court may also suspend in this proceeding the entry into force of the law that has been already promulgated but has not yet entered into force or provision(s) of the draft law, provided that an immediate measure is required to avoid a serious and irreparable damage or detriment, or to protect the Fundamental Law or legal certainty. In order to ensure that this rule is effectively enforceable, the above referred Section 103 (4b) of the Court Organisation Act, as inserted by Section 30 (9) of the Act implementing the judicial milestones, provides that the period between the date of promulgation and the date of entry into force of the decree shall not be shorter than 60 days.

Having regard to the enactment of section 108/A of the Court Organisation Act, the Act implementing the judicial milestones also amended (by its section 14) the 'Constitutional Court Act', by adding sections 36/A and 36/B to that act.

3. Under section 108/A (10) of the Court Organisation Act, inserted by section 34 of the Act implementing the judicial milestones, the NJC may also apply for legal remedy to the Constitutional Court if its statutory rights are violated by any promulgated law. Pursuant to Article T) (2) of the Fundamental Law „laws shall be Acts, government decrees, prime ministerial decrees, ministerial decrees, decrees of the Governor of the Hungarian National Bank, decrees of the heads of independent regulatory organs and local government decrees.” If the application by the NJC is well-grounded, the Constitutional Court shall annul the law or a specific provision of the law in question.

4. Under section 103/A of the Court Organisation Act introduced by section 31 of the Act implementing the judicial milestones, the NJC may access all documents, information and data related to the administration of courts, including personal data. The request of the NJC shall be fulfilled within 15 days of receiving the request.

In accordance with section 108/B of the Court Organisation Act, enacted by section 34 of the Act implementing the judicial milestones, if an organisation or a person rejects a request from the NJC which is based on its right or does not comply with such a request within 15 days, the NJC may, as plaintiff, bring an action for access against the requested organisation or person as defendant before the Budapest-Capital Regional Court. The court shall act as a matter of priority in all stages of the action. If the court upholds the action, it shall oblige the defendant in its decision to ensure the requested access and shall set the time limit available for such access. Review shall not be granted in the action.

6. Pursuant to section 108/C of the Court Organisation Act, enacted by section 34 of the Act implementing the judicial milestones, if the NOJ or the Curia fails to fulfil a statutory obligation towards the NJC, the NJC may, as plaintiff, bring an action for failure to act pursuant to the Act I of 2017 on the Code of Administrative Court Procedure (hereinafter referred to as the 'Administrative Court Procedure Code') against the NOJ or the Curia as defendant before the Budapest-Capital Regional Court. If a time limit for compliance with the obligation is not prescribed in law, the NJC, before bringing the action, shall call upon

the obliged entity to fulfil the statutory obligation and shall set a reasonable time limit. The action for failure to act is a type of administrative action. The action for failure to act shall be conducted in accordance with the provisions pursuant to the Administrative Court Procedure Code. Review shall not be granted in the action. (Section 108/D of the Court Organisation Act).

7. In order to ensure the application of the principle of equality of arms, under section 108/D of the Court Organisation Act, enacted by section 34 of the Act implementing the judicial milestones, the NOJ, the Curia and the Minister responsible for justice may, as plaintiff, bring an action for failure to act against the NJC as defendant for a failure to fulfil a statutory obligation to exercise the right of consent or give a binding opinion. The action for failure to act is a type of administrative action. The action for failure to act shall be conducted in accordance with the provisions pursuant to the Administrative Court Procedure Code. Review shall not be granted in the action.

The action for failure to act can never relate to the content of the failed act. Thus, in case of the right of consent, the court can only establish that the NJC did not make any statement, either positively or negatively, following from its right of consent. After that, if the NJC expressly declares that it does not give its consent, then it has fulfilled its failed obligation.

8. The rules on action for annulment are set out in section 108/E of the Court Organisation Act, enacted by section 34 of the Act implementing the judicial milestones, to ensure legal remedy for the NJC for the enforcement of its rights, including its right to give opinion and its right of consent before administrative court. The NJC may challenge, in an administrative action, specific decisions, administrative acts of general scope not falling under the scope of the Act on law-making (practically speaking these include all regulations that do not qualify as 'public law regulatory instrument') and normative instructions adopted by the NOJ or the Curia by disregarding the statutory right of the NJC (normative instructions can be adopted only by the president of the NOJ). The Budapest-Capital Regional Court has subject-matter jurisdiction and exclusive territorial jurisdiction over the action. The NJC may request interim relief in the action: it may request to order the suspensory effect with regard to a specific decision or an administrative act of general scope not falling under the scope of the Act on law-making; and may request to order the temporary prohibition of the application of the normative instruction.

If the court finds that, in adopting the administrative act, the NOJ or the Curia did not enable the NJC to exercise its statutory right or, in the case of the right to give consent and binding opinion, disregarded its content or adopted a provision contrary to it, the court in case of a specific decision or an administrative act of general scope not falling under the scope of the Act on law-making, shall annul the administrative act, while in case of a normative instruction, the court shall oblige the institution with the power to adopt the normative instruction to repeal the normative instruction disregarding the right of the NJC to give a binding opinion.

If the court in its decision obliged the institution with the power to adopt the normative instruction to repeal the normative instruction and ordered a temporary prohibition of the application of that normative instruction in the action, then the period of the temporary prohibition of application is extended until the normative instruction is repealed. Thus, the normative instruction cannot be applied during the period until it is repealed in accordance with the judgment.

9. The above remedies do not prejudice the right of the NJC to seize a court provided by another laws. This is expressly stated in section 108/G of the Court Organisation Act, enacted by section 34 of the Act implementing the judicial milestones. For example, if the NJC suffers any damage, it can claim damages in a civil action under the Civil Code.

7. 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)

The Act implementing the judicial milestones amended sections 666 et seq. of the Code of Criminal Procedure and thereby **removed the possibility for the Curia to review the legality of the decision of a judge to make a preliminary reference to the Court of Justice of the European Union.**

To this end section 63 of the Act implementing the judicial milestones inserted section 490 (4) of Act XC of 2017 on the Code of Criminal Procedure (hereinafter referred to as the 'Code of Criminal Procedure'), and section 64 of the Act implementing the judicial milestones inserted section 667 (2a) of the Code of Criminal Procedure.

By amending the Code of Criminal Procedure, the Act implementing the judicial milestones provides that in accordance with the rules set out in the Treaties of the European Union, the court initiates the preliminary ruling procedure before the Court of Justice of the European Union ex officio or on a motion if it determines that it is necessary in relation to any European Union legal act or legislation applicable in criminal proceedings.

The Act implementing the judicial milestones further specifies that no appeal shall lie against an order initiating a preliminary ruling procedure or dismissing a motion for initiating a preliminary ruling procedure. The aim of the regulation is to make it clear that no decision shall be made which would review the lawfulness of the decision by which the court initiates the preliminary ruling procedure before the Court of Justice of the European Union.

The Act implementing the judicial milestones amended section 490 of the Code of Criminal Procedure on staying the proceedings and thereby removed any obstacle to a court to make a preliminary reference in line with Article 267 TFEU.

By amending the Code of Criminal Procedure, section 63 of the Act implementing the judicial milestones provides that in accordance with the rules set out in the Treaties of the European Union, the court initiates the preliminary ruling procedure before the Court of Justice of the European Union ex officio or on a motion if it determines that it is necessary in relation to any European Union legal act or legislation applicable in criminal proceedings.

Thereby the Act implementing the judicial milestones clarifies that the right of Hungarian courts to initiate preliminary ruling procedure before the Court of Justice of the European Union, stemming from the Treaties of the European Union, is not restricted.

8. 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

The Act implementing the judicial milestones provides that the NJC shall give a motivated binding opinion on the **detailed conditions for the award of bonuses and other benefits to judges and court executives.**

Under Section 167 of the Judge Status Act, a judge is entitled to a remuneration, other remuneration, further allowances and reimbursement of expenses.

Section 189 (1) of the Judge Status Act stipulates that, depending on the appropriations provided for in the annual budget of the courts, judges may be provided further benefits in addition to those under the cafeteria system. Thus, depending on the appropriations provided for in the annual budget of the courts, further benefits in addition to those under the cafeteria system are therefore a type of other remuneration which may be granted to judges.

Depending on the appropriations provided for in the annual budget of the courts, various types of allowances may be granted within the further benefits in addition to those under the cafeteria system, the most important of which are listed in an exemplary manner in Section 189 (1). However, the list of allowances covered is not exhaustive and other forms of allowances may be granted in addition to those listed.

Section 189 (3) of the Judge Status Act, as amended by Section 58 of the Act implementing the judicial milestones, stipulates that the amount and detailed conditions of the benefits specified in paragraphs (1) and (2), including the conditions for the granting thereof, shall be determined by the president of the NOJ in cooperation with the representative organisations and with the consent of the NJC, in regulations.

The regulations pursuant to Section 189 (3) shall apply to all further benefits in addition to those under the cafeteria system, depending on the appropriations provided for in the annual budget of the courts, so that if, in addition to the allowances listed by way of example, the courts intend to provide other allowances, depending on the appropriations provided for in the annual budget of the courts, as further benefits in addition to those under the cafeteria system, the regulations shall also cover the amount and detailed conditions thereof.

However, in order to avoid any doubt in this respect, Section 103 (2) (c) of the Court Organisation Act, as amended by Section 30 (3) of the Act implementing the judicial milestones, in regulating the right of consent of the NJC, not only stipulates that the NJC shall exercise the right of consent on the conditions and amounts of the benefits under Section 189 (1) and (2) of the Judge Status Act, but also stipulates that this right of consent extends to all other benefits in addition to those under the cafeteria system granted to judges and court leaders, depending on the appropriations provided for in the annual budgets of the courts.

Section 76 (3) (g) of the Court Organisation Act enacted by Section 23 (3) of the Act implementing the judicial milestones reaffirms the powers of the NJC in the area of the definition of the duties of the president of the NOJ, by stipulating that the president of the NOJ shall determine the detailed conditions and the amount of other benefits pursuant to Section 189 (1) and (2) of the Judge Status Act with the consent of the NJC.

9. Independence/autonomy of the prosecution service

No relevant development has taken place.

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

No relevant development has taken place.

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

The Act implementing the judicial milestones implements, with effect of 1 June 2023, the recommendations of the Commission made in the Hungarian chapter of its Rule of Law Report 2022 related to strengthening the independence of the judiciary.

B. Quality of justice

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

No relevant development has taken place.

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

The Act implementing the judicial milestones provides that the NJC shall give a motivated binding opinion on the number of judicial posts in each court within the framework determined in the annual budget, including the Curia, and their departments.

The Act implementing the judicial milestones endows the NJC with legal capacity and autonomy in disbursement of its budget. See the details in point 6.

Section 104 (1) of the Court Organisation Act, as amended by section 32 (1) of the Act implementing the judicial milestones sets out that a secretariat performing administrative tasks ensuring the operation of the NJC that consists of judicial employees of the NJC shall assist the work of the NJC. In addition, each NJC member is assisted by a junior judge appointed by the NJC member. If the junior judge accepts the invitation, he or she shall be assigned to the NJC by the president of the NJC in accordance with the rules set out in Act LXVIII of 1997 on the service relationship of judicial employees (hereinafter referred to as the 'Judicial Employees Act').

Sections 1 to 12 of the Act implementing the judicial milestones amended the Judicial Employees Act and thereby provides for the employment of judicial employees and the assignment of junior judges to the NJC.

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

The Act implementing the judicial milestones provides that the NJC shall give a motivated binding opinion on the **rules relating to the training system for judges**.

The Act implementing the judicial milestones sets out the NJC's right of consent both among the provisions on the tasks of the president of the NOJ in the Court Organisation Act, and among the provisions on the powers of the NJC and in the rules on training of the Judge Status Act.

Section 76 (7) (b) of the Court Organisation Act, as amended by Section 23 (8) of the Act implementing the judicial milestones, provides that the president of the NOJ, with the consent of the NJC, shall determine the rules for the training system for judges and the rules for the fulfilment of the training obligation. The same rule was laid down in Section 103 (4) (b) of the Act, as amended by Section 30 (7) of the Act implementing the judicial milestones, as a power of the NJC in that the NJC shall exercise the right of consent with regard to the system of training of judges and the rules for the performance of the training obligation of judges. Section 45 (4) of the Judge Status Act, as amended by Section 55 of the Draft, also confirms that the president of the NOJ shall lay down the rules for the system of training and the fulfilment of the training obligation in regulations issued with the consent of the NJC.

15. Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)

No relevant development has taken place.

16. 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)

The Act implementing the judicial milestones provides that the NJC shall give a motivated binding opinion on the **data sheet and methods for the assessment of the workload of judges**, as well as **the determination of the ‘national workload for contentious and non-contentious proceedings broken down according to judicial level and case types’**.

The Act implementing the judicial milestones sets out the right of consent of the NJC both among the provisions on the tasks of the president of the NOJ and the provisions on the powers of the NJC.

Provisions of Section 76 (4) (e) of the Court Organisation Act, as amended by Section 23 (5) of the Act implementing the judicial milestones, and section 103 (2a) (b) (bb) of the Court Organisation Act, as amended by Section 30 (4) of the Act implementing the judicial milestones, stipulate the right of the NJC to give its consent.

Under the Act implementing the judicial milestones the NJC shall determine **the structure of the biannual report of the President of the NOJ**.

Section 76 (8) (a) of the Court Organisation Act, as amended by section 23 (9) of the Act implementing the judicial milestones, clearly states that the president of the NOJ shall fulfil his or her obligation to inform the NJC every six months in an information document structured as defined by the NJC. Section 103 (4a) of the Court Organisation Act, inserted by section 30 (8) of the Act implementing the judicial milestones, stipulates that the NJC shall determine the structure of the information document relating to the annual information obligation of the president of the NOJ towards the NJC.

17. Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialisation, in particular specific courts or chambers within courts to deal with fraud and corruption cases.

No relevant development has taken place.

C. Efficiency of the justice system

18. Length of proceedings

In civil cases, based on the provisions of Act XCIV of 2021¹ that entered into force on 1 January 2022, the parties may request pecuniary compensation for the unreasonable protraction of their civil court proceedings.

The effectiveness of this compensatory remedy was recognised by the European Court of Human Rights in its admissibility decision in the case *Szaxon v. Hungary* on 21 March 2023.

¹ Act XCIV of 2021 is available at the following link: <https://njt.hu/jogszabaly/2021-94-00-00>.

II. Anti-corruption framework

19. Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding the anti-corruption framework (if applicable)

- Recommendation: Adopt comprehensive reforms on lobbying and revolving doors, and strengthen the system of asset declarations, providing for effective oversight and enforcement.

Legislative plans:

Further legislation will be adopted to fully implement the commitments undertaken in the milestones No 160, 162, 171 and 172 also with a view of the weaknesses and risks identified in the Council Implementing Decision No 2022/2506 of 15 December 2022 on measures for the protection of the Union budget against breaches of the principles of the rule of law in Hungary. In this regard, consultations are ongoing with the European Commission.

At the end of March 2023 the Hungarian Government finalized the draft text of the new National Anti-Corruption Strategy and the related Action Plan which shall be adopted by the end of June 2023 by the Hungarian Government. In accordance with the commitments set out in the relevant remedial measure undertaken in the conditionality procedure, the Hungarian Government is conducting consultations with the Anti-Corruption Task Force, the European Commission, the OECD and the Council of Europe (GRECO). As part of this process, the OECD had a fact-finding visit in Budapest on 10-11 May 2023, where it held meetings, inter alia, with the representatives of the Integrity Authority and the non-governmental members of the Anti-Corruption Task Force.

- Recommendation: Establish a robust track record of investigations, prosecutions and final judgments for high-level corruption cases.

As it is described in Hungary' input to the 2023 Rule of Law Report, in accordance with the commitment undertaken by the Hungarian Government in the relevant remedial measure (Introduction of a specific procedure in the case of special crimes related to the exercise of public authority or the management of public property) in the conditionality procedure, and after consulting with the European Commission, the National Assembly adopted in 2022 the amendment² to the Act XC of 2017 on the Code of Criminal Procedure which introduced a new procedure, applicable as of 1 January 2023, for the judicial review of decisions closing files which are related to the broad concept of corruption.

Consultations with the European Commission are ongoing about a draft act that aim at addressing the remaining concerns identified by the Commission, and reaffirmed by the Council in its implementing decision (EU) 2022/2506 concerning this procedure.

In accordance with the commitment to establish additional dedicated posts for at least two judges and at least two junior judges within the competent court, the President of the National Office for the Judiciary adopted decisions on 17 January 2023 to establish those posts within the Buda Central District Court. The deadline for submitting the application for the two posts for judges within the Group of Investigative Judges at the Buda Central District Court has expired on 10 March 2023. The deadline for submitting applications for the posts for junior judges has expired on 5 April 2023. The procedures for filling in these posts are currently on-going.

² See Chapter CV/A (sections 817/A to 817/W) of the Act XC of 2017 (available at <https://njt.hu/jogszabaly/2017-90-00-00>), introduced by Act XLIV of 2022.

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

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

The Integrity Authority

All necessary conditions are provided for the operation of the Integrity Authority. In accordance with section 71 of Act XXVII of 2022 on the control of the use of European Union budget funds, the Directorate General for Audit of European Funds (DGAEF) provided the necessary infrastructure for the secretarial and administrative tasks for a period of six months from the date of entry into force of that Act (11 October 2022). The detailed rules were laid down in an agreement between the Integrity Authority and the DGAEF dated on 14 December 2022.

Upon the end of this incubation period the Integrity Authority became fully independent from the DGAEF in an economic sense, has its own seat and homepage. Currently the DGAEF continues to provide only the IT background to the Authority. The most important internal policies and regulations of the Authority have been issued.

The Integrity Authority published its first Integrity Risk Assessment Report on the Hungarian public procurement system on 31 March 2023.³

The Anti-Corruption Task Force (ACTF)

The ACTF held 6 meetings so far.

The ACTF adopted its first annual report (on the year 2022) on 13 March 2023⁴. In accordance with section 52 of the above-referred Act XXVII of 2022, the Hungarian Government discussed the report within two months of its adoption.

Additional information provided with reference to the meeting held in the framework of the virtual country visit

The National Protective Service (hereinafter referred to as the 'NPS') has always been characterised by balance, fairness and mutuality. The NPS has broad cooperation and collaboration with its partners as well.

Hungary has many good practices with regard to the fight against corruption. In this regard, the following good practices should be highlighted:

1. integrity tests;

³ Available at the following link: https://integritashatosag.hu/wp-content/uploads/2023/04/Integritas_Hatosag_Integritaskockazat_ertekeles_2023_marcius.pdf.

⁴ The report is available at the following link: <https://integritashatosag.hu/wp-content/uploads/2023/04/Korrupcioellenes-Munkacsoport-2022-evre-vonatkozo-jelentes.pdf>.

2. life-style checks;
3. an integrity management system (an institutional system of integrity advisors that requires an organisation to manage corruption risks) ;
4. integrated risk management system;
5. internal control system;
6. central role of the National Protective Service (supports, manages and coordinates the fight against corruption in public administration);
7. education and trainings (development of guidelines, availability of guidance materials);
8. involving not only the public sector but also the private sector in the fight against corruption, as well as the new generation of young people;
9. common training for all those involved in preventing, detecting and investigating corruption with a common approach;
10. having an Anti-corruption Strategy in force (collective social responsibility and unified approach).

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

No relevant development has taken place.

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

National Anti-corruption Strategy (2020-2022)

The Action Plan of the National Anti-Corruption Strategy (2020-2022) has been implemented, in accordance with the timeframe set in the relevant remedial measure undertaken in the conditionality procedure.

Anti-corruption trainings focusing on foreign bribery

All training courses have been implemented to the full. These courses are the following:

1. Training for investigating prosecutors on prosecutors on the law enforcement organisations' practices in the use of means for secret information gathering (one-day training courses, 7 times for a total of 160 participants).
2. Additional training for the staff of the public prosecutor's office, judges and police officers on the bribery of foreign officials (one-day training course for 100 participants).
3. Theoretical and Practical Aspects of Corruption Prevention (international conference - Austria, Czech Republic, Germany, Portugal, Romania, Slovakia) on prevention and detection of corruption, sharing of international experiences with police officers, prosecutors, integrity advisors (120 participants in total).

4. Trainings aiming at increasing knowledge of police officers on bribery of foreign officials and investigation of corruption offences (one three-day training for 70 police officers and a one-day training for 100 police officers).
5. Trainings for the staff of the Ministry of Foreign Affairs and Trade aim at raising awareness for the public sector (foreign affairs staff) on bribery of foreign officials and on the internal control system. (Foreign bribery focused further training for commercial attachés (100 officials) was realized in July, 2021.)
6. Raising awareness for business actors about bribery of foreign officials (one-day training for 60 entrepreneurs of small and medium companies)
7. Joint anti-corruption training for judges, prosecutors and police officers (one-day training course for 32 participants).

Preparation of a new National Anti-Corruption Strategy and Action Plan

At the end of March 2023 the Hungarian Government finalized the draft text of the new National Anti-Corruption Strategy and the related Action Plan which shall be adopted by the end of June 2023 by the Hungarian Government. In accordance with the commitments set out in the relevant remedial measure undertaken in the conditionality procedure, the Hungarian Government is conducting consultations with the Anti-Corruption Task Force, the European Commission, the OECD and the Council of Europe (GRECO). As part of this process, the OECD had a fact-finding visit in Budapest on 10-11 May 2023, where it held meetings, inter alia, with the representatives of the Integrity Authority and the non-governmental members of the Anti-Corruption Task Force.

B. Prevention

23. *Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct, ethics training). Please provide figures on their application.*

No relevant development has taken place.

24. *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)*

See the above descriptions under points 19 and 22.

25. *Rules and measures to prevent conflict of interests in the public sector. Please specify the scope of their application (e.g. categories of officials concerned)*

Additional information provided with reference to the meeting held in the framework of the virtual country visit

The Constitution Protection Office (with the exception of the bodies falling within the competence of the body performing internal crime prevention and detection tasks under Act XXXIV of 1994 on the Police, and defence organisations) shall carry out internal security and crime prevention checks of the budgetary body under the direction or supervision of the Government or a member of the Government, including the National Tax and Customs Office.

The NPS actively participates in this field as well. The NPS carries out crime prevention checks

(i) to all employees of the ministry or work organisation headed by the Minister of the Interior, the budgetary bodies managed or supervised by the Minister of the Interior and the National University of Public Service,

(ii) persons engaged in the exercise of health care activities on the basis of a student status, with the exception of persons employed by a health care service provider maintained or owned by a religious legal person, persons employed on health care service contracts and personnel of a health care service provider under the control of the Minister of Defence,

(iii) professional staff, civil servants and employees of the Parliamentary Guard,

(iv) and employees of the territorial government administration bodies.

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

Implementation of the EU whistleblower directive

On 11 April the National Assembly adopted the Whistleblower Act, which aims to implement EU Directive 2019/1937 on the protection of whistleblowers. The Act was vetoed by the President of the Republic and sent back to the Parliament for reconsideration. The reason for this is that the bill contained a chapter which aimed at ensuring the possibility to report in order to achieve a higher level of protection of fundamental rights and values, furthermore, to report with regard to the common interest of protecting the Hungarian way of life. The President of the Republic found that the bill does not strengthen but rather weakens the protection of fundamental values. In her reasoning, she found that the problematic chapter does not constitute an essential part of the law, since it does not relate to the implementation of the EU directive, neither corresponds with already existing Hungarian legislation. Additionally, she found that reference to fundamental values without highlighting their particularities, keeps them vague thereby resulting in confusion with regard to the type of conduct which could be reported. Moreover, she did not consider the legal consequences to be clearly seen from the law.

This was the third time within the first year of her term of office when the President of the Republic exercised her right to veto. As a result of the current veto, the National Assembly reconsidered the bill and on 23 May, adopted it without the chapter that was subject to the veto.

The Hungarian Government is of the opinion that the act adopted by the National Parliament, which was promulgated on 25 May 2023 (see Act XXV of 2023⁵) fully and adequately implements the EU whistleblower directive.

Additional information provided with reference to the meeting held in the framework of the virtual country visit

Since 2011, the NPS provides a secure way for citizens to make anonymous reports and complaints by calling the so called „Green Number” (06-80-200-974). There were 44 notifications to the Green Number in 2021, and 54 in 2022. However, this is just one of the possible ways in which reports and complaints are made to the NPS. Other options are email or postal contact. Hundreds of notifications are received every year (467 in 2022, including the 54 above). The NPS does not keep statistics on how many of these notifications were sufficient and which were motivated by other motives (e.g. malice, irresponsibility). In

⁵ The text of the Act is available at the following link: <https://njt.hu/jogszabaly/2023-25-00-00>.

this context, however, it is not the numbers that are important, because even if there is only one substantive report a year, it is worth maintaining the phone line.

It is important to maintain this possibility, because citizens are given a form of contact through which they can make anonymous reports and their identity will not be revealed, as the NPS will not be able to identify who made the report.

In addition, the so-called Phone Witness Programme (Telefontanú Program) started to operate in January 2001. It allows citizens to report on crimes that have been already committed or that are being planned, and on persons wanted by the police. This programme is not operated by the NPS.

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

No relevant development has taken place.

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

No relevant development has taken place.

C. Repressive measures

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

Additional information provided with reference to the meeting held in the framework of the virtual country visit

The level of enforcement of foreign bribery, as specified in the OECD Anti-Bribery Convention, is insignificant. In 2022, there was one case started for bribing foreign officials by a Hungarian citizen in indirect connection with international business transactions.

It is worth noting that in the absence of significant capital exports, the Hungarian economy cannot be considered as a particularly contaminated area by international bribery. On the contrary, foreign investors coming to Hungary are likely to engage in conduct that would constitute international bribery under the legal provisions of their home country or under the OECD Convention. However, under Hungarian law, this phenomenon constitutes domestic acts of bribery.

30. Data on investigation and application of sanctions for corruption offences, including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds.

The number of persons convicted (on a final level) for corruption related crimes was 304 in 2022.

The high-profile case group on corruption in the health sector in 2022 dealt with mass malpractice in

relation to medical devices. The common feature of the crimes uncovered by the NPS and investigated by the National Investigation Bureau and other investigating authorities in several criminal proceedings is that representatives of companies producing or distributing medical devices claimed unauthorised subsidies paid by the National Health Insurance Fund on the basis of prescriptions written in bulk by doctors authorised to prescribe orthopaedic medical devices with false content. The damage to the health budget caused by these crimes is in the magnitude of millions of euros.

On the number of persons investigated/prosecuted for corruption-related crimes in 2022, please find an Excel table attached to this document (See the Annex).

31. 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)

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

Other – please specify

III. Media freedom and pluralism

33. Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding media freedom and pluralism (if applicable)

No relevant development has taken place.

A. Media authorities and bodies

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

No relevant development has taken place.

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

No relevant development has taken place.

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

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

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

No relevant development has taken place.

38. 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 licences, company operation, capital entry requirements, concentration, and corporate governance

No relevant development has taken place.

39. 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

No relevant development has taken place.

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

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

We note that on the Council of Europe Platform on the Safety of Journalists there have not been any reported alerts on attacks on the physical safety and integrity of journalists in Hungary in the last 5 years.

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

No relevant development has taken place.

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

Pursuant to Section 103/A of the Court Organisation Act, as introduced by Section 31 of the Act implementing the judicial milestones, the NJC may access all documents, information and data related to the administration of courts, including personal data. Such a request by the NJC shall be fulfilled within 15 days. Pursuant to section 108/B of the Court Organisation Act, introduced by section 34 of the Act implementing the judicial milestones, if an organisation or a person rejects such a request from the NJC or does not comply with it within 15 days, the NJC may, as plaintiff, bring an action before the Budapest-Capital Regional Court, for access against the requested organisation or person as defendant. The court shall act as a matter of priority. If the court upholds the action, it shall oblige the defendant in its decision to ensure the requested access and shall set the time limit available for such access. Review shall not be granted in the action.

43. 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

No relevant development has taken place.

Other – please specify

IV. Other institutional issues related to checks and balances

44. Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding the system of checks and balances (if applicable)

A. The process for preparing and enacting laws

45. Framework, policy and use of impact assessments and evidence based policy-making, stakeholders'/public consultations (particularly consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process

(i) Amendment to the Act CXXXI of 2010 on Public Participation in the Preparation of Legislation in 2022: application of the requirement that the proportion of draft legislation subject to public consultation shall be 90 %

The Government Control Office has issued its report on the year 2022⁶. It states that in the period covered by the report between the entering into force of the reporting obligation (i.e. 26 October 2022) and the end of the year, 682 Acts, government decrees and ministerial decrees have been published in the official journal. 123 of these draft pieces of legislation do not fall under the scope of Act CXXXI of 2010, and in 154 cases the consultation with public bodies was launched prior to the entry into force of the provision of the amending act, thus it was not possible to include these in the report according to Article 21 of the Act CXXXI of 2010.

The report concluded that of the 405 draft pieces of legislation that have been included in its scope, 92% (373 pieces) have been subjected to public consultation prior to their publication, and of the remaining 8% (32 draft pieces of legislation) 21 were not supposed to be subject to a preliminary public consultation based on Section 5 (3), and in 11 cases it was not possible to subject them to a public consultation based on Section 5 (4) of Act CXXXI of 2010, because they touched upon matters of budget, state aid or international agreements.

Based on this information the report concluded that Section 5/A (3) of the Act CXXXI of 2010 has been respected, since 92% of the draft pieces of legislation have been subject to public consultation, and exceptions to the obligation relating to public consultation have only been used in justified cases.

The Government Control Office has also controlled the implementation of other obligations related to draft legislation that has been uploaded to the Government Portal in order for public consultation to be carried out with regard to these draft through the Portal. The Government Control Office found a violation of legal obligations in the case of 23 draft pieces of legislation emanating from 8 different ministries. The violations were related to non-respect of the prescribed deadlines for the assessment of the comments that have been submitted, a lack of presenting a consolidated version of the amendments together with the rest of the legal act, and a lack of publication the summary of the preliminary impact assessment. As a consequence, the Government Control Office imposes a total of 23,3 million Ft in fines on the ministries concerned.

⁶ The report is available at the following link:

<https://cdn.kormany.hu/uploads/document/1/1b/1b8/1b89f211f360f193009ad1f7d9d9299a858d2c07.pdf>.

(ii) Impact assessment – additional information provided with reference to the meeting held in the framework of the virtual country visit

Hungarian law requires the preparation of an impact assessment both in the preparation of draft legislation and in the ongoing review of the legal system. Pursuant to Act CXXX of 2010 on Legislation, the drafter of legislation shall assess the expected consequences of the legislation by conducting a preliminary impact assessment in a level of detail appropriate to the anticipated effects of the legislation. The impact assessment shall examine

- a) all impacts of the proposed legislation that are considered to be significant, in particular
 - (aa) its social, economic and budgetary impact,
 - (ab) environmental and health consequences,
 - (ac) its impact on administrative burdens; and
- (b) the need for the legislation, the likely consequences of not legislating; and
- (c) the human, organisational, material and financial conditions necessary for the application of the legislation.

The task of the drafter of the legislation is to consider the results of the preliminary impact assessment and, taking into account the essential requirements of lawmaking, to propose legislation if it is strictly necessary to achieve the regulatory objective. Act CXXX of 2010 on Legislation also stipulates that a member of the Government shall continuously monitor the entry into force of the legislation falling within his or her remit and, where necessary, conduct an ex-post impact assessment of the legislation, in accordance with the criteria set out above, comparing the expected impact at the time of enactment with the actual impact. The government audit body (i.e. the Government Audit Office) shall annually verify that the Minister responsible for the preparation of the legislation is fulfilling his/her obligations under this Act.

Pursuant to Act CXXXI of 2010 on Public Participation in the Preparation of Legislation, the draft or concept submitted for public consultation must be published on the website and the summary of the preliminary impact assessment as defined in Act CXXX of 2010 on Legislation must be published together with the draft. It can be said that this requirement is being implemented in practice, as the content of the vast majority of the preliminary impact assessments prepared by the preparers of legislation is available on the official government portal (www.kormany.hu). The ministries responsible for impact assessment publish the impact assessment summaries on the government website, where stakeholders and the public can also express their views and make suggestions.

In addition to the above provisions, Decree No 12/2016 (of 29 April) of the Minister leading the Prime Minister's Office on the preliminary and ex-post impact assessment sets out the detailed rules of the impact assessment system. According to the Regulation, during the preliminary impact assessment

- a) the impact assessment with the highest utility, the analysis of the indirect and direct effects that play the greatest role in the decision making situation, depending on the regulation in question, must be carried out;
- (b) both positive and negative effects of the regulation must be identified;
- c) quantifiable benefits and disadvantages should be quantified and analyzed in this way;
- (d) a consistent set of methodological principles should be applied within an ex ante impact assessment;
- (e) the likely effects of the regulation should be assessed over a timeframe relevant to the regulation in question;

(f) in the case of several options, the expected benefits and drawbacks of each option should be assessed.

The *ex ante* impact assessment shall record the direct and indirect impacts of the regulation in the impact assessment form, taking into account all relevant time horizons. In order to plan the details of the preliminary impact assessment, the drafter of the regulation shall, after the regulatory need has arisen and in the case of a government intention to regulate, examine the purpose of the regulation and assess the expected content of the regulation. The drafter will select the substantive regulatory elements with significant consequences, the consequences of which will be analyzed in the *ex ante* impact assessment and the impacts to be assessed, and the same applies to ex post impact assessments.

Among the provisions on the preparation of draft legislation, it is necessary to mention the relevant provisions of the Government Decision No 1352/2022 (of 21 July) on the Government's Rules of Procedure. On the basis of the Government Decision, a proposal will be submitted to the Government for a decision to be taken by the Board. The submission shall, inter alia, briefly present, without going into technical details, the information necessary for an informed decision, in particular the expected economic, budgetary, social, administrative, public finance, international and other effects of the proposed measure, supported, where appropriate, by examples and calculations, and its consequences (impact assessment sheet), and, in the case of legislation, the conditions of applicability, the reduction of administrative burdens for natural persons and businesses and, in the event of an increase, the aspects which make this unavoidable, and, in the case of an administrative procedure, the timetable for the introduction of electronic procedures.

The Hungarian impact assessment system is also considered adequate by international standards. In the OECD Regulatory Policy Outlook 2021⁷, Hungary's iREG rating is 2.0 and at the OECD average level. This means that Hungary is in the middle of the group of Member States in terms of regulatory impact assessments, and is also close to the middle in terms of ex-post impact assessments. There is ongoing cooperation between Hungary and the OECD to further improve the effectiveness of our impact assessment system.

In Hungary, the project "ÁROP-1.1.10 - Streamlining the Legislative Preparation Process" has successfully trained more than 500 people, some of whom continue to assist the public administration. The Government has published a number of documents describing the impact assessment process to raise awareness and knowledge of the impact assessment system throughout the Hungarian public administration and to assist in the preparation and standardization of the presentation of impact assessment documents, together with the impact analysis area. A handbook covering several impact assessment areas has also been produced and is available to government officials, presenting the principles of the Hungarian impact assessment system. The methodologies are available for download from the impact assessment website since the launch of the impact assessment system.

In parallel to the above, the National University of Public Service provides online public service training entitled "Efficient and effective public administration - Public administration efficiency and impact analysis", which is freely available to public administration staff. The training covers, among other things, the basic issues, basic methodological approaches, international (OECD, EU) practice of impact assessment, methods (cost-benefit analysis, time series analysis, utility models) and steps of ex-ante impact assessment and methods (difference-in-differences, pairwise analysis, panel model) and steps of ex-post impact assessment.

The review of the impact assessment system has been launched, and the Ferenc Mádli Institute of Comparative Law conducted a research to assess international good practices, the results of which were

⁷ Available at the following link: <https://www.oecd.org/publications/oecd-regulatory-policy-outlook-2021-38b0fdb1-en.htm>.

summarized in the report entitled "International Comparative Research on Impact Assessment Systems in the Preparation of Legislation". In addition, it should be mentioned that Hungary continues to work closely with the OECD in order to fine-tune the impact assessment system, on the basis of the Government Decision of the Government of Hungary on the measures for the establishment of a co-operation agreement between the OECD and the Government of Hungary on the implementation of the measures undertaken in the Hungarian Recovery and Resilience Plan and the conditionality procedure. The review will streamline the system and introduce measures to ensure competitiveness by improving the quality of impact assessments, taking into account the results and good practices of different Member States. New training will be proposed once the review has been carried out, in line with the time horizon of the commitments Hungary has agreed on with the European Commission.

Steps taken to start work on developing a new impact assessment methodology by the end of 2023

The review of the impact assessment system has been launched, and the Ferenc Mádl Institute of Comparative Law conducted a study to assess international good practices, the results of which were summarized in the report entitled "International Comparative Study of Impact Assessment Systems in the Preparation of Legislation". In addition, it should be recalled that Hungary intends to continue its close cooperation with the OECD in order to fine-tune the impact assessment system, based on the Government Decision on the measures for the establishment of a cooperation agreement between the OECD and the Government of Hungary on the implementation of the measures undertaken in the Hungarian Recovery and Resilience Plan and the conditionality procedure. In the course of the review, the system will be streamlined and measures will be introduced to ensure competitiveness by improving the quality of impact assessments, taking into account the results and good practices of different Member States. New training will be proposed once the review has been carried out.

Within the Prime Minister's government administrative work organization, the Government Office of the Prime Minister, a new unit is established, which is responsible for the development of the new impact assessment methodology to be completed in the third quarter of 2023 and to be introduced in the fourth quarter of 2023, actively participates in its education, and coordinates the ministries' meetings to be held with the designated impact assessment contact persons, prepares an impact assessment report. According to plans, the new methodology does not fundamentally change the currently used methodology, a comprehensive evaluation of the experience of the methodology, its strengths and weaknesses, as well as the identification of the best practices of international institutions and Member States regarding regulatory impact assessments are carried out.

(iii) Right of the NJC introduced by the Act implementing the judicial milestones

The Act implementing the judicial milestones established the obligation to consult the NJC on legislative proposals affecting the justice system and the right of the NJC to propose to the Government to initiate new legislation on the same matters.

Section 103 (1) b) of the Court Organisation Act, as amended by Section 30 (1) of the Act implementing the judicial milestones, provides that the NJC, on the one hand, may make a proposal for the adoption of legislation concerning the courts at the entity with the right to initiate legislation and, on the other hand, it shall give its opinion on draft laws concerning the justice system.

Under the above referred section 108/A (9) of the Court Organisation Act, enacted by section 34 of the Act implementing the judicial milestones, the NJC may apply for legal remedy to the Constitutional Court if the body responsible for the preparation of the law did not enable the NJC to give its opinion on a draft law concerning the justice system. If the Constitutional Court establishes that a legal remedy application of the NJC is well-grounded, it shall annul the law.

46. Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)

The ongoing war in Ukraine, in the close vicinity of Hungary has resulted in a humanitarian situation unprecedented since World War II, and the energy crisis and inflation resulting from the war also reshaped the landscape of the European economy. The domestic consequences – especially those arising in the fields of asylum, economy and energy – of the armed conflict and humanitarian catastrophe taking place on the territory of Ukraine have not changed in the recent period, the prospects for meaningful peacemaking with potential to end the neighbouring war seem unlikely and the strain of inflationary pressure on the Hungarian economy has increased. In order to handle the domestic consequences of the humanitarian catastrophe and protect against the ever-changing economic and international circumstances, Hungary needs to secure the means required for formulating efficient and rapid national responses.

As a result, the National Assembly – deciding on the initiative of the Government – gave the authorization for the extension of the state of danger declared on 1 November 2022 for a further 180 days⁸. To secure all means necessary in aiding, supporting and housing those seeking asylum, defending against, or alleviating the harmful effects of future economic developments and overcoming the damaging consequences of the war (including the energy crisis and inflation), the Hungarian Government – acting on the authorization granted by the National Assembly – decided to prolong the state of danger until 25 November 2023⁹.

47. Regime for constitutional review of laws

See the new rules introduced by the Act implementing the judicial milestones under point 6.

48. COVID-19: provide update on significant developments with regard to emergency regimes/measures in the context of the COVID-19 pandemic

- *judicial review (including constitutional review) of emergency regimes and measures in the context of COVID-19 pandemic*
- *oversight (incl. ex-post reporting/investigation) by Parliament of emergency regimes and measures in the context of COVID-19 pandemic*
- *processes related to lessons learned/crisis preparedness in terms of the functioning of checks and balances*

No relevant development has taken place.

B. Independent authorities

49. 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

No relevant development has taken place.

⁸ See Act XI of 2023.

⁹ See Government Decree No 167/2023 of 11 May.

50. 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.

No relevant development has taken place.

C. Accessibility and judicial review of administrative decisions

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

No relevant development has taken place.

52. 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).

No relevant development has taken place.

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

The Act implementing the judicial milestones removed the possibility, introduced in 2019 by amending Section 27 of Act CLI of 2011, for public authorities to challenge before the Constitutional Court final judicial decisions.

Section 13 of the Act implementing the judicial milestones amended section 27 of the Constitutional Court Act by removing the possibility of an organ exercising public authority to submit a constitutional complaint to the Constitutional Court.

The amended section 27 (2) of the Constitutional Court Act explicitly sets out that the provisions of paragraph (1) shall not apply to a petitioner exercising public authority, that is it may not submit a constitutional complaint to the Constitutional Court.

Furthermore, section 15 b) of the Act implementing the judicial milestones repealed section 55 (4a) of the Constitutional Court Act which laid down, prior to the entry into force of the Act implementing the judicial milestones, a rule concerning the submission of constitutional complaint by an organ exercising public authority.

D. The enabling framework for civil society

54. 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)

No relevant development has taken place.

55. *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.*

No relevant development has taken place.

56. *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)*

No relevant development has taken place.

57. *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.)*

The Government established the **Human Rights Working Group** in its decision adopted in February 2012 with the main purpose of monitoring the implementation of human rights in Hungary, conducting consultations with civil society organisations, representative associations and other professional and constitutional bodies as well as of promoting professional communication on the implementation of human rights in Hungary.

During its constitutive meeting held in 2012, the Working Group decided to establish the **Human Rights Roundtable**, which currently operates with 77 civil organisation members and further 40 organisations take part in the activities of the thematic working groups based on invitation.

The Roundtable holds its meetings in 8 thematic working groups; each of them is intended to deal separately with legal and practical problems of and sectoral political proposals for vulnerable groups of society.

The thematic working groups are led by appointed State Secretaries or Deputy State Secretaries; the Working Group members are government agencies, civil society organisations, representative associations and professional bodies. Currently the following thematic working groups operate within the framework of the Human Rights Round Table: Thematic Working Group on Equal Rights; Thematic Working Group Responsible for Social Affairs; Thematic Working Group Responsible for the Rights of Children; Thematic Working Group Responsible for the Rights of the Elderly; Thematic Working Group Responsible for National Minority Affairs; Thematic Working Group Responsible for Refugees; Thematic Working Group Responsible for the Rights of Women; Thematic Working Group Responsible for Roma Affairs.

Since 2013 the thematic working groups have had 176 meetings.

E. Initiatives to foster a rule of law culture

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

etc.)

Other – please specify

Private equity funds – additional information provided with reference to the meeting held in the framework of the virtual country visit

Private equity funds are covered under the list of the Beneficial Owners Registry Act (Act XLIII of 2021¹⁰) through their operators, i.e. the private equity firms. The traditional ownership ensuring the control as set out in Point 38 of Section 3 of the Act LIII of 2017 on Preventing and Combating Money Laundering and Terrorist Financing¹¹ does not exist in case of private equity funds. Their operators are the ones responsible for determining their operation and performing the actual control functions. When determining the beneficial owner of private equity funds, Subpoints a, b and f of Point 38 of Section 3 of the AML/CFT Act need to be duly considered.

Hungary notes that the Court of Justice of the EU decided in last November in its judgment in joint cases C-37/20 and C-601/20 that a provision of Directive (EU) 2018/843, which amended Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, is invalid in so far as it provides that Member States must ensure that information on the beneficial ownership of companies and of other legal entities incorporated within their territory is accessible in all cases to anyone („any member of the general public”). As the CJEU stated, the Charter of Fundamental Rights sets out the obligations to respect for private and family life and the protection of personal data. The ECJ concluded that the provision of the EU directive in question did not demonstrate either a proper balance between the objective of general interest pursued and the fundamental rights enshrined in the Charter, or the existence of sufficient safeguards enabling data subjects to protect their personal data effectively against the risks of abuse.

Hungary is of the opinion that the same guarantees must be applied for the beneficial owners of private equity funds. If someone does not have a legitimate interest to get to know these pieces of information, that would seriously breach their fundamental rights such as the respect for private and family life and the protection of personal data.

¹⁰ The Act is available at the following link: <https://njt.hu/jogszabaly/2021-43-00-00>.

¹¹ The Act is available at the following link: <https://njt.hu/jogszabaly/2017-53-00-00>.