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REPORT

DEMOCRACY AND HUMAN RIGHTS
AT STAKE IN HUNGARY
The Viktor Orbán Government's
drive for centralisation of power



NORWEGIAN HELSINKI COMMITTEE

Norwegian Helsinki Committee

Cover Photo: CIA Factbook

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1. Preface

The Norwegian Helsinki Committee (NHC) is a non-governmental organisation working to ensure that human rights are fully respected both in law and in practice. NHC does this through monitoring, reporting, advocacy, education and democracy support.

Due to recent concerns with legislative reforms undermining democracy in Hungary, expressed both by Hungarian and international institutions and organisations, NHC decided to get a better understanding of the legal and political developments in the country by conducting a number of meetings and interviews with stakeholders in the country, as well as by studying available reports and articles.

A first outcome of these efforts was a report published in February 2012: *Democracy at stake in Hungary: The Orbán government's Constitutional revolution*.¹ The present report updates and expands this report; introducing several new issues.

From 30 January to 3 February 2012, Bjørn Engesland (Secretary General), Anne Marit Austbø (Advisor), Csilla Czibalmos (Project Manager) and Lillian Solheim (Project Manager) travelled to Budapest. From 4 to 8 June 2012, Bjørn Engesland and Lillian Solheim returned to Hungary with Ragnhild Astrup Tschudi (Chairperson of the board) and Gunnar M. Ekeløve-Slydal (Deputy Secretary General).

During the two visits as well as during meetings in Oslo, NHC met with representatives of the government and opposition parties, non-governmental organisations, academics, diplomats, and media representatives.²

The NHC has a coordinating role of promoting bilateral contacts and cooperation between NGOs in the beneficiary countries and in Norway under the NGO funds of the EEA and Norway Grants.³ With this in mind, the NHC also wanted to get a better understanding of Hungarian civil society and how recent developments might affect the role of civil society as well as to explore potential for partnerships and strengthening contacts between Norwegian and Hungarian non-governmental organisations.⁴

NHC would like to acknowledge the assistance of the Norwegian Ministry of Foreign Affairs, the Embassy of Norway in Hungary and the Hungarian Embassy in Norway in

1 The report is available online: http://www.nhc.no/filestore/Publikasjoner/Rapporter/2012/Rapport_1_12_web.pdf

2 See Annex 1 for a full list of meetings held.

3 In addition to Hungary, the beneficiary states of the EEA Grants include 14 countries in Central and Southern Europe.

4 For more information, see the NGO Partnership Portal: <http://www.ngonorway.org>, as well as the site of the EEA and Norway Grants: <http://www.eeagrants.org>.

identifying relevant stakeholders. The NHC would also like to thank everyone that met with the delegations for their time and willingness to discuss openly.

On 10 October 2012, a consolidated draft of the report was discussed with a group of representatives of Hungarian human rights organisations. NHC remains grateful for their valuable input and in particular wants to thank the *Hungarian Helsinki Committee* which assisted in arranging the discussions, and provided useful input and support.

The NHC would also like to acknowledge *the International Partnership for Human Rights* (IPHR) for providing valuable information on reactions from the European Union on current developments in Hungary. IPHR is a Brussels-based human rights organisation that cooperates with the Norwegian Helsinki Committee on European Union matters.

All rendering of viewpoints of named persons in the report is based on the meetings that the Norwegian Helsinki Committee delegations conducted during the visits to Budapest if no other source is given in the text or in footnotes.

The February 2012 report was drafted by Lillian Solheim, Csilla Czibalmos and Anne Marit Austbø and edited by Bjørn Engesland and Gunnar M. Ekeløve-Slydal. The current report, building on the previous one, has been drafted and edited by Lillian Solheim and Gunnar M. Ekeløve-Slydal.⁵ Bjørn Engesland, Ragnhild Astrup Tschudi, and John Færseth gave valuable comments.

⁵ The report covers developments until 7 January 2013.

2. Historical and political background

Hungary is a country in Central Europe with a population of about 10 million and a territory of well 93 000 km². It is landlocked, bordering Austria, Croatia, Romania, Serbia, Slovakia, Slovenia and Ukraine. Its government type is categorised as parliamentary democracy, and the current government is led by Prime Minister Viktor Orbán. Janos Ader is President and chief of state.

Hungary has a long and culturally rich history. After about 150 years of Ottoman occupation (1541–1699) Hungary became part of the Habsburg Monarchy, which later became the Austro-Hungarian Empire. This was one of the largest empires in European history and among the world's leading powers at the end of the 19th and beginning of the 20th century.

After World War I, in which Austro-Hungary sided with Germany, the empire disintegrated and Hungary was declared an independent republic. The Treaty of Trianon between the Allied Powers of World War I and Hungary was signed in Versailles in France in 1920. By the terms of the treaty, Hungary's territory was reduced by two-thirds and its population reduced by one-third. As a consequence, a large number of Hungarians became minorities in Hungary's neighbouring states. Hungary also lost its sea ports which were located in modern Croatia. The terms of the treaty are still considered excessively harsh by many Hungarians.



Following a short and violent period of communist rule, elections were held for a unicameral assembly in January 1920, and Admiral Miklós Horthy was elected Regent. Horthy ruled until 16 October 1944. He had entered a pact with Nazi Germany but was nevertheless removed by occupying German forces after his government had negotiated surrender with the Allied forces.

Even though Hungary remained a parliamentary democracy during the inter-war period, autocratic tendencies gradually returned from 1932 on as a result of economic problems during the Great Depression and subsequent Nazi influence. Following the fall of Nazi Germany, and the ensuing Soviet invasion, Hungary gradually became a communist satellite state. It was a member of the Warsaw Pact, the Soviet controlled military alliance, and about 50.000 Soviet troops were stationed in the country.

Hungary was under communist rule from 1947 until 1989, although not without conflicts or popular protests against the authoritarian regime. The Hungarian Uprising of 1956 demanded withdrawal of Soviet troops as well as respect for fundamental freedoms and free elections. A few years after the crushing of the uprising by Soviet troops in early November 1956, *goulash communism* was introduced, a form of communist rule also known as *Kadarism*, after János Kádár, the Secretary General of the Hungarian Socialist Workers' Party who ruled the country from 1956 until 1988.

This departure from Stalinism included, amongst others, elements of free market economy, increased focus on improving the standard of living of ordinary people, some freedom of speech and travel, and a more restrained secret police than in other communist countries. As a result, Hungary had, relatively speaking, one of the most liberal and advanced economies in the Eastern Bloc.

By the late 1980s, however, more and more people were pressing for further reforms and more fundamental changes. Following Poland's lead, Hungary was second to introduce a non-communist government, and its opening of borders with Austria in 1989 was a major factor in accelerating the collapse of the Eastern Bloc. In a historic session from 16 to 20 October 1989, the Hungarian Parliament adopted legislation providing for multi-party parliamentary elections, which took place for the first time on 24 March 1990.

Hungary was transformed from a People's Republic into the Republic of Hungary, guaranteeing human rights and establishing an institutional structure that ensured separation of powers among the judicial, legislative, and executive branches of government. On 19 June 1991 the last Soviet troops were withdrawn.

The centre-right Hungarian Democratic Forum (MDF) won the first free parliamentary elections and proceeded to rule from 1990 to 1994. In 1994, the Hungarian Socialist Party (MSZP), the re-named and democratically re-oriented successor of the

Communist Party, won the elections and formed a new government where many former party cadres took positions. Many also had personal economic gains from their new role as democratically elected cabinet members.

In 1998, Fidesz took office for the first time, in a coalition with MDF and the Independent Smallholders, Agrarian Workers and Civic Party (FKGP). Fidesz, which stands for Alliance of Young Democrats, was founded in 1988. It was originally an anti-communist and libertarian party for people under 35. The age limit was abolished in 1993 and after poor election results in 1994, the party changed from liberal to conservative. Fidesz now defines itself as a Christian, conservative, and nationalist party.

Viktor Orbán became Prime Minister, and initiated a series of reforms aiming at centralising power. However, Fidesz lost the elections in 2002 and the Socialist Party came back into power. The 2002 elections have been characterised as the most heated Hungary has experienced, with a record-high voter turnout at 73,5 per cent.

Hungary became a member of the North Atlantic Treaty Organisation (NATO) in 1999 and joined the European Union (EU) in 2004. The country did, however, not qualify for entering the Euro zone.

The global financial crisis hit the country hard in 2008. At the time, Hungary was already suffering from a stagnating economy and increasing public debt.⁶ The growing economic problems led to widespread disappointment with the ruling socialist government, and social tensions were growing. Socialist Prime Minister Ferenc Gyurcsány had to resign in 2009 after a number of political and corruption scandals. An independent technocrat, Gordon Bajnai, was appointed as prime minister after a no-confidence vote against Gyurcsány.

In the ensuing election campaign, Fidesz promised to finally complete Hungary's transition from communism. Due to the relative freedoms in Hungary during communism, Fidesz argued, the transition to democracy had not been as systematic as in other countries in the former Eastern bloc. Hungary had not fully confronted the past, nor had a *catharsis* similar to processes in other former communist countries taken place. Many voters were disillusioned with the socialist government because of corruption, political scandals and economic setbacks, which led to a landslide victory for Fidesz.

⁶ According to the Government, the state budget has been run with deficits that continuously exceeded 3 per cent of gross domestic product (GDP) since the country joined the European Union in 2004. As a result, Hungary's public debt has risen to above 80 per cent of GDP (from a level just over 50 per cent in the early 2000s). Government of the Republic of Hungary (2011, April): *National Reform Programme for Hungary. Based on the Széll Kálmán Plan*, p. 7.

Due to the Hungarian electoral system, which combines single-seat constituencies and seats by proportional representation, Fidesz obtained a two-third majority in the National Assembly in the 2010 elections. Fidesz is formally in a coalition with the Christian Democratic People's Party (KDNP). The coalition got 52.73 per cent of the votes and 68 per cent of the seats in the National Assembly (in total 263 of 386 seats). However, the Christian Democratic People's Party is seen by many observers as merely a satellite party of Fidesz, and has been unable to get into the Parliament on its own since 1994. Even a leading Fidesz politician, János Lázár, said that Fidesz does not consider the government to be a coalition government.⁷

Three other parties succeeded in getting elected to the Parliament, two of them for the first time:⁸

- The Hungarian Socialist Party (MSZP): 59 seats;
- Jobbik (Movement for a Better Hungary): 47 seats;
- Politics Can Be Different (LMP): 16 seats.

Some members of Parliaments from the Socialist Party, led by former Prime Minister Gyurcsány, left the party in October 2011 and established a new, civic centre-left party named the Democratic Coalition party.

⁷ János Lázár is currently the Prime Minister's Chief of Staff. His statement is referred from Wikipedia: *Christian Democratic People's Party (Hungary)*, [http://en.wikipedia.org/wiki/Christian_Democratic_People's_Party_\(Hungary\)](http://en.wikipedia.org/wiki/Christian_Democratic_People's_Party_(Hungary))

⁸ Wikipedia: *Hungarian Parliamentary election, 2010*. http://en.wikipedia.org/wiki/Hungarian_parliamentary_election,_2010

3. Democracy at stake

The qualified majority of Fidesz enabled the Parliament to push through a wide range of legal reforms in the course of 2010 and 2011. These included a new constitution, a new media law, as well as reform of the justice sector and the electoral system.

The international community became increasingly concerned with the speed and scope of the legislative changes during Orbán's second government. His government started to receive criticism from various governments in other European states as well as from Hungarian and international institutions and organisations. The critics claimed that several of the newly amended laws were in breach of United Nations and Council of Europe human rights treaties, as well as breaching European Union rules requiring institutional checks and balances and individual freedoms. They argued that the new constitution and the new laws moved Hungary away from the principles and practices of liberal democracy towards a centralised, semi-authoritarian state.

A quote from an analysis by *Freedom House* of the status of democracy and respect for fundamental freedoms in nations in transition summarises these concerns:

“Hungary's precipitous descent is the most glaring example among the newer European Union (EU) members. Its deterioration over the past five years has affected institutions that form the bedrock of democratically accountable



systems, including independent courts and media. Hungary's negative trajectory predated the current government of Prime Minister Viktor Orbán, but his drive to concentrate power over the past two years has forcefully propelled the trend. In this edition of *Nations in Transit*, which covers calendar 2011, the country suffered declines in every category, a rare occurrence in the history of the report.⁹

According to this analysis, several other Central European countries have experienced declines in indicators of independent media, electoral process, civil society, and national democratic governance. If one adds that developments in other parts of the former Soviet Union or in former Soviet-dominated countries have been far from positive in any of these sectors, a picture of serious and comprehensive democratic backsliding in former communist countries emerge.

It should serve as an eye-opener for everyone engaged in promoting democracy when a consolidated democracy like Hungary suffers such substantial setbacks in a relatively short time period that it becomes an open question whether the country will remain a fully-fledged democracy also in the future: Hungary, once among “the strongest performers in the study” on nations in transition, is now outperformed in decline only by President Viktor Yanukovich’s Ukraine.

Understanding the situation in Hungary is important not only in order to fine-tune criticism and design effective initiatives to counter the undermining of democracy in this country. Hungary is part of a wider picture of decline, and understanding Hungary may also help understanding the wider picture. The restrictive measures that are put in place in Hungary may also be found in other countries, and presented and justified with similar arguments by ruling parties.

The more people the Norwegian Helsinki Committee spoke to during the visits to Hungary, the clearer a picture emerged that civil society representatives, academics and journalists weary of the future developments of the country are primarily putting their hope in European institutions to set the country back on the right track again. The European Union and the Council of Europe were seen as the key institutions that could most effectively correct some of the missteps.

A consolidated view exists in these institutions, which NHC adheres to, that in order for Hungary to remain a constitutional democracy a few key requirements have to be fulfilled. Some of these requirements follow directly from international human rights principles such as freedom of speech, freedom of organisation, freedom of religion or belief and political rights to take part in free and fair elections. In addition, the government must be regulated by law, and constitutional provisions should limit its

9 Christopher Walker and Sylvana Habdank-Kolaczowska: *Fragile Frontier: Democracy’s Growing Vulnerability in Central and Southeastern Europe*. Freedom House, 2012, page 1. For presentation of the report and statistics underpinning its conclusions, see: <http://www.freedomhouse.org/report/nations-transit/nations-transit-2012>

powers. Powers must be separated and divided between the executive, the legislative and the judiciary branches.

In the following we present an overview of some of the main issues related to the reforms of the Orbán government, covering the period 2010–2012. The aim is neither to exhaustively discuss all of the contested issues, nor to provide a comprehensive overview of all legislative and institutional changes that has taken place. Rather, some key issues have been selected because of their importance for a well-functioning democratic system of governance. We present and discuss issues related to the constitutional reforms, the independence of key institutions, the media law and its effects, as well as the role of international organisations in responding to these changes.¹⁰

The report also presents main points of the international criticism of legislative and other measures initiated by the Orbán government that are seen as undermining democracy. It discusses some of the responses of the government and inquires whether the international criticism has led to a real shift in policies.

The report also includes sections on the situation of the Roma minorities and the growth of the extreme political right. The situation of the Roma remains, according to many domestic observers and politicians, Hungary's most serious and consequential human rights issue.

Concluding that it is too early to claim that democracy is saved in Hungary, the report also presents a set of more detailed conclusions and recommendations.

¹⁰ In addition to the above mentioned issues, others issues include nationalisation of private pension funds, taxes on banks, telecommunications, supermarkets and energy, as well as retroactive taxes on pensions.

4. Constitutional and legal reform

With its qualified majority in the Parliament, the Fidesz government pushed through a wide range of new laws after it took office in April 2010. A new Constitution – or *Fundamental Law* as it is called – was adopted by the Parliament on 25 April 2011, and came into force on 1 January 2012.

Until the new Constitution was adopted, Hungary was the only former Eastern Bloc nation that had not adopted a new Constitution after the fall of communism, although extensive amendments had been adopted during the early 1990s.

The new Constitution was thus Hungary's first Constitution to be adopted within a democratic framework, following free elections. It succeeded the 1949 Constitution, characterised in the preamble as the “communist constitution, ... basis for tyrannical rule.”

The preamble further underlines the departure from the communist period, the key role of the 1956 Revolution as well as the restoration of the country's right to self-determination in 1990, stating that:

“We agree with the members of the first free Parliament, which proclaimed as its first decision that our current liberty was born of our 1956 Revolution. We date



Hungary's Prime Minister Victor Orbán

the restoration of our country's self-determination, lost on the nineteenth day of March 1944, from the second day of May 1990, when the first freely elected body of popular representation was formed. We shall consider this date to be the beginning of our country's new democracy and constitutional order. We hold that after the decades of the twentieth century which led to a state of moral decay, we have an abiding need for spiritual and intellectual renewal."¹¹

Concern was raised both nationally and internationally over the speed at which the new Constitution was introduced, insufficient consultation with the opposition and civil society, as well as with several of its provisions. The draft text became public only three weeks before the Constitution was to be adopted, and Parliament spent altogether nine session days on the debate. In particular, opposition parties expressed frustration of being almost completely side-lined in relation to such comprehensive and fundamental legal reforms.

The Council of Europe's Venice Commission issued critical views and opinions based on Hungary's obligations to uphold human rights as a member of the Council of Europe and as a party to both Council of Europe and United Nations human rights treaties.¹²

The Venice Commission issued two opinions related both to the constitutional process and to several of the provisions. The first opinion, adopted in March 2011, criticises the procedure of drafting, deliberating and adopting the Constitution for its tight time-limits and restricted possibilities of debate of the draft both among politicians, within the media and with civil society. It also expresses regret about the lack of consensus on its contents.¹³

The second opinion, adopted in June 2011, "welcomes the fact that this new Constitution establishes a constitutional order based on democracy, the rule of law and the protection of fundamental rights as underlying principles"(§ 18).¹⁴ It criticises, however, that too many "detailed rules" on certain issues are to be regulated by so-called *cardinal laws*, putting "the principle of democracy itself ... at risk." (§ 24). Cardinal laws, also known as organic laws in some legal systems, are semi-constitutional laws requiring a qualified majority of two-thirds of the members of Parliament present for their adoption and amendment. According to the opinion, "the subjects of cardinal laws, as prescribed by the new Hungarian Constitution, are far

11 Fundamental Law of Hungary. English translation available at: http://www.kormany.hu/download/2/ab/30000/Alap_angol.pdf

12 "The European Commission for Democracy through Law, better known as the Venice Commission, is the Council of Europe's advisory body on constitutional matters. Established in 1990, the Commission has played a leading role in the adoption of constitutions that conform to the standards of Europe's constitutional heritage." http://www.venice.coe.int/site/main/Presentation_E.asp

13 Venice Commission: *Opinion on three legal questions arising in the process of drafting the new Constitution of Hungary, § 16-19, adopted by the commission at its 86th Plenary Session.* 25–26.03.2011.

14 Venice Commission: *Opinion on the New Constitution of Hungary, adopted by the commission at its 87th Plenary Session.* 17-18.06.2011.

too many" (§ 25). This may lead to cementing the political preferences of the current government, making future reforms difficult.

The Venice Commission points to a number of other provisions of concern, including:

- The preamble containing a number of potentially controversial statements. The fact that Article R § 3, states that the preamble shall have a substantial influence on the interpretation of the entire Constitution makes this even more problematic. Among its most problematic statements are those giving Hungarians a privileged status, indicating that "nationalities living with us are not part of the people behind the enactment of the Constitution" (§ 40 of the opinion);
- Article D stating that "Hungary shall bear responsibility for the fate of Hungarians living beyond its borders". This formulation, in particular the use of the word "responsibility", gives reason to concerns that Hungary may not fully respect the sovereignty of neighbouring states with ethnic Hungarian populations (§ 41-44);
- The Chapter "Freedom and Responsibility" shifts "emphasis from the obligations of the state toward the individual citizens to the obligations of the citizens toward the community", and is therefore not in compliance with international human rights and the European Union Charter of Fundamental Rights and Freedoms (§ 57);
- There is no mention of complete abolition of the death penalty (§ 68);
- "By admitting life imprisonment without parole, ..., Article IV of the ... Constitution fails to comply with the European human rights standards if it is understood as excluding the possibility to reduce, *de facto* and *de jure*, a life sentence" (§ 69);
- "... [T]hat freedom of the press is not formulated as an individual's right, but as an obligation of the state. This freedom appears to be dependent on the will of the state and its willingness to deal with its obligation in the spirit of freedom". In particular, the Venice Commission is concerned with Article IX "since its paragraph 3 leaves the detailed rules for this freedom and its supervision to a cardinal Act – even without outlining the purposes, contents and restrictions of such a law. Once enacted, there will be no practical way for any further (simple) majority to change the act." (§ 74);
- Provisions that are "weakening ... the Parliamentary majority's powers and ... the position of the Constitutional Court" and thereby undermining the "Hungarian system of checks and balances" (§ 89).

The Constitution also received criticism from human rights organisations. Amnesty International's criticism included:

- The introduction of the protection of life from conception (Article II);
- The definition of marriage as a union between a man and a woman (Article L);
- The exclusion of sexual orientation from the protected grounds of discrimination (Article XV.2).¹⁵

15 Amnesty International: Hungary: Newly adopted Constitution at odds with human rights. <http://www.amnesty.org/en/library/info/EUR27/006/2011>. 20.04.2011.

The Venice Commission has also issued opinions on the law of nationalities, the prosecution service, the draft law on freedom of conscience and religion and on the judiciary system, including an opinion on the amendments to the cardinal acts on the judiciary that were adopted by the Hungarian Parliament following its first opinion.¹⁶

The Constitutional Court

The Constitution lacks “a clear statement that courts constitute a separate power and shall be independent”, according to the Venice Commission.¹⁷ The Constitution increases the number of members of the Constitutional Court from 11 to 15 and prolongs their term of office from nine to twelve years. The Venice Commission as well as other observers criticises that several provisions of the Constitution undermine the authority of the Constitutional Court. Already in 2010, the government introduced curtailment of the Court’s powers.

The Constitution “imposes specific criteria for the management of the state budget as well as strict limitations to state debt. [It] ... excludes, with only a few exceptions, that the Constitutional Court reviews the constitutionality of laws related to taxes and the central budget. Instead of giving the Constitutional Court full scope of control over the constitutionality of the budget and tax legislation, it gives special power to the new Budget Council.”¹⁸

Also in other aspects, the role of the Constitutional Court is restricted. It will no longer be “easily able to review laws in the abstract for their compliance with the Constitution.”¹⁹ This means that a citizen may only turn to the court by raising a constitutional complaint, which requires that the person pays for legal representation and risks being fined up to 1700 euro for initiating procedures “abusively”.²⁰ The court has a wide discretion in admitting complaints.

According to the Hungarian Helsinki Committee, a new cardinal law on the Constitutional Court further undermines the independence of the court’s members in relation to the current government.²¹ Due to the composition of the parliamentary

16 Venice Commission: *Opinion on the Cardinal Acts on the Judiciary that were amended following the adoption of Opinion CDL-AD(2012)001 on Hungary, adopted by the Venice commission at its 92nd Plenary Session.* 12–13.10.2012. For a full overview, see http://www.venice.coe.int/site/dynamics/N_Opinion_ef.asp?L=E&CID=17

17 § 102 of the Venice Commission’s second opinion. There is, however, a provision stating that “[j]udges shall be independent and only subordinated to laws, and may not be instructed in relation to their judicial activities.” *Fundamental Law on Hungary, Chapter on the State, article 26(1).*

18 § 98 of the Venice Commission’s second opinion.

19 Kim Lane Scheppele: *Hungary’s Constitutional Revolution.* New York Times, 19.12.2011. <http://krugman.blogs.nytimes.com/2011/12/19/hungarys-constitutional-revolution/>

20 Amnesty International: *EU must press Hungary to respect human rights norms.* 16.01.2012

21 The Constitutional Court Act was submitted to the Parliament by a Parliamentary committee and not by the government as required by the Constitution. In that way, the government was not obliged to conduct any professional or public consultation, and no such debates took place, Cfr. Hungarian Helsinki Committee, *New Rules on the Constitutional Court*, Hungary Fact Sheet 4, September 2012. This and other factsheets are available at: http://helsinki.hu/wp-content/uploads/Hungary_NGO_Fact_sheets_February2012.pdf

committee that proposes judges and the majority required to elect them, the government is able to appoint new members of the court without the support of any opposition party. Seven new members have been appointed, and “most of them held in the most controversial case (mandatory retirement of judges, see below) that the challenged rules were constitutional.”²²

One of the new members of the Constitutional Court is a former Minister of the previous Fidesz government, and also a former Fidesz Member of Parliament. In effect, he is now determining the constitutionality of laws that he may earlier have voted on or even submitted.

Given its supermajority in the Parliament, the government also has other ways of nullifying the impact of rulings by the Court. It may simply write legal rules that have been found unconstitutional by the Constitutional Court directly into the Constitution or its Transitory Provisions, since the Court does not have the power to review the constitutionality of provisions of this law.²³

The National Judicial Office (NJO)

A new law on the judiciary created a new National Judicial Office with a single person, the President, in charge of a wide spectre of issues related to the administration of the courts and appointment of judges. The President of the National Judicial Office has the mandate to move any judge to a different court for one year within a three-year period. The person can also draw up court rules and initiate legislation on the courts, and holds some 60 other specified legal powers.

The Venice Commission, while acknowledging the need for reform of the judiciary in order to increase its efficiency, nevertheless concluded that “the reform as a whole threatens the independence of the judiciary. ... The main problem is the concentration of powers into the hands of one person, i.e. the President of the NJO. Although States enjoy a large margin of appreciation in designing a system for the administration of justice, in no other member state of the Council of Europe are such important powers, including the power to select judges and senior office holders, vested in one single person.”²⁴

According to some observers, there is also a trend that personal friends or acquaintances of Prime Minister Orbán are put in key positions. The President of the National Judicial Office, Tünde Handó, is a long-term friend of Viktor Orbán and

22 Ibid.

23 Ibid.

24 Venice Commission: *Opinion on act CLXII OF 2011 on the legal status and remuneration of judges and act CLXI of 2011 on the organisation and administration of courts of Hungary, adopted by the Venice Commission at its 90nd Plenary Session.* 16–17.03.2012, p. 29.

married to the main author of the new Constitution, József Szájer, who is also a founding member of Fidesz and currently a member of the European Parliament.²⁵

Retirement age of judges

Another constitutional provision caused fierce criticism. Article 26(2) states that “no judge [except the President of the Curia] may serve who is older than the general retirement age”. Similar provisions are introduced for prosecutors, except for the Prosecutor General (Article 29(3)).

The government argued that the provision was included in order to standardise the age limit for civil servants. However, the effect of the provision is that a large number of judges between 62 and 70 years old will have to retire in 2012. The previous mandatory retirement age for judges was 70. During 2012, 236 judges (almost 10 per cent of all judges) would have to retire, including most of the court presidents who assign cases.²⁶ However this retirement age will only last until the end of 2012. The retirement age will then gradually increase to 65 (in 2022) in line with the general age of retirement.

Critics have seen the lowering of the mandatory retirement age as undermining the independency of the courts because it gives the government the chance to influence the appointment of a large number of new judges. It may also infringe on the human rights of the dismissed judges.

On 21 June 2012, a group of 105 judges submitted complaints to the European Court of Human Rights with the assistance of the Hungarian Helsinki Committee, claiming that their premature dismissal violates the European Convention on Human Rights. The Hungarian Helsinki Committee argued that “the judges had had good reason to expect that they could continue in their positions until they reached the age of 70, an “expectation protected by the right to property”. The Hungarian rules, therefore, violate property rights. Sending judges to early retirement is also a discriminative measure, since it does not apply in a mandatory manner to public notaries, liquidators, constitutional judges, university teachers, lawyers or other professionals”, the organisation added.²⁷

In a judgment of 16 July 2012, Hungary’s Constitutional Court ruled that “the new regulation, both formally and from the aspect of content, breached the constitutional requirements stemming from the independence of judges.” Any lower mandatory

25 For more information on the President of the National Judicial Office, Tünde Handó, see Joshua Rozenberg: *Meet Tünde Handó*. The Guardian, 20.03.2012. <http://www.guardian.co.uk/law/2012/mar/20/tunde-hando-hungarian-judge>.

For a presentation of József Szájer, see: <http://szajer.fidesz-eu.hu/en>

26 Krisztina Than: *Hungary court says judge retirement law unconstitutional*. Reuters, 16.07.2012. <http://uk.reuters.com/article/2012/07/16/uk-hungary-judges-court-idUKBRE86FOLS20120716>

27 Hungarian Helsinki Committee: *105 judges turn to Strasbourg court over “forced retirement*. 25.07.2012.

retirement age could be introduced only gradually over an appropriate transitional period, the Court said.²⁸

On 7 September 2012, the Government submitted two draft Bills to resolve the questions emerging from the decision of the Constitutional Court. According to the Bills, the mandatory retirement age for judges is 65 until 1 January 2022 when it will be adjusted to the general retirement age. Judges, who turn 65 before 1 January 2014, shall be dismissed with effect from 31 December 2013. No higher judicial position, except the President of the Curia and the National Judicial Office, may be filled by judges over the age of 62.²⁹

These bills were later withdrawn with no official explanation. It remains unclear at the time of this writing how judges that have already been dismissed will be treated.

The European Commission started infringement procedures on the basis of age discrimination:

“[T]he Commission has not found any objective justification for the drastic lowering of the age limit for judges, prosecutors and public notaries. In addition, in view of the very short transitional periods for a reform of that extent (reduction of the mandatory retirement age by 8 years within a period of one year) and the contradiction of first drastically lowering the age limit before raising it again as of 2014, the Commission considers the measure to be incoherent and disproportionate, and therefore not in compliance with Directive 2000/78/EC.”³⁰

The case was dealt with in an expedited procedure, and judgment was given in less than five months. The European Union’s Court of Justice ruled on 6 November 2012 that the decision was incompatible with European Union law. According to the judgement, the forced early retirement “constitutes unjustified age discrimination.”³¹

Reform of the electoral system

Hungary is renowned for its complex parliamentary voting system; a mixed proportional and single-member districts system. Reform of the system had for a long time been discussed by the political parties, including redrawing of the boundaries of election districts and reducing the number of seats in the Parliament.

28 Ibid.

29 Hungarian Helsinki Committee: *Developments Concerning the Lowering of the Mandatory Retirement Age for Judges*. Hungary Fact Sheet 2, September 2012. <http://helsinki.hu/wp-content/uploads/Mandatory-retirement-of-judges.pdf>

30 European Commission: *Court of Justice rules Hungarian forced early retirement of judges incompatible with EU law*. 06.11.2012. http://europa.eu/rapid/press-release_MEMO-12-832_en.htm

31 Ibid.

The new Constitution partly reformed the voting system. However, the detailed rules defining the electoral system are to be found in the electoral law and in the law on electoral procedures.

On 23 December 2011, Parliament passed a new electoral law, the first significant overhaul of the electoral system since Hungary's first post-communist elections in 1990. The full name of the law, in English translation, is *The Act on the elections of Members of Parliament of Hungary*. It contains 26 articles defining the electoral system and providing rules on the delimitation of constituencies. In addition, there are two annexes that actually define their delimitation. The law also contains provisions on candidacy rights, determination of election results, and several other issues.

The introduction of the new law was highly controversial. Jobbik voted against the law, while the two other opposition parties in Parliament boycotted the session; choosing instead to demonstrate against the introduction of the law outside of Parliament.

The law retains the mixed proportional and single-member district nature of the previous system. However, it reduces the number of seats in the Parliament from 386 to 199, and increases the share of single-member districts with 106 individually elected seats and 93 party-list seats. Thus, the number of single-member districts are increased from 45.6 per cent in the old system to 53 per cent in the new.

As mentioned, the law alters the shape and size of electoral districts. The number of districts is reduced from 176 to 106, and the average size of the eligible population in a district is increased from 46 000 to 76 000. The new delimitation have been criticised by the opposition and by independent observers for being in the advantage of Fidesz, and for being part of a cardinal law.

According to Alan Renwick, a respected academic expert on electoral systems,

“[t]o draw up district boundaries in a non-transparent and partisan way is a gross abuse of democratic principle. Fidesz will probably get away with it: such abuses are common in several other single-member district based systems, and Hungarian politicians have a depressing tendency to compare Hungarian practice with what happens elsewhere rather than with what should happen. But we should be clear all the same that Fidesz is skewing the system to its own advantage.”³²

32 Alan Renwick: *Hungary's New Electoral Law*. 25.12.2011. <http://blogs.reading.ac.uk/readingpolitics/2011/12/25/hungary's-new-electoral-law-part-1-the-basics/>

According to the Political Capital Policy Research and Consulting Institute, “the design of the new constituency map went ahead without professional and political consultations, ... A possible sign of political manipulation may be the fact that the populations in districts with leftist tendencies are typically 5 to 6 thousand larger than those in rightist districts; ... According to several calculations, with equal support at the national level Fidesz would be allocated 10 more single-member mandates than its rival; ...” Political Capital: *Halfway into the Hungarian electoral reform: Electoral law already passed, law on procedure still uncertain* 19.04.2012, http://www.valasztasirendszer.hu/wp-content/uploads/PC-FES_ConferencePaper_HalfwayIntoTheHungarianElectoralReform_120417.pdf

The law also increases the number of individual endorsements required by candidates to run for elections. The main argument by the Government for this increase is that the constituencies are now larger than in the previous system. In order to run a national list, a party previously needed at least 14 single-member district candidates, backed by at least 10 500 signatures, and spread across at least seven regions. According to the new law a party can only run a national list if it has at least 27 single-member districts candidates across at least nine regions, requiring at least 27 000 signatures. Adding to the challenge, the timeframe for securing the required number of signatures has also been reduced.

Another novelty of the law is that it introduces the right to vote to ethnic Hungarians living outside of Hungary.³³ Critics claim that this may secure votes for Fidesz in future elections, as well as escalate regional tensions. As of the beginning of November 2012, 300.000 Hungarians living in neighbouring countries had applied for citizenship under a fast-track scheme introduced in 2011, making them eligible to vote in the 2014 Parliamentary elections.³⁴

Although the introduction of a mandatory advance registration system was not part of the 23 November 2011 electoral law, it was known at the time that Fidesz wanted to introduce such a system at some point. In October and November 2012, Parliament passed amendments to the law on electoral procedure, including an advance registration system. According to the new legislation, anyone who wants to vote in an election must register at least 15 days in advance.

Critics claim that the requirement will give Fidesz a big advantage since it has the strongest organisation. They also claim that the registration system would be vulnerable to manipulation, and that mandatory registration may discourage voters, especially poor and elderly, from participating in elections.

The Prime Minister's office defended advance registration by pointing out that "Hungarians live all over the world in the tens of thousands. The only way to ensure that they can vote is to adopt a preregistration system".³⁵ However, Fidesz supporters of the law also argued that "mandatory registration would be helpful in keeping last minute angry voters with little understanding of politics away from the ballot box, and thus may help to reduce the populist tone of electoral campaigns."³⁶

The amendments also include the prohibition of political advertising on commercial television and radio, or even internet news websites, in the run-up to elections. The

33 See for instance Viktor Szigetvári (2012) for an overview of the electoral reform.

34 *Election blues*. Budapest Times, 02.11.2012 <http://www.budapesttimes.hu/2012/11/02/election-blues/>,

35 Stephen Castle: *Hungarians Stage a Fast Over Rules for Voters*. New York Times, 11.09.2012; *Voter registration plan will bypass Constitutional Court*. Budapest Times, 25.10.2012

36 *Who could benefit from voter registration?* Budapest, 02.06.2012. <http://budapost.eu/2012/06/who-could-benefit-from-voter-registration/>

official campaign period will be restricted to 50 days, with two days of “campaign silence” before polling stations open. Parties may advertise during these 50 days in print media, and those fielding a national list will be entitled to airtime on public service television and radio.³⁷

The Constitutional Court ruled in the beginning of January 2013 that several provisions of the law were unconstitutional. The Court said in a statement that forcing voters with Hungarian residency to register is unconstitutional as it “represents an undue restriction on voting rights.” Hungarians living abroad will still have to register. Some provisions on political campaigning were deemed to be too restrictive on the freedom of opinion and the media.³⁸

In another development, on 17 May 2012 the Prime Minister put forward a proposal to end public party financing. Initial reactions to the proposal were negative even among many influential Fidesz Parliamentarians, but a restructuring of party financing is a likely outcome.

Smaller or new parties fear that they will not be able to compete with more established parties with affluent supporters that do not need public party financing. Another concern is that if state funding is abolished or reduced, political parties will become even more dependent on business circles demanding favours and services in return for their financial support.

In an overall analysis of the continuous drive for changes in the electoral system, the *Political Capital Policy Research & Consulting Institute (Political Capital)* states:

“Within the ranks of Fidesz, a growing perception of losing the trust of the public has occurred, and confidence about an election victory in 2014 is gradually waning. The party leadership is therefore making efforts to improve the election prospects of Fidesz by administrative means (e.g. redrawing electoral districts in a way that is favourable to the governing party). This notion is further underlined by the proposal of the prime minister to suspend the state funding of political parties, as well as by the plan to introduce the mandatory registration of voters ahead of the elections. ...”³⁹

Reform of electoral laws – for instance by altering the boundaries of electoral districts, introducing a registration system, or reducing the number of Parliamentarians – is not unique to Hungary, and many of the changes may be given a rational justification.

37 *Electoral reform begins passage: Gov't wants to ban political advertising from commercial airwaves.* Budapest Times, 20.11.2012. <http://www.budapesttimes.hu/2012/11/20/electoral-reform-begins-passage/>

38 Gergely Szakacs and Krisztina Than; *Under pressure, Hungary PM drops contested voting rules.* Reuters, 04.01.2013. <http://www.reuters.com/article/2013/01/04/us-hungary-voting-idUSBRE9030C220130104>

39 *Political Capital Policy Research & Consulting Institute: Party funding and prior registration ahead of the elections,* 24.05.2012. http://www.riskandforecast.com/post/hungary/party-funding-and-prior-registration-ahead-of-the-elections_757.html

Several of the changes brought about by the reform may be seen in a positive light, such as introducing a one-round system instead of the two-round system for allocation of seats in the single-member districts voting and reducing the number of seats in the Parliament. Already in 2005, the Constitutional Court decided that electoral districts should be less unequal (the size of the biggest should not be more than double the smallest).

Thus, introducing rules to ensure more equal size of electoral districts, as well as the introduction of arrangements to improve the representation of national minorities in Parliament, was clearly steps in the right direction. However, by including a suspicious delimitation of electoral districts in a cardinal law (making it dependent on a two-thirds majority for future Parliaments to redraw borders), and by introducing “legal provisions on fundamental aspects of the electoral process ... [without broad discussions] among all the relevant stakeholders and in particular the political parties before adoption”, Fidesz continued to use its supermajority in the current Parliament to disregard its duty to strive for political consensus in an open, transparent and inclusive process.⁴⁰

According to international standards, an independent committee should be set up to study the need for boundary revisions and, if necessary, modify boundaries according to the set rules.⁴¹

What is unique about the electoral reforms in Hungary is that even very specific regulations, not only fundamental principles of the electoral system, are part of a cardinal law, meaning that it will require a two-thirds majority to change them. That could prove very difficult, and explains why the opposition reacts so strongly to some of the changes. There is a real concern that Fidesz will be successful in cementing an electoral system that in the foreseeable future will be advantageous to the party.

40 Quotes from Venice Commission and OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) (18.06.2012) *Joint Opinion on The Act on the Election of Members of Parliament of Hungary*, page 13–14. [http://www.venice.coe.int/docs/2012/CDL\(2012\)033-e.pdf](http://www.venice.coe.int/docs/2012/CDL(2012)033-e.pdf)

41 See the Venice Commission’s Code of Good Practice in Electoral Matters, I.1.1.

5. Freedom of the media threatened

The Hungarian media market can be considered vibrant, with a wide range of print, broadcast, and internet outlets. Private broadcasters compete with public radio and TV, which is the most important source of information on political issues for most Hungarians. However, the public broadcaster has recently faced financial struggles, dwindling audiences and allegations of political influence.

While foreign ownership of media outlets is extensive, domestic ownership is concentrated mostly in the hands of supporters of the governing Fidesz party. Two daily newspapers, however, are supportive of centre-left political parties and politicians. According to observers, quality non-partisan journalism is mainly to be found in weekly magazines and on the internet.⁴²

There were 6.5 million internet users by December 2011, and political blogs gather substantial followers.⁴³

A package of media laws, which entered into force on 1 January 2011, was among the most controversial sets of laws introduced by Fidesz. With its supermajority in the Parliament, the Orbán government could introduce laws and measures that significantly altered the working conditions of media outlets.

The Media Council

One of the most contentious issues was the creation of a new Media Council within the *National Media and Info Communications Authority*.⁴⁴ The current chairperson of the council is a former Fidesz Member of Parliament, Annamária Szalai. She was a former member of the National Radio and Television board (ORTT), the predecessor of the Media Council. Szalai was appointed as President of the Media Authority on 23 August 2010, and according to the new rules also became the automatic nominee for the position of chairperson of the Media Council. In October 2010, the Parliament approved her nomination.

The remaining four members of the Media Council were nominated by an ad-hoc committee in Parliament and elected by a two-thirds parliamentary majority, also in October 2010.⁴⁵ All four members were selected by Fidesz Members of Parliament.

42 Freedom House, *Nations in Transit* 2012, page 248.

43 BBC Hungary Profile: *Media*. <http://www.bbc.co.uk/news/world-europe-17382824>

44 The website of the Media Council: www.nmhh.hu

45 Hungarian Europe Society, Hungarian Civil Liberties Union, Eötvös Károly Public Policy Institute, Standard (Mérték) Media Monitor Budapest: *Joint position paper to the High Level Group on Media Freedom and Pluralism created by the European Commission on the Hungarian Media Law and its Application*. 19.01.2012, p. 1.

They serve indefinitely renewable nine-year terms, the longest term for similar authorities by European standards.⁴⁶

The media laws stipulate that all media outlets must register with the Media Council, and that they may be fined for news reports that are “imbalanced”, insulting or in violation of “public morality.”⁴⁷ The Media Council has the authority to issue fines not only to TV stations and radios that do not comply, but also to websites and other internet media.⁴⁸ The Media Council also has the power to deny registration and force journalists to disclose sources, particularly on the grounds of “national security” or “protection of public order”.⁴⁹ This was later annulled by the Constitutional Court.

A few national newspapers criticised the media laws. One of the main Hungarian daily newspapers put on its front page a declaration that “[T]he freedom of the press in Hungary comes to an end” in all the European Union languages, whereas some newspapers left their front page blank.⁵⁰

According to critics, the laws marked the “start of an era of censorship reversing the democratic gains of the past 20 years” and represented a “full-scale assault on press freedom.”⁵¹ A deputy editor of a centre-left newspaper compared the situation with the media law to the following:

“Just imagine a situation where you are living in a neighbourhood where a guy is walking around with a huge gun but he says he’s a good guy and will not use it. How worried would you be? The government too says that it’s a good guy and will not use the massive fines in the new media law to stifle views it does not like.”⁵²

The same sentiment was expressed by Balázs Dénes, former Executive Director of the Hungarian Civil Liberties Union. Dénes claimed that even if it remains to be seen to what extent and how the Media Council will use its powers, its mandate has caused concern that it may be used to silence opponents of the government. He feared that the measures will be used to ensure favourable media broadcasts prior to the next election in order to secure a new Fidesz government.⁵³

46 Karol Jakubowicz: *Analysis and Assessment of a Package of Hungarian Legislation and Draft Legislation on Media and Telecommunications*. OSCE Representative on Freedom of the Media, 2010, p. 41.

47 Roy Greenslade: *Hungarian TV journalists on hunger strike*. The Guardian, 15.12.2011. <http://www.guardian.co.uk/media/greenslade/2011/dec/15/hungary-press-freedom>

48 András Bozoki: *The Crisis of Democracy in Hungary*.

49 Greenslade: *Hungarian TV journalists on hunger strike; EU speechless over Hungary’s contentious media law*. Euractiv, 23.12.2010.

50 Ian Traynor: *Hungary begins first EU presidency with warnings over press freedom*. The Guardian, 03.01.2011. <http://www.guardian.co.uk/world/2011/jan/03/hungary-press-crackdown-eu-presidency>

51 Péter Zilahy: *Hungary media law protest shows forbidden fruit remains sweet*. The Guardian, 14.01.2011. <http://www.guardian.co.uk/commentisfree/2011/jan/14/hungary-media-law-protest>; Jonathan Marcus: *Hungary: Media law row overshadows EU presidency*. BBC News, 01.07.2011. <http://www.bbc.co.uk/news/world-europe-12140395>

52 Jonathan Marcus: *Hungary: Media law row overshadows EU presidency*.

53 Balázs Dénes. Meeting in Budapest on 01.02.12.

András Bozóki, Professor at the Central European University and former Minister of Culture, claimed that there is an atmosphere of self-censorship amongst journalists and television reporters.⁵⁴

According to CivilMedia and Mérték,⁵⁵ the Media Council has failed to launch investigations into a range of cases of biased and politicised media coverage by the public TV station.

For instance, in covering a press conference in support of two Slovakian Hungarians whose Slovakian citizenship were retracted after applying for Hungarian citizenship, the public TV station blurred the face of former Supreme Court President Zoltán Lomnici. The face of Lomnici was pixelated in a similar way as is normally done to protect the identity of criminals.⁵⁶ The judge himself called this “the most serious infringement of press freedom in the past 20 years.”⁵⁷ Apparently, Lomnici is a *persona non grata* on state television. The episode may have been motivated by personal differences between Lomnici and senior management at the TV station.⁵⁸

Another case which the Media Council did not launch an investigation into was the distortion of a statement by Daniel Cohn-Bendit, the co-president of the group of European Greens-European Free Alliance in the European Parliament. He has been very critical of the legal reforms in Hungary. A news report in the public TV station was edited in such a way that it looked like Cohn-Bendit was avoiding answering questions about his personal life, although he did give a lengthy response to it.⁵⁹

A third example is a news report showing empty streets in the state TV channel’s coverage of anti-government protests in front of the Opera in Budapest on 2 January 2012.

Based on these and other examples, a number of Hungarian non-governmental organisations have stated that the Media Council “lacks the political independence necessary to safeguard a free and independent media in Hungary. Rather, this body acts as an extended arm of the Hungarian government, with powers practically equal to a Ministry.”⁶⁰

54 András Bozóki. Meeting in Budapest on 31.01.12.

55 CivilMedia is a Hungarian non-governmental organisation that promotes freedom of opinion and the press. <http://en.civilmedia.net/civilmedia/> Mérték is a media monitoring project, aiming to evaluate the impacts of media laws and other media policy decisions, and to publish the results on the international level. <http://mertek.eu/en>

56 Greenslade: *Hungarian TV journalists on hunger strike*.

57 David Smith: *Press Freedom in Hungary. Journalists Protest Manipulation with Hunger Strike*. Der Spiegel, 16.12.2011. <http://www.spiegel.de/international/europe/press-freedom-in-hungary-journalists-protest-manipulation-with-hunger-strike-a-804299.html>

58 Mirjam Donath: *How long can a Hungarian hunger strike go on?* Reuters, 29.12.2011. <http://blogs.reuters.com/mirjam-donath/2011/12/29/how-long-can-a-hungarian-hunger-strike-go-on/>

59 Ibid.

60 Hungarian Europe Society, Hungarian Civil Liberties Union, Eötvös Károly Public Policy Institute, Mérték.

The case of Klubradio

Another contested case was a decision by the Media Council not to renew the license of Klubradio, a leading independent radio station. According to its website, Klubradio has 200.000–400.000 listeners every day, and is the “only talk & news radio station in Hungary with a scrutinizing attitude towards government and social issues”.⁶¹

The radio station is fighting two separate legal battles with the Media Council in order to stay on the air: One case concerning a tender procedure for the license to broadcast on Klubradio’s current frequency, and another case concerning the conclusion of the signing of a contract for a different frequency. In both cases, courts have ruled in favour of Klubradio. However, instead of complying with court decisions, the Media Council has decided to nullify the entire tender process in both cases, and said it would start over from scratch.⁶²

At the moment, Klubradio is still on air with a temporary license that is renewed every 60 days.

According to Dalma Dojcsák, a legal researcher at CivilMedia, the Media Council was biased in its approach to the case:

“The proceedings included various absurd moments, such as when the Media Authority declared the tender of Klubradio to be invalid because the blank overleaf of the tender materials had not been signed by an authorised company representative. To prevent Klubradio from broadcasting, Parliament also modified the tender procedure rules.”

According to Human Rights Watch, “The on-going fight by Klubradio and efforts by the Media Authority to silence it illustrates clearly the threat to media freedom and the rule of law in Hungary today. It also shows why the European Union needs to stiffen its spine in its dealings with the conservative Fidesz government.”⁶³

Journalists are also reporting their concern with how courts apply the law. A significant number of public officials respond to media criticism by taking legal action, according to Dalma Dojcsák: “Overall a state of legal uncertainty prevails on the application of freedom of opinion; this has a restrictive effect on the freedom of the press.”

61 Klubradio’s website: <http://www.klubradio.hu/index.php?id=215>

62 Lydia Gall, Human Rights Watch. “The clubbing of Klubradio.” 22.08.2012. Published in European Voice, and on the HRW webpage: <http://www.hrw.org/news/2012/08/22/clubbing-klubradio>

63 Ibid.

Strong reactions

The media law has been criticised by a number of international organisations, including the European Union, the Council of Europe, the Organisation for Security and Cooperation in Europe (OSCE), the United Nations, and by a number of European Union member countries and non-governmental organisations. The OSCE Representative on Freedom of the Media, Dunja Mijatovic, stated that if misused, the media law “can silence critical media and public debate in the country.”⁶⁴

According to a report commissioned by the OSCE, the media law is a cause for serious concern and “exceeds what is justified and necessary in a democratic society”.⁶⁵ According to a review by the Council of Europe’s Commissioner for Human Rights, the appointment procedures for Hungary’s Media Council fail to meet Council of Europe standards for safeguarding media independence and pluralism.⁶⁶

A delegation of non-governmental organisations reported after visiting Hungary that “the confluence of a difficult regulatory environment, deteriorating economic conditions, technological change and convergence in media and a lack of unity and solidarity within the professional community has created a perfect storm that threatens the future of independent journalism in Hungary.”⁶⁷

The incident which finally led to a huge national protest was the public TV channel’s report mentioned above, where Lomnici’s face was blurred. A hunger strike was initiated on 10 December 2011, led by Balázs Nagy-Navarro, head of the trade union for television employees at the public TV station and founder of the *Movement for Honest Reporting*. Nagy-Navarro was subsequently fired.

The hunger strike went on for many weeks and received widespread coverage in international media. Although attempts were made to remove them from the site of the strike, the strikers said that they did not fear violence. According to Nagy-Navarro, the fired journalists did receive sympathy from colleagues, but little support and solidarity due to fear of losing jobs.⁶⁸

64 Judy Dempsey, *Hungary Waves Off Criticism Over Media Law*. New York Times. 25.12.2010. http://www.nytimes.com/2010/12/26/world/europe/26hungary.html?_r=0

65 Jakubowicz, *Analysis and Assessment of a Package of Hungarian Legislation and Draft Legislation on Media and Telecommunications*, p. 5.

66 Council of Europe Commissioner for Human Rights: *Opinion of the Commissioner for Human Rights on Hungary’s media legislation in light of Council of Europe standards on freedom of the media*. CommDH(2011)19. February 2011

67 Roy Greenslade: *Hungary’s media law ‘undermines press freedom’*. The Guardian, 18.11.2011. <http://www.guardian.co.uk/media/greenslade/2011/nov/18/press-freedom-hungary> The mission included representatives of Article 19, Index on Censorship, the International Press Institute, European Federation of Journalists and the South East Europe Media Organisation.

68 Balázs Nagy-Navarro, Former TV journalist and President of the Council of Public Media Trade Unions. Meeting in Budapest on 02.02.2012.



The site of the hunger strike, February 2012

In addition to journalists striking and protesting, ordinary people were also mobilising against the media law. For instance, one initiative named *One Million Voices for the Freedom of Press* (*Milla* for short) was formed in December 2010.⁶⁹ The protest was organised on Facebook, and has currently more than 100.000 fans.⁷⁰ The group managed to mobilise between 50.000 and 100.000 people for a demonstration in front of the Parliament in early 2011, in what was claimed to be “the biggest demonstration for freedom of speech since the fall of the iron curtain”.⁷¹

Government officials have dismissed most of the criticism, although some amendments were passed in March 2011 after negotiations between the government and the European Commission. A Fidesz Member of Parliament claimed that the media law will lead to “a new, more balanced, more flexible, more correct media world”. A right-wing think-tank claimed that Fidesz will create a “coherent legal framework for both printed and electronic media which is in line with technological requirements.”⁷² The number of dismissed journalists was explained as only natural in the current financial climate in which media houses need to reduce costs. Prime Minister Orbán stated that “Hungary is willing to amend the law if the European Union requires, but only if such changes are made across the European Union.”⁷³

69 Péter Juhász, Spokesperson One Million Voices for the Freedom of Press. Meeting in Budapest on 02.02.12.

70 <https://www.facebook.com/sajtoszabadsagert>, or for an English version: <https://www.facebook.com/freepresshun>.

71 Zilahy: *Hungary media law protest shows forbidden fruit remains sweet*; Helen Pidd: *Hungary's 'Viktator' faces tide of protest at home and abroad*. The Guardian, 06.01.2012. <http://www.guardian.co.uk/world/2012/jan/06/hungary-viktor-orban-faces-protest>

72 Euractiv: *EU speechless over Hungary's contentious media law*.

73 Human Rights Watch: *Hungary: Media Law Endangers Press Freedom*. 07.01.2011. <http://www.hrw.org/news/2011/01/07/hungary-media-law-endangers-press-freedom>

In 2012, Freedom House downgraded the status of Hungary's press from Free to Partly Free.⁷⁴ The conclusion was contested and criticised by government officials. Zoltán Kovács, Minister of Government Communication, said in a statement that the Freedom House report is "utterly groundless", "extremely biased" and "an attempt to discredit the government".⁷⁵

This response by the Orbán government to criticism was characterised as arrogant by Freedom House:

"Yet rather than engaging in any sincere reflection regarding the concerns of domestic and international experts, the government's response has been to dismiss criticism as exaggerated and politically motivated. At the same time, the government of Prime Minister Viktor Orbán has spent countless hours and reams of paper justifying every questionable aspect of the law by searching out and documenting similar examples in other European countries. The examples range from objectionable laws that should never have been passed in the first place to legitimate laws that have been taken out of context and invoked in misleading ways."⁷⁶

The amendments of the law introduced after negotiations with the European Commission included scrapping provisions on the need for online media to ensure balanced information as well as the requisite for *prior* media authorisation and registration. The provision that media content should not cause offence was limited to incitements to hatred or discrimination. The European Commission and the Government also agreed on an amendment stating that media providers legally established and authorised in other Member States could no longer be fined for breaching the Hungarian Media Law's provisions on incitement to hatred.⁷⁷

At the end of 2011, the Hungarian Constitutional Court annulled some parts of the legislation, including parts weakening the rights of journalists to protect sources and parts giving media authorities the right to obtain editorial materials.⁷⁸

74 See: <http://www.freedomhouse.org/country/hungary>

75 Ministry of Public Administration and Justice: *Govt communications state secretary calls Freedom House report about Hungary groundless, biased*. 02.05.2012

76 Paula Schriefer: *Press Freedom a Loser in Viktor Orbán's Winner-Take-All Hungary*. Freedom House, 02.12.2011. <http://blog.freedomhouse.org/weblog/2011/12/press-freedom-a-loser-in-viktor-orbper-centC3per-centA1ns-winner-take-all-hungary.html>

77 European Commission: *Media: Commission Vice-President Kroes welcomes amendments to Hungarian Media Law*. 16.02.2011. http://europa.eu/rapid/press-release_MEMO-11-89_en.htm The European Commission was represented in the negotiations by Neelie Kroes, European Commission Vice-President for the Digital Agenda. European Commission.

78 Hungarian Civil Liberties Union: *Summary of the decision of the Constitutional Court of Hungary on the Media Laws in 2011*.

A group of non-governmental organisations did however issue a statement saying that “[...] the Court’s ruling does not address critical aspects of the legislation that pose a fundamental threat to media freedom and pluralism in Hungary.”⁷⁹

The Parliament adopted a new package of media laws on 24 May 2012, in order to correct provisions that the Constitutional Court had deemed unconstitutional. The new package provided better protection of sources, annulled the ban on certain content in print and online media, and abolished the right of the Media and Communications Commissioner to interfere with editorial decisions in case of complaints.

However, some serious problems still remain, including the way the President and members of the Media Authority and Media Council are nominated and appointed, “the prospect of very high fines that can lead to self-censorship among journalists”, and lack of independence of the public broadcasters, as pointed out by the OSCE Representative on Freedom of the Media.⁸⁰

Media analysts and non-governmental organisations that the Norwegian Helsinki Committee spoke with concluded that the climate for independent journalism in Hungary is getting less favourable. They also pointed to the strengthening of media enterprises supporting the government and the weakening of critics through legal and informal instruments such as tenders and revenues from advertisements.⁸¹

In the view of the Norwegian Helsinki Committee, the new media laws remain a serious setback for the democratic gains after the fall of authoritarian communism. The laws leave considerable space for political influence and obstruction, as well as creating barriers against investigative and critical journalism.

Independent and professional media, able to criticise the government and disclose abuse of power, are a necessary ingredient of a democratic political system. There is a real fear that the new laws will be used to undermine media pluralism and weaken media’s ability to disclose abuse of power.

79 Hungarian Europe Society, Hungarian Civil Liberties Union, Eötvös Károly Public Policy Institute, Standard (Mérték) Media Monitor Budapest: *Joint position paper to the High Level Group on Media Freedom and Pluralism created by the European Commission on the Hungarian Media Law and its Application*. 19.02.2012

80 OSCE Representative on the Freedom of the Media: *Revised Hungarian media legislation continues to severely limit media pluralism, says OSCE media freedom representative*. 25.05.2012. <http://www.osce.org/fom/90823>

81 Paper from CivilMedia and Mérték.

6. Growth of the extreme right

The far-right movement in Hungary is not unique in a Central European context. However, the increased popular support of Jobbik, the extreme right-wing party that got more than 16 per cent of the votes in the 2010 parliamentary elections, has raised concerns that the party may become even more influential. Jobbik campaigned on an anti-socialist, anti-Fidesz and anti-Roma platform. Many have explained the growth of Jobbik as an anti-establishment vote and a reaction to the politics of the last 20 years. Jobbik blames globalised, liberal economies and the European Union for the financial crisis of the country. The party is portrayed as “protectionist, anti-capitalist and anti-globalisation.”⁸²

A report by the United Kingdom based think-tank *Demos* points to “disillusionment with existing politics; exploitation of fears relating to crime and especially perceived Roma crime” as an important part of the explanation for its increased popular support.⁸³ In addition, Jobbik uses unconventional tools like attracting young people on the internet and defines itself as a movement rather than a party. It claims to be cut off from mainstream media, and has therefore developed strategies for using the internet to mobilise voters.

The party is known for its controversial and often offensive statements. Jobbik’s leader Gabor Vona said in front of thousands of supporters that “We are not communists, fascists or national socialists. But [...] we are also not democrats!”⁸⁴ A representative of Jobbik confirmed in a meeting with the Norwegian Helsinki Committee that the party’s members are disillusioned with the way liberal democracy works.

Jobbik nevertheless claims on its own website that it is the most democratic and grass-root influenced of all Hungarian political parties:

“Jobbik in fact, has the best democratic credentials of any party in Hungarian politics. As a grass roots political organization, founded by Hungarians, it is unique in post-War and post-“regime change” national politics. Jobbik introduced its 2010 parliamentary manifesto to the public, over a month before any other party. Which was produced as a result of a six month nationwide consultative exercise with the Hungarian electorate, allowing the public to directly influence, and question, the content of our national political program. In addition, in the interests of international transparency our manifesto has been translated into English. No

82 Jamie Bartlett, Jonathan Birdwell, Jack Benfield: *Populism in Europe: Hungary*, page 23.

83 *Ibid.*, page 24.

84 Keno Verseck: *Young, wired and angry: A Revised Portrait of Hungary’s Right-Wing Extremists*. Spiegel Online, 02.03.2012. <http://www.spiegel.de/international/europe/young-wired-and-angry-a-revised-portrait-of-hungary-s-right-wing-extremists-a-813243.html>



From the demonstration in front of the New Theatre in Budapest on February 1st 2012

political party, in the entire history of Hungarian democracy, has ever done any of this.”⁸⁵

Jobbik favours a more Eastern orientation over European Union membership and transatlantic cooperation.⁸⁶ Márton Gyöngyösi, Jobbik Member of Parliament, explained how Hungary has a “double identity” that is currently being rediscovered. Hungarians have not been allowed to talk about nationalism, hence the current “soul searching”. Jobbik favours closer ties to countries like Russia and China,⁸⁷ while the party’s links with Iran remain unclear.⁸⁸

A main difference between Jobbik and other European far-right parties is its pro-Palestinian and pro-Muslim stance, which is partly explained by its anti-Semitic and anti-Israeli position.⁸⁹ Jobbik Member of Parliament Márton Gyöngyösi provoked strong reactions when he in late November 2012 called in Parliament for Jews to be registered on lists as national security threats. He dismissed demands that he resign, saying his remarks were misunderstood. He was referring only to Hungarians with Israeli passports, he claimed. Hundreds of demonstrators gathered outside Parliament, and the government issued a statement condemning the remarks.⁹⁰

85 http://www.jobbik.com/frequently_refuted_lies

86 An English summary of Jobbik’s program is available online: <http://jobbik.com/sites/default/files/Jobbik-RADICALCHANGE2010.pdf>

87 Bartlett et al. *Populism in Europe: Hungary*, page 23.

88 “Jobbik is rumoured to have received millions of euros of illegal political contributions from the government of Iran. Let us hope for the sake of Hungary and the rest of Europe that such allegations are unfounded, and that the only thing Iran is exporting to Hungary today is Persian rugs and not revolution.” Richard Field: *The Radicalisation of Hungary’s youth*. Budapest Times, 26.05.2012. <http://www.budapesttimes.hu/2012/05/26/the-radicalisation-of-hungarys-youth/>

89 Bartlett et al. *Op. cit.*, page 23.

90 New York Times (2012, 28 November) *Hungarian Official’s Call to List Jews Draws Condemnation and Protest*. http://www.nytimes.com/2012/11/28/world/europe/hungarian-officials-call-to-list-jews-draws-condemnation-and-protests.html?ref=hungary&_r=0

Gabor Vona, leader of Jobbik, also founded the Hungarian Guard, often described as a neo-Nazi, neo-fascist and/or a paramilitary movement. It was dissolved in 2009, but has been reorganised under new names, such as the New Hungarian Guard and the Hungarian National Guard.

Right-wing extremism and hatred is often spread via the internet. *Kuruc.info* is one of the most central and most-visited online platforms of Hungary's far-right extremist scene. The website disseminates aggressive anti-Semitic, anti-Roma, chauvinistic and homophobic content. Hungarian authorities have been unsuccessful in trying to shut down the website, which is run on a server in the US.⁹¹ It has also been difficult to identify who is hosting the site, but in the fall 2012 it became clear that the person behind the site is a Hungarian winemaker in California.⁹² He is reportedly in close contact with Jobbik Parliamentarians and activists.⁹³

It has also been hard to follow the trail regarding the financing of Jobbik. The party has extensive resources; it is for instance able to produce and distribute a monthly newsletter in two million copies.⁹⁴ Jobbik appears to have lost some of its support according to recent opinion polls, and there now seems to be a general consensus among analysts that Jobbik has an upper-ceiling of 20 to 30 per cent.

Fidesz has officially denounced cooperation with Jobbik, but some have argued that there is a fine line between the most rightist parts of Fidesz and the moderate parts of Jobbik. Others state that Fidesz have been using the growth of the extreme right in a tactical way, as leverage in negotiations with the European Union.

Attila Mong at *Mérték* claims that Jobbik is the biggest enemy of Orbán, and that the challenge of a popular Jobbik can explain the hard-line stance of Orbán towards the European Union.⁹⁵

András Kádár, co-chair at the Hungarian Helsinki Committee, points to a double-hearted approach on behalf of Fidesz. On one hand, Fidesz Parliamentarians pass laws that make it more difficult for guards to march, but at the same time they include Nazi party affiliated authors in the school curriculum while some of its politicians publically support a revival of the Horthy cult.⁹⁶

91 Versek: *A Revised Portrait of Hungary's Right-Wing Extremists*.

92 *Identity of kuruc.info's owner revealed*. <http://atlatszo.hu/2012/09/04/kuruc-info-bela-varga/> 04.09.2012

93 Versek: *A Revised Portrait of Hungary's Right-Wing Extremists*; Bartlett et al: *Populism in Europe: Hungary*, page 29.

94 Field, *op.cit.*

95 Meeting in Budapest, 05.06.2012.

96 Meeting in Budapest, 10.10.2012.

7. International criticism and the government's response

As it has become clear that Prime Minister Orbán has been concentrating power in the executive branch, undermining “checks and balances”, international organisations and governments have increasingly voiced concern about the Hungarian government’s policies and legislative reforms.⁹⁷ Below follows a concise overview of the main criticism.

The European Union

The European Union has been underlining Hungary’s obligations to respect all provisions of the Lisbon Treaty and other European Union treaties, as well as the values that the European Union is founded on.

The European Parliament has expressed “serious concern at the situation in Hungary in relation to the exercise of democracy, the rule of law, the respect and protection of human and social rights, the system of checks and balances, equality and non-discrimination.”⁹⁸

It seems that Orbán on the one hand is carefully playing the nationalist card at home, while at the same time balancing the relationship with the European Union. The style and content of communication between Prime Minister Orbán and the President of the European Commission, José Manuel Barroso, has at times been quite confrontational. Orbán has often strongly criticised the views of European Union institutions. To his electorate in Hungary he has been quoted as saying things like “We will not live as foreigners dictate it, we will not give up our independence or our freedom”, claiming that European Union criticism equals to “colonial intervention” and comparing European Union pressure with intervention from the Soviet Union.⁹⁹

In January 2012, the European Commission started accelerated infringement proceedings against Hungary over the independence of its central bank and data

97 James Kanter: *European Body Threatens to Sue Hungary Over Its Policies*. New York Times, 11.01.2012. <http://www.nytimes.com/2012/01/12/world/europe/european-commission-threatens-to-sue-hungary-over-new-constitution.html>; Viviane Reading: *Letter by EU Commissioner on Justice, Fundamental Rights and Citizenship to Hungarian Vice-Prime Minister*; Ian Traynor: *Hungary PM Viktor Orbán faces EU backlash over new policies*. The Guardian, 21.01.2012. <http://www.guardian.co.uk/world/2012/jan/18/hungary-viktor-orban-eu-backlash>; *Hungry for power. The government takes over Hungary’s independent institutions, one by one*. The Economist, 12.16.2010. <http://www.economist.com/node/17733367>

98 European Parliament: *European Parliament resolution the recent political developments in Hungary*. 16.02.2012

99 Simon Taylor: *Orbán accuses EU of colonialism*. European Voice, 16.03.2012. <http://www.europeanvoice.com/article/2012/march/orban-accuses-eu-of-colonialism/73903.aspx>

protection authorities as well as over measures affecting the judiciary.¹⁰⁰ Hungary responded to the infringement procedures with an official response claiming that they would be willing to alter and modify some laws.¹⁰¹

In March 2012, Vice-President of the European Commission and its Justice Commissioner, Viviane Reding, said:

“Hungary has responded to some of the Commission’s legal concerns, but we still have serious questions regarding potential violations of European Union laws as regards the anticipated compulsory retirement of 236 judges in Hungary and the independence of the Hungarian data protection authority. Now that the Commission has moved to the second stage of the infringement process, it is essential that the Hungarian authorities address the Commission’s legal concerns swiftly. I would like to see real changes to the legislation in question to alleviate the Commission’s legal concerns.”¹⁰²

Two of the three infringement procedures launched against Hungary in early 2012 were registered in June 2012 by the European Court of Justice, namely the procedure concerning the retirement age of judges and the procedure concerning the independence of the data protection supervisor. The Commission had signalled that it would turn to the Court on 25 April, after finding Hungary’s responses inadequate.

A third procedure concerning the independence of the central bank was dropped on the expectation that the Government would change the law in line with European Central Bank guidelines.¹⁰³ The European Commission also launched infringement procedures, or signaled that it was considering doing so, on several other issues.

The controversy with Hungary has been seen as a test of the European Union’s ability and role in safeguarding democratic principles and in terms of coherence between EU’s external and internal human rights policies. Some, however, have expressed concern over what they perceive as the European Union focusing too much on

100 The European Commission: *European Commission launches accelerated infringement proceedings against Hungary over the independence of its central bank and data protection authorities as well as over measures affecting the judiciary*, 17.02.2012. Under Article 258 (ex Article 226) of the Treaty on the Functioning of the European Union, the Court of Justice may determine whether a Member State has fulfilled its obligations under Union law. The commencement of proceedings before the Court of Justice is preceded by a preliminary procedure conducted by the Commission, which gives the Member State the opportunity to reply to the complaints against it. If that procedure does not result in termination of the failure by the Member State, an action for breach of Union law may be brought before the Court of Justice. That action may be brought by the Commission – as is practically always the case – or by another Member State, although the cases of the latter kind remain extremely rare. If the Court finds that an obligation has not been fulfilled, the Member State concerned must terminate the breach without delay. If, after new proceedings are initiated by the Commission, the Court of Justice finds that the Member State concerned has not complied with its judgment, it may, upon the request of the Commission, impose on the Member State a fixed or a periodic financial penalty.

101 Nikolaj Nielsen: *Hungary responds to EU infringement procedure*. EU Observer, 18.02.2012. <http://euobserver.com/justice/115300>

102 *Hungary: Commission continues accelerated infringement procedure on independence of the data protection supervisor and measures affecting the judiciary and asks additional information on central bank’s independence*. http://europa.eu/rapid/press-release_IP-12-222_en.htm

103 *EU court registers two infringement procedures against Hungary*. Politics.hu, 19.06.2012 <http://www.politics.hu/20120619/eu-court-registers-two-infringement-procedures-against-hungary/>

technicalities. For instance, Amnesty International stated that the organisation was concerned that “the European Commission’s analysis has been too focused on technical shortcomings while ignoring the wider negative impact on human rights caused by the Constitution and the other new laws.”¹⁰⁴

The Council of Europe

The Council of Europe has reacted to several of the new laws. Early in 2011, members of the Parliamentary Assembly of the Council of Europe signed a motion expressing “serious concern with respect to recent developments concerning democracy, human rights and the rule of law in Hungary.”¹⁰⁵ In the spring of 2012, Secretary General of the Council of Europe, Thorbjørn Jagland, had talks with Prime Minister Orbán and high-level officials regarding the independence of the judiciary, religious freedom and media freedom which was followed up with a letter of 24 April 2012 pointing to the most urgent recommendations by the Venice Commission to follow-up on in order to safeguard the independence of the judiciary:¹⁰⁶

- “The introduction of a provision that the wide discretionary powers of the President of the National Judicial Office (NJO) are subject to judicial review;
- A revision of the procedure for the election of a new President of the NJO in order to prevent that a blocking minority of 1/3 of members of Parliament can indefinitely extend the mandate of the President of the NJO;
- Structural measures to strengthen the courts in Budapest in order to end the procedure of transfer of cases, which includes no criteria for the selection of cases to be transferred and for the selection of the court to receive the cases.”¹⁰⁷

The Council of Europe’s Commissioner for Human Rights (formerly Thomas Hammarberg, currently Nils Muižnieks) also published a number of critical opinions and statements, including one on the media legislation.¹⁰⁸

The Venice Commission has issued several opinions on the Constitution (Fundamental law), on the rights of nationalities, the Constitutional Court, freedom of religion and the legal status of churches and the legal status and remuneration of judges.¹⁰⁹ The opinions of the Venice Commission have largely been seen as constructive by the Government and Fidesz representatives, although representatives have at times played down the importance of the Commission and its opinions or tried to interpret the opinions in an overly positive light. Criticism from the Venice Commission has led to

104 Amnesty International: *EU must press Hungary to respect human rights norms*.

105 Council of Europe: *The Council of Europe and legislative reform in Hungary: Timeline*.

106 Council of Europe head to meet Orbán in Budapest. Politics.hu, 19.03.2012. <http://www.politics.hu/20120319/council-of-europe-head-to-meet-orban-in-budapest/>

107 Quoted from Venice Commission: *Opinion on the Cardinal Acts on the Judiciary that were amended following the adoption of Opinion CDL-AD(2012)001 on Hungary, adopted by the Venice commission at its 92nd Plenary Session, October 12–13 2012*, page 4. [http://www.venice.coe.int/docs/2012/CDL-AD\(2012\)020-e.pdf](http://www.venice.coe.int/docs/2012/CDL-AD(2012)020-e.pdf)

108 See the following page for an overview: http://www.coe.int/t/commissioner/Activities/countryreports_en.asp

109 For a full list of opinions, see: http://www.venice.coe.int/site/dynamics/N_Country_ef.asp?C=17&L=E

revision of the provisions in question on several issues; however, not all issues have been fully solved.

As an example, the law on judges was amended after an opinion by the Venice Commission. Following this, the Venice Commission wrote an opinion on the amendments, where it noted that most of the recommendations were addressed and that this was a “commendable step in the right direction”. A main point was that the very wide powers of the President of the National Judicial Office were somehow curtailed, and the National Judicial Council (NJC, a body composed of judges) was given a more important role. In its conclusion, the Commission stated that “while the President of the National Judicial Office (NJO) remains the pivotal element of the Hungarian judicial system, a number of his or her competences have been transferred to the National Judicial Council.”¹¹⁰

However, the Commission also pointed to several shortcomings, referring to recommendations that were not fully implemented and that there were still issues the Commission remained critical of. In particular two issues remained critical:

- “The first issue is the implementation of the Constitutional Court judgment no. 33/2012 (VII. 17) AB határozat of 16 July 2012, annulling the early retirement of all judges over 62 years. The Legislator should adopt provisions re-instating the dismissed judges in their previous position without requiring them to go through a re-appointment procedure. Any additional age discrimination removing judges who are older than 62 years from leading positions should be avoided.
- The second urgent topic is the procedure of the transfer of cases. While the NJC adopted criteria on the selection of the court, which is to receive the case, the most critical decision is the selection of individual cases by the president of the overburdened court. The amendments do not provide for the establishment of criteria for this selection. The NJC should be mandated to establish such criteria, which would have to be objective (e.g. a transparent random selection). The conformity of the selection of a case with such criteria should be the standard for the judicial review of the transfer.”¹¹¹

In addition, many judges filed lawsuits claiming unlawful dismissal in national courts and in the European Court of Human Rights. A group of 105 judges submitted complaints to the human rights court with the assistance of the Hungarian Helsinki Committee in June 2012, arguing that the law on early retirement of judges violates the European Convention on Human Rights.¹¹²

110 Venice Commission op.cit, pp. 6–7.

111 *Op.cit.* pp. 17–18.

112 Hungarian Helsinki Committee: *105 judges turn to Strasbourg court over “forced retirement*. 25.06.2012. <http://helsinki.hu/en/105-judges-turn-to-strasbourg-court-over-forced-retirement> See above, chapter on Constitutional and Legal reform, section on retirement age of judges for more information on this complaint.

The Organisation for Security and Cooperation in Europe (OSCE)

The main reactions from the OSCE have been concerning the media law and the judiciary. Participating states in the OSCE have undertaken comprehensive commitments to respect the independence of media and the judiciary, to hold free and fair elections, and to respect human rights and rule of law principles.

The OSCE Representative on Freedom of the Media, Dunja Mijatovic, has issued a number of statements and repeatedly called for reform of Hungary's media legislation in order to honour OSCE commitments on free media.¹¹³ She has also commissioned comprehensive legal analysis of the new laws.¹¹⁴

Another OSCE institution, the Office of Democratic Institutions and Human Rights (ODIHR), issued a critical joint opinion with the Venice Commission on the new electoral legislation.¹¹⁵ ODIHR also observed the 2010 parliamentary elections that led to Fidesz gaining a supermajority in the Parliament. According to the final report on the elections, "the 2010 parliamentary elections confirmed the democratic principles established over the past 20 years".¹¹⁶

The International Monetary Fund (IMF)

In 2008, Hungary received an IMF-led bailout. In 2010, however, Prime Minister Orbán decided not to renew the agreement in order to implement economic policies without the control of the IMF. Later on, however, facing increasing economic challenges, Hungary had to seek assistance from the IMF again.

The IMF, as well as the European Commission, has had official negotiations and several informal visits to Hungarian authorities to discuss financial assistance.¹¹⁷ The relationship has been characterised by twists and turns. Negotiations have collapsed, resumed and been delayed many times, reportedly because of "Orbán's resistance to adhere to legal and economic conditions set by the IMF and the European Union".¹¹⁸

113 OSCE Representative on Freedom of the Media: *Hungarian media legislation severely contradicts international standards of media freedom*. 07.09.2012; *Hungarian media law further endangers media freedom*. 12.22.2010; *Revised Hungarian media legislation continues to severely limit media pluralism*. 25.05.2012; *Lawsuit against Hungarian journalist can have chilling effect on Internet freedom*. 12.09.2012. Statements to be found at <http://www.osce.org/fom>

114 OSCE Representative on the Freedom of the Media: *Analysis and Assessment of a Package of Hungarian Legislation and Draft Legislation on Media and Telecommunications*. Prepared by Dr. Karol Jakubowicz, commissioned by the Office of the OSCE Representative on Freedom of the Media, September 2010; *Analysis of the Hungarian Media Legislation*. Prepared by Dr. Katrin Nyman-Metcalf, 28.02.2011.

115 See footnote 40 above.

116 OSCE/ODIHR: *Republic of Hungary, Parliamentary elections 11 April 2010*. OSCE/ODIHR Assessment Mission Report. 09.08.2010. <http://www.osce.org/odihr/elections/71075>

117 For an overview of material with regards to the IMF and Hungary: <http://www.imf.org/external/country/hun/index.htm>

118 Zoltan Simon: *Hungary First to Write a Constitution on iPad, Lawmaker Says*. 04.03.2011. <http://www.bloomberg.com/news/2011-03-04/hungary-first-to-write-a-constitution-on-ipad-lawmaker-says.html>

The law on the central bank has been criticised for limiting the independence of the bank and potentially giving the government influence over monetary policy, including interest rates. Both the IMF and the European Union left preparatory negotiations on providing new loans to Hungary due to a controversy surrounding this new law. After international pressure, Prime Minister Orbán promised to amend it.

In September 2012, the Orbán government again rejected many IMF conditions and loan terms. On his Facebook page, he claimed that the terms “contain everything that is not in Hungary’s interests”.¹¹⁹

The Government’s response

As has been shown extensively throughout the report, the government and the parliament of Hungary have had the benefit of receiving a wide range of legal analysis and criticism of the new legislation based on European Union laws and regulations as well as international human rights standards. In the view of the Norwegian Helsinki Committee, the government has in total received such a comprehensive set of recommendations that if followed-up on Hungary would at least in legal terms be in compliance with its international human rights obligations.

However, even though some changes have been made, the government and the parliament have so far failed to adjust its course to fully follow these standards.

According to Attila Mong at *Mérték*, international criticism has often been portrayed by the government as a conspiracy of the national and/or international left and thus politically motivated.¹²⁰ At other times, the government has dismissed criticism as misunderstandings due to bad translation. Fidesz representatives have also often pointed to equally bad laws in other European countries such as France, the UK and Italy in order to justify the new laws in Hungary.

While in Hungary, the Norwegian Helsinki Committee delegation was informed that many Hungarians felt that international media did not report correctly on the developments in the country; others felt that Hungary is being singled out as a scapegoat. Communication Minister Zoltán Kovács explained that the criticism on the media law was perceived as “attacks” on the government. KDNP Member of Parliament, Tamás Lukács stated that “criticism from the outside on national matters might be counter-productive.”

Despite this type of rhetoric, it seems that the government gradually has had to take into account some of the criticism from the European Union, the Council of

119 *Hungary PM Viktor Orbán rejects IMF loan terms*. BBC News, 06.09.2012. <http://www.bbc.co.uk/news/world-europe-19514325>

120 Meeting in Budapest, 05.06.2012.

Europe, the OSCE and the IMF. Bálint Ódor, Deputy State Secretary in the Ministry of Foreign Affairs, explained that he saw the process with the Council of Europe and the European Union as constructive.

According to Ódor, it is important to understand the context of the laws and how Hungary has been misunderstood. He said that the government now has to restore confidence, engage in dialogue and act in accordance with agreements. He also pointed to the fact that for many Hungarians, the criticism from international media was frustrating and difficult to understand, as the rationale behind the Orbán reforms was to improve the situation in Hungary and to solve the economic crisis.

Fidesz Member of Parliament Gergely Gulyás argued that the controversy was to a large extent due to communication issues and that more efforts should be put into explaining the measures to other countries. This was also underlined by Communication Minister Kovács, who claimed that “it is impossible not to be criticised amidst legal refurbishing”.

Gulyás pointed to the fact that there are a large number of infringement procedures initiated by the European Commission against a long list of European Union member states, and that the procedures against Hungary are normal, especially taking into account the large number of new laws.

Professor Nick Sitter at the Central European University, however, argued that in other European Union member states these issues are often solved before the European Union has to initiate formal procedures, and that they usually are about minor concerns and not fundamental breaches of rule of law. Thus, Hungary is a far more serious case.

Representatives from opposition parties and civil society underlined that the government’s retreat on certain laws would have been unlikely without pressure from international organisations. Many referred to the reports and the recommendations of the Venice Commission as an important factor in correcting laws.

Many persons the Norwegian Helsinki Committee talked with agreed to the view that the negative European Union response to several of the new laws was justified; including former Prime Minister Gordon Bajnai and former President László Sólyom. Many claimed that in general there is support for the European Union in the population and that, therefore, its criticism will not be disregarded.

Some also pointed out that even though the pressure from the European Union, the Council of Europe and other international institutions are of fundamental importance

for upholding democracy in Hungary, the problems must primarily be solved by the Hungarian people.¹²¹

Representatives of non-governmental organisations stated that criticism from international organisations is crucial in correcting current authoritarian tendencies. Yet, some fear that “Europe would get tired of Hungary in a situation when the economic crisis in South Europe requires more immediate attention.”

In summing up, the Norwegian Helsinki Committee shares the opinion that the international response has been crucial in addressing some of the fundamental breaches of democratic principles in the recently enacted legislation in Hungary. However, even if this is true, Hungary’s civil society, media, courts, and the part of the political elite that fully adheres to democratic principles have to play a leading role in seeing to it that the country upholds its status as a full-fledged democracy. That struggle is not over.

121 Expressed i.a.by László Majtényi, Eötvös Károly Institute.

8. The Roma minority

There are several serious human rights issues in Hungary, including overcrowding of prisons, discrimination and intolerance against lesbian, gay, bisexual and other sexual minorities, and inadequate treatment of asylum seekers. However, the aim of this report is not to present and discuss the overall human rights situation of the country. The aim is rather to present and discuss measures initiated by the current government that have a direct bearing on the development of democracy in the country.

The most serious human rights issue in the country, the so-called Roma issue, might, however, merit some remarks in this context. Of those the Norwegian Helsinki Committee spoke with, several underlined the importance of solving this issue, including Members of Parliament Gergely Gulyás (Fidesz) and Tamás Lukács (KDNP).

Anti-Roma (as well as anti-Semitic) rhetoric plays a considerable role in the current political discourse in the country. Jobbik has become infamous for its advocacy of harsh methods of dealing with portrayed Roma criminality, while Fidesz has presented itself as a reformer in the field, outlining ambitious plans of reintegrating Roma in education and labour. Fidesz has, however, failed in important cases to distance itself from the clearly abusive proposals and deeds of Jobbik representatives or some of its supporters.

Critics have argued that Fidesz is playing a “game of double speak” with the far-right, in order not to lose voters to Jobbik. According to Agnes Vadai, Member of Parliament for the Democratic Coalition party, Prime Minister Orbán is critical of Jobbik rhetoric when talking outside of Hungary, but rather silent at home.¹²²

The situation of Roma

According to official figures, Roma constitutes around 2 per cent of the population, while other claims that the real per centage is much higher, between 6 and 8. Roma groups have been living in Hungary for centuries.

In the 1950s, government programs brought Roma into the workforce as low-skilled workers in factories.¹²³ However, as the heavy industry began to decline during the 1980s, Roma were the first to lose their jobs. After the fall of Communism, the Roma fell further out of the labour market. A Human Rights Watch report from 1996 states that:

122 Kester Eddy: *Concern at rise of Hungarian far right*. Financial Times, 30.11.2012. <http://www.ft.com/cms/s/0/1077369e-3b0c-11e2-b111-00144feabdc0.html#axzz2EMOR5vl2>

123 Human Rights Watch: *Rights Denied. The Roma of Hungary*. July 1996. <http://www.hrw.org/reports/1996/07/01/rights-denied-roma-hungary>

“The major social and structural upheavals in Hungarian society since the collapse of communism, coupled with increasingly open discrimination, have had a disproportionately large and negative impact on Roma, whose low social status, lack of access to education, and isolation makes them relatively unable to defend themselves and their interests.”¹²⁴

Since then there has been a lack of sustained efforts to deal with the problem from most governments.¹²⁵ This was underlined in talks with Communications Minister Zoltán Kovács, who claimed that Roma reforms so far have been sporadic, and without specific and concentrated plans.

Challenges related to the Roma population are numerous and include poverty, poor education, discrimination and unemployment. The vicious circle starts already from an early age. According to Professor in psychology Zsuzsanna Vajda, Roma children start life with a disadvantaged position through unhealthy food and malnutrition in their early childhood. Inadequate housing continues to be an issue for the Roma, whose overall living conditions remain significantly worse than those of the rest of the population.¹²⁶

Human rights organisations report that Roma are discriminated against in almost all fields of life, particularly in employment, education, housing, penal institutions, and access to public health.¹²⁷ Amnesty International has provided extensive documentation of violent attacks against Roma and their properties. Only in the period 2008–2009, the organisation documented nine attacks against members of the Roma communities across Hungary, claiming six lives.¹²⁸

Prejudice against Roma and negative stereotypes are ripe as well. The term “gypsy crime” is back in the discourse and is becoming increasingly accepted thanks to the rhetoric of Jobbik.

While visiting Salgótarján, a former industrial town in the North of Hungary, the Norwegian Helsinki Committee was told that during communism, ethnic Hungarians worked side-by-side with Roma in the factories. Now, a local resident explained, the two groups are totally segregated, leading to negative stereotypes and prejudices.

124 Ibid.

125 *Hungary's plan for the Roma*. The Economist, 08.04.2011. http://www.economist.com/blogs/easternapproaches/2011/04/europes_roma

126 U.S. Department of State: *Country Reports on Human Rights Practices for 2011: Hungary*, p. 37.

127 Ibid., p. 34.

128 Amnesty International: *Violent attacks against Roma in Hungary: Time to Investigate Racial Motivation*. November 2011. <http://www.amnesty.org/en/library/info/EUR27/001/2010>

Public works

One of the main challenges concerning Roma is unemployment. Estimates put the unemployment rate at 85 per cent of the Roma people of working age. In some regions it can be more than 90 per cent.¹²⁹

To deal with the issue, the government amended the Law on Public Works in 2011. The amended law entered into force on 1 August 2011 and is designed to create work opportunities for many more people than previous public work schemes, including both Roma and non-Roma.

As described in the government's April 2011 national reform program, public works are part of wider efforts to increase the exceptionally low employment rate in Hungary, which is only 60 per cent among the population aged 20 to 64 years. The European Union average is about 69 per cent, and the Europe 2020 Strategy (a 10-year strategy proposed by the European Commission on 3 March 2010 for advancement of the economy of the European Union) aims to increase the European Union level employment rate to 75 per cent. The Hungarian government has also stated 75 per cent as its 2020 goal, implying that one million new jobs have to be created before 2020.¹³⁰

In order to reach that goal, the National Plan for Work sets out comprehensive measures to improve the labour market, making Hungary more business friendly, and to encourage and support people to find a job on the open labour market by "active labour market policy instruments, with the engagement of the private sector".

It is, however, "also necessary to create a so-called transitory labour market in the sector of social work (e.g. staffing services) parallel to the primary labour market, especially in such fields where it is either not active or inefficient or unable to absorb enough people."

Thirdly, there might be a substantial number of people who will not be able to find jobs either in the primary or in the transitory labour market. For these people, the government will still provide engagement in public work projects.¹³¹

The basic principle of public works are to "provide for earned income to those with working capacity" that have been "pushed out of the labour market temporarily or permanently and who can be offered a job by an employment centre". For these, "Public work, rather than social benefits can help them maintaining their working capacity and facilitate their (re)integration into the labour market. To this end, all

129 U.S. Department of State: *Country Reports on Human Rights Practices for 2011: Hungary*, p. 36.

130 Government of the Republic of Hungary: *National Reform Programme of Hungary. Based on the Széll Kálmán Plan*. April 2011, p. 10. http://ec.europa.eu/europe2020/pdf/nrp/nrp_hungary_en.pdf

131 Ibid.

the persons with working capacity receiving unemployment benefits shall have to do public work offered for them for 4 hours a day.”¹³²

According to the rules, after 90 days of unemployment (down from nine months), those able to work will lose their jobless benefits unless they agree to do public works. Another main feature of the government’s new plan is its level of ambition: “Some 42 000 policemen – early retirees who have been summoned back into the force – will be set to work supervising as many as 300.000 people working on projects that could involve building dykes and dams and even, ... , football stadiums.”¹³³

Those included in public works will continue to receive benefits. However, even if the rate is higher than the rate of social benefits it will be considerable less than the 81 000 forint (440 euro) monthly minimum wage.¹³⁴

According to the government 132 billion forints (about 440 million euro) was earmarked for public works in 2012, while in 2013 145 billion forints will be made available (484 million euro). Similar goals are set for 2014.¹³⁵ Low-skill work in agricultural projects, growing fruits and vegetables, are seen by the government as the most successful part of the public works so far.¹³⁶

Public works are mainly organised at the local level, by municipalities, but there are also programs organised at the national level, including sectors such as water, forestry, state railways, roads, motorways, police, and disaster management.¹³⁷ Churches and non-governmental organisations may also organise public works, and it is possible to outsource participants in the program to private companies.

Public works is not a new invention, neither in Hungary nor in other countries. In several post-communist countries, authorities initiated public works in order to employ people who lost their job in the massive layoffs during the first years of market economy. In Slovakia, however, the government abandoned a similar public-works

132 Ibid.

133 *Public works in Hungary: Do as the Chinese do.* The Economist, 30.06.2011. <http://www.economist.com/blogs/easternapproaches/2011/06/public-works-hungary>

134 In 2011, those working 4 hours a day had a net wage of 95–123 Euro, while those working 6–8 hours or full time a day earned 186–226 Euro. – Lucai Koltai: *Work instead of Social Benefit? Public works in Hungary.* Mutual Learning Programme, 04.04.2012. Peer Review on *Activation measures in times of crisis: the role of public works.* Riga, Latvia, 26-27.04.2012. http://www.mutual-learning-employment.net/uploads/ModuleXtender/PeerReviews/93/Peer_Country_Discussion_Paper_Hungary.pdf

135 Government of Hungary: *145 billion forints will be spent on public employment next year.* 19.11.2012. <http://www.kormany.hu/en/ministry-of-interior/news/145-billion-forints-will-be-spent-on-public-employment-next-year>

136 Ibid.

137 Government of Hungary: *The objective is to increase value-creating public employment which is beneficial for the society.* 24.01.2012. <http://www.kormany.hu/en/ministry-of-interior/news/the-objective-is-to-increase-value-creating-public-employment-which-is-beneficial-for-the-society>

program in the early 2000s “because they realised people were not transiting into regular employment”.¹³⁸

Fidesz Member of Parliament Gergely Gulyás gives strong support to the program, arguing in talks with the Norwegian Helsinki Committee that when people have not worked for decades, it is most likely only the state that can offer them employment.¹³⁹ However, the state should not be an employer for many years in public works project. Therefore, these projects can only be successful if vocational training is provided to increase the participant’s chances of finding jobs; enabling them to find jobs in the open market later on.

Katalin Langerne Victor, Deputy State Secretary at the Ministry of Human Resources/ State Secretariat for Social Inclusion, pointed to the fact that although the pay is low, at least children grow up in an environment where their parents work.¹⁴⁰ Roma who get employment also get more self-esteem. In her opinion, public works is not the final solution, but rather a first move towards integration and providing a way out of the vicious circle for long-term unemployed and low-skilled persons.

There are several contested issues with the program. Critics in particular point to the fact that the pay is lower than the minimum wage. KDNP Member of Parliament Tamás Lukács admitted that the money currently allocated to the program is not sufficient, resulting in a sub-standard rate. However, there are limits to how much the government is able to spend on the program due to current budget constraints. Member of Parliament Gulyás also admitted that the payment is very low, but added that those engaged by the program still earn twice as much as they would receive in unemployment benefits.

In Lukács’s opinion, “long-term unemployment leave people mentally retarded and we need to return them to human dignity by providing employment, regardless of what it is”.¹⁴¹ He is positive to the training scheme that is linked to the public works, and also to the fact that social benefits are linked to children attending school.

Visiting Gyöngyöspata, a village with a substantial Roma population that had experienced violence and clashes between Roma and nationalist vigilantes in the spring of 2011 (see below), the Norwegian Helsinki Committee learned that Roma employed by the program experienced harassment and threats, and that the projects they were allocated to in general had a bad working atmosphere. Some mentioned

138 Martin Kahanec, assistant professor of public policy at Central European University in Budapest. Quoted in Carol Matlack and András Gergely: *In Hungary, the Jobless Go to Labor Camp*. 08.09.2011. <http://www.businessweek.com/magazine/in-hungary-the-jobless-go-to-labor-camp-09082011.html>

139 Meeting in Budapest, 06.06.2012.

140 Meeting in Budapest, 10.10.2012.

141 Meeting in Budapest, 05.06.2012.

that they were afraid to complain and that the program gives a lot of powers to the mayors.

Gyöngyöspata had been singled out as a pilot for the reformed public works scheme. 36 of 40 people engaged in public works there were Roma. The Norwegian Helsinki Committee learned that in general Roma wanted to participate. However, the mayor personally had a strong say about who would be included. Any complaint or differing opinions with the mayor might lead to loss of both participation in public work and to social benefits as a result.

Erika Muhi, legal advisor of the Legal Defence Bureau for National and Ethnic Minorities, referred to the “blackmail potential” of the program. This concern was confirmed by others, who claimed that the program increases the risk of corruption and discrimination, as workers may be afraid to confront the person in charge as that might result in being fired. If you are fired from public work, you lose your benefits as well.¹⁴² Unemployed people would lose their benefits if they reject to take part in public works.¹⁴³

Professor Zsuzsanna Vajda expressed concern that public works does not really lead people into the labour market, because they are not provided with sufficient and relevant training.¹⁴⁴ The director of the Confederation of Hungarian Employers argued in a news article that the public works program is not productive, and does not provide the training and experience businesses need.¹⁴⁵

According to some of those talking to the Norwegian Helsinki Committee, the program is used for propaganda and it is providing very cheap labour to private companies. Many representatives of non-governmental organisation underline that the kind of work persons employed by the program has to do is humiliating. The program does not adequately deal with anti-Roma prejudice, they underline, and monitoring mechanisms are inadequate.¹⁴⁶

In the view of the Norwegian Helsinki Committee, in principle, public works might provide important opportunities to long-term unemployed people with limited education and work experience. However, workers have to be treated with respect and there should be mechanisms to ensure non-discrimination and protection against abuse.

142 Jim Reed: *Hungary's answer to unemployment: Manual labour*. BBC News, 28.12.2011. <http://www.bbc.co.uk/news/world-europe-16309078>

143 U.S. Department of State: *Country Reports on Human Rights Practices for 2011: Hungary*, p. 36.

144 Meeting in Budapest, 06.06.2012.

145 Carol Matlack and András Gergely: *In Hungary, the Jobless Go to Labor Camp*.

146 The Economist: *Hungary's plan for the Roma*.

An essential requirement for any public work scheme to have sustainable effects in reducing unemployment is that there is a strong element of vocational training. So far, the Hungarian scheme seems to lack this component even though it is designed to include it. Providing manual work like clearing fields, which can be done much faster and cheaper by using modern machinery is not a way of building a modern economy in the longer term.

Hungary is a state party to all major human rights treaties, including the 1966 International Covenant on Economic, Social and Cultural Rights. According to article 7,

“The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

1. Remuneration which provides all workers, as a minimum, with:
2. Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
3. A decent living for themselves and their families in accordance with the provisions of the present Covenant;
4. Safe and healthy working conditions;
5. Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
6. Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.”

Public work as it is designed in Hungary may infringe on rights stated in this article, including the right to “fair wages”, “equal remuneration for work of equal value without distinction of any kind” and “a decent living for themselves and their families”.

To introduce a sub-standard public work program for those with the lowest chance of being included in the ordinary labour market may be justifiable in times of crisis, but the government has a responsibility to ensure that the scheme leads to real improvements of living standards for the participants as well as for their possibilities of reintegration in the labour market.

The program should therefore be continuously evaluated and improved. Research should be done into how the program benefits the individual and the society at large. Re-training for Roma should be a priority. Participants should also be offered to work in local and central government administration.

Segregated education

Segregation of Roma schoolchildren remains a problem. Non-governmental organisations and government officials estimate that one-third of Roma children are

educated in segregated classes, and that 20 per cent are placed in classes for children with mental disabilities without justification. Schools with a majority of Roma students employ a simplified teaching curriculum, and they are generally less well-equipped and in worse conditions than other schools.¹⁴⁷

The public education act of 1 January 2012 will lead to expansion of the public school system and reduction in the number of private schools. However, the act on national minorities makes it possible for the National Roma Self-Government to run schools. Also the church and private foundations that adheres to alternative pedagogical methods may apply to run private schools.

In the view of some non-governmental organisations, letting the National Roma Self-Government run schools might turn out negatively for the Roma population:

“The new act on national minorities gives floor to the takeover of primary schools by national minority self-governments in case 75 per cent of the students of the respective school already receive minority education.¹⁴⁸ [...] In order to encourage the National Roma Self-Government (NRSG) to maintain the Roma-only schools, the government raised the central budgetary allocations available for schools maintained by minority self-governments. As a result, the NRSG (which is obviously a political organization) will bear all responsibility for school segregation in Hungary: finally the government can get rid of this problem.”¹⁴⁹

Hate speech and hate crime: the example of Gyöngyöspata

According to the annual human rights report by the US State Department covering 2011, there has been an increase in right-wing extremism in Hungary. This includes “public campaigns by paramilitaries to intimidate and incite hatred against Roma and other minorities”.¹⁵⁰

Reports by Amnesty International confirm this negative trend. According to Orsolya Jeney, director of Amnesty International in Hungary, there was a series of murders of Roma in 2008–2009. Unfortunately, authorities did not at first refer to the racist motives behind the crimes. Even though hate crime provisions do exist in the criminal code, there is not sufficient expertise in the police to handle these types of crimes, she underlined.

147 U.S. Department of State: *Country Reports on Human Rights Practices for 2011: Hungary*, p. 30.

148 Art. 25. (1) of the Act CLXXIX of 2011 on National Minorities.

149 Chance for Children Foundation: *Structural changes in the Hungarian educational system*.

150 U.S. Department of State: *Country Reports on Human Rights Practices for 2011: Hungary*.

For an overview of hate crime in Hungary, see also the Athena Institute: <http://www.athenainstitute.eu/en/news/read/211>

According to a November 2010 Amnesty International report:

“Hungarian authorities failed to identify and respond effectively to violence against Roma in Hungary, including by not investigating possible racial motivation. [...] the police lack capacity to recognize and investigate hate crimes and lack training to enhance such capacity. There are no guidelines for police officers on how to investigate hate crimes and how to treat alleged victims – and neither are there guidelines for prosecutors on how to oversee these investigations. The assistance and support provided by the state for victims of hate crimes are also inadequate. In terms of prevention the authorities lack effective measures to map the nature and scale of the issue, including because they do not collect disaggregated data on hate crimes, thereby hampering their ability to identify trends and craft relevant policy responses.”¹⁵¹

The anti-Roma paramilitary takeover of the village of Gyöngyöspata in 2011 did however put the problem in the spotlight of international media. The village is situated about one and a half hour drive north of Budapest, and Roma constitute about twenty per cent of its just under 3000 inhabitants. Most of the Roma families live on the outskirts of the village in a few unpaved streets, as opposed to the rest of the village, where the roads are paved.



Gyöngyöspata, June 2012

151 Amnesty International: *Time to Investigate Racial Attacks against Roma in Hungary*. 10.11.2010, p. 7

The events culminated with a mass anti-Roma rally in March 2011, attended by 1500–2000 people, of which 30–50 per cent were locals.¹⁵² For more than a week, paramilitary guards wearing black boots and uniforms were patrolling the streets, intimidating the local Roma population.¹⁵³

The police was present, but did not intervene. During this period there was only one incident of physical violence, but the police “did not prevent paramilitary groups from carrying out their intimidation campaign – founded on ritual demonstrations of power – directed at the local Roma community.”¹⁵⁴

While tensions grew, the government remained silent.¹⁵⁵ According to a report by the Ecopolis Foundation the main reason for the lack of action from the government side was “unwillingness to take the political risk of publically expressing solidarity with the local Roma community.”¹⁵⁶

The culmination of the event was the evacuation of a group of Roma by Richard Field, an American field worker. 200 Roma left the village, in what was seen by the political left and international media as an evacuation, while observers closer to the government described it as “mass vacation” or a ploy to undermine the government.¹⁵⁷ Many travelled to Canada, applying for asylum.¹⁵⁸

The rallies and paramilitary takeover in Gyöngyöspata was used by Jobbik in efforts to consolidate its voter base and demonstrate its willingness to deliver on election promises to protect rural citizens against “gypsy crime”.¹⁵⁹

Gábor Vona, the head of Jobbik, even stated that Jobbik would start deploying similar “gendarmierie units” elsewhere in the country.¹⁶⁰ The mayor of Gyöngyöspata eventually resigned, which led to the election of a Jobbik Mayor in July 2011.¹⁶¹

152 Ecopolis Foundation (2012): *Gyöngyöspata 2011. The Laboratory of the Hungarian Far-Right. A Case Study of Political Mobilization and Interethnic Conflict*, p. 16.

153 Ibid.

154 Ibid., page 42.

155 Ibid., page 17.

156 Ibid., page 20.

157 Ibid., page 18.

158 Joëlle Stolz: *Twice as many Hungarian asylum seekers in Canada in 2011*. The Guardian, 20.03.2012. <http://www.guardian.co.uk/world/2012/mar/20/canada-hungary-asylum-seeker-increase>

159 Ecopolis Foundation, *Gyöngyöspata 2011. The Laboratory of the Hungarian Far-Right. A Case Study of Political Mobilization and Interethnic Conflict*, page 42.

160 Helen Pidd: *Poor, abused and second-class: the Roma living in fear in Hungarian village*. The Guardian, 1.27.2012. <http://www.guardian.co.uk/world/2012/jan/27/hungary-roma-living-in-fear>

161 Ecopolis Foundation, *op. cit.*, page 35.

A report by a Parliamentary ad-hoc committee published a year after was criticised by Amnesty International for not addressing the lack of speed of the authorities in taking control over the situation and the inadequate actions of the police.¹⁶²

Paramilitary groups were no longer marching in the streets when the Norwegian Helsinki Committee visited Gyöngyöspata in June 2012, but the events had left scars in the community. A family told that they had put up surveillance cameras on their house after a fire, possibly caused by arson. The Roma villagers spoke about their difficult situation in terms of lack of resources, their inclusion in public works program (see above) and the consequences of the international media attention. They felt that the local community were not interested in strengthening inter-communal relations.

In Budapest, the Norwegian Helsinki Committee was told by officials that Gyöngyöspata is an extreme case and not typical of the situation in Hungary. However, attacks and episodes similar to Gyöngyöspata are also happening elsewhere.¹⁶³ According to Orsolya Jeney of Amnesty International, an increasing number of violent episodes continue to take place. The situation is unfortunately not improving.¹⁶⁴

In an August 2012 letter, Amnesty International urged the government to do more to protect Roma communities:

“Violence broke out on 5 August [2012], when more than 1,000 people gathered in Devecser’s main square at a demonstration organized by far-right party Jobbik and joined by far-right vigilante groups. According to eyewitnesses some members of the crowd chanted anti-Roma slogans and threw pieces of concrete and other missiles at Roma houses. The police did not act to stop the violence and it is unclear whether any arrests were made.”¹⁶⁵

In order to fight hate crime more efficiently, Jeney recommends training for the police and establishment of specialised units to deal with the issues.

In an ironic twist, Roma people have been sentenced to long prison sentences for hate crime against Hungarians. In March 2009, just three weeks after attacks on Roma people in Tatárszentgyörgy, where a child and his father were murdered, and incited by rumours that serial killers were about to attack their neighbourhood, a group of Roma attacked Hungarians who were driving around in a Roma neighbourhood in the middle of the night with a canister of fuel in the car. According to the testimonies

162 Amnesty International: *Hungary: Report into vigilante activities in Gyöngyöspata fails to address discrimination*. 04.44.2012.

163 Read for instance the account of what happened in Devecser in August 2012: *Hungarian anti-Roma marches. You are going to die here*. The Economist, 23.08.2012. <http://www.economist.com/blogs/easternapproaches/2012/08/hungarian-anti-roma-marches>

164 Meeting in Budapest, 10.10.2012.

165 Amnesty International: *Hungary must protect Roma communities from attack*. 15.08.2012.

of those in the car, the reason for driving along the Roma roads was to look for an all-night open shop. They suffered only minor injuries. One of them had proven ties to skinheads.

On 10 July 2012, the Miskolc City Court imposed 34 years of imprisonment for the Roma that attacked the car. The Hungarian Civil Liberties Union (HCLU) said in a statement that “the court once again misinterpreted and erroneously applied laws on hate crime.” HCLU and the Hungarian Helsinki Committee believed the crime was not motivated by prejudices against Hungarians, as contended by the court, but rather by fear:

“The attack by the Roma defendants did not take place because those riding in the car were Hungarians, but because they were presumed to be extremists on the prowl, however, the court still ordered prison sentences for committing hate crime. ... The verdict further strengthens social prejudice against the Roma community, while bias motivated acts against the Roma rarely end in indictment or conviction in Hungary.”¹⁶⁶

The Roma Strategy

Challenges with regards to the Roma minority are complex and need a multifaceted approach in order to find durable solutions. Key factors include creation of jobs, retraining of workers, an end to segregated education as well as improving the housing situation and health of the Roma.

The Hungarian government has promoted a European Roma strategy to encourage European Union member states to pursue national Roma strategies. This was regarded as one of the main achievements of Hungary’s European Union presidency in 2010.¹⁶⁷

Deputy State Secretary Katalin Langerne Victor claimed that for the first time the government is considering the Roma issue in a complex way with a comprehensive approach to solve it. For instance, measures are now no longer taken without involving the Roma community through the assistance of the Roma Self-Government. An agreement has been concluded, defining common goals with set deadlines.

With a stagnating economy, it is also clear that the government will be faced with tough priorities. Strong state involvement is needed, as well as involvement from local governments. The strategy includes many appropriate measures. However, effective implementation is the real test and it “relies on the day to day work of central and local government employees, teachers, public health officials, social workers and

166 Hungarian Civil Liberties Union: *Romas sentenced for Hate Crime against Hungarians*. 13.07.2012. <http://tasz.hu/node/2785>

167 See the website of the Hungarian Presidency for more information: <http://www.eu2011.hu/news/presidency-has-achieved-goals-roma-issues>

employment officers who are most likely good and normal members of society sharing its idiosyncrasies towards the Roma. A few hours of formal training and lip service to values will not alter attitudes as this has failed in the past as well.¹⁶⁸

Katalin Langerne Victor mentioned that Prime Minister Orbán has been denouncing racism in the media, but also conceded that it is “difficult for the government to act in a society where these opinions are so widespread”. She said that the most difficult thing will be to ensure that mainstream society regards the Roma issue not only as a question of humanitarian support but as a part of the Hungarian future. The government must promote understanding of the long-term benefits of investing in the program to enhance inclusion of Roma in society. There is a short-sighted tendency to focus only on the cost of the program for the tax-payers.

According to Kristof Domina, Director of the Athena Institute, the government has been relatively effective in containing the paramilitary groups, but less vocal in confronting them politically.¹⁶⁹

In the view of the Norwegian Helsinki Committee, the government should publicly take a clear stance against hate speech and anti-Roma language in all its forms. Nationalist rhetoric tends to make it more acceptable to express negative views on the country’s minorities and this should be avoided as well.

A main point is that police should be better trained to deal with cases of discrimination and violence against Roma. The laws exist but they have to be enforced in a comprehensive and systematic way.

168 Ibid.

169 Meeting in Budapest, 06.06.2012.

9. Democracy not saved

Fidesz won a landslide victory in the 2010 parliamentary elections, and Victor Orbán gained a strong mandate to take charge of the Hungarian state as Hungary's new Prime Minister; a state suffering from increasing debts, a stagnating economy, as well as a range of other challenges. Reforms were clearly needed.

Under Orbán's premiership, and thanks to Fidesz' supermajority in the Parliament, an unprecedented number of legal reforms took place: the constitution, media laws, laws regulating the judiciary, and electoral laws are just a few of the many new laws that was adopted in record speed.

The political culture of the country is extremely polarised, leaving little room for bipartisan compromises and consensus building even when it comes to constitutional matters. The government's strong position in the parliament made it possible to adopt new laws without proper consultation with the opposition and without any concessions to other views than its own.

Several European institutions and organisations were alarmed by the direction and pace of these reforms, seeing them as undermining some of the key requirements of a fully-fledged democracy, including independence of the judiciary, free media, as well as fair elections.

Among stakeholders in Hungary, reactions were even stronger. The Norwegian Helsinki Committee met with a wide range of Hungarian politicians, representatives of non-governmental organisations, journalists and academics who all expressed serious concerns.

According to László Majtényi, Chairman of the Eötvös Károly Institute, the tendencies are not towards a *monopoly* of power, but rather towards *hegemony* of power.¹⁷⁰ Former Prime Minister Gordon Bajnai said that Fidesz is cementing power and removing checks and balances.¹⁷¹ Tamas Bodoky, a journalist, called it a “half-democracy” with centralised power.¹⁷²

According to former President László Sólyom, Hungary should not be seen as a semi-dictatorship or as an authoritarian country because it still has a certain constitutional culture and a tradition for freedom.¹⁷³ Sólyom was less concerned about the current

170 Meeting in Budapest, 31.01.2012.

171 Meeting in Budapest, 30.01.2012.

172 Meeting in Budapest, 05.06.2012.

173 Sólyom was also one of the founders of the Hungarian Democratic Forum (MDF) and President of the Constitutional Court of Hungary. Meeting in Budapest, 01.02.2012.

state of respect of human rights like the rights to vote, to demonstrate and to assemble, but expressed worry about the institutional changes taking place. “The wording of the Constitution may not be the biggest concern, but how the Constitution will be implemented and how institutions act on it”, he underlined. He also expressed concern about weakening of constitutional culture. The rapid way of introducing changes is dangerous and has a potential to lead to negative developments in the future. According to Sólyom, the legislative hurry represents a change in the style of governing the country that shows “bad political taste and lack of political culture”.

Máté Szabó, The Hungarian Commissioner for Fundamental Rights, expressed concerns with the speed in which new legislation was introduced.¹⁷⁴ He also underlined that the intensive legislative period should be better supervised, and expressed a hope that the pace of changes would slow down. He underlined that significant law proposals were not referred to his office for comments, neither by the current nor the previous government.

According to Balázs Weyer, a journalist and news editor, the State Audit Office, the Constitutional Court and the Office of the Ombudsman used to be good institutions that served Hungary well. According to his view, there is no doubt that these institutions have now been weakened, and that the Orbán government has deconstructed checks and balances.¹⁷⁵

In a letter to EU Commissioner for Fundamental Rights, Viviane Reding, the heads of the Eötvös Károly Public Policy Institute, the Hungarian Helsinki Committee and the Hungarian Civil Liberties Union described the situation like this:

“Since the time when the ruling party Fidesz received a two-third majority in the Hungarian Parliament and consequently obtained a legally unrestricted power to shape the state structure, the system of checks and balances has been dramatically weakened if not demolished.”¹⁷⁶

The well-known political scientist, Francis Fukuyama summarised the situation well, saying that the problem “[] is not in the formal allocation of powers, but rather in the way that the Orbán government was using those powers. The threat to democracy in Hungary is thus not new institutions *per se*, but an old political culture that is re-emerging. []The Orbán government has undertaken a number of measures that

174 Meeting in Budapest, 01.02.2012. The Hungarian Ombud system has also been subject to change, merging four Ombud institutions into one as of 1 January 2012. The new institution consists of a Commissioner for Fundamental Rights and two Deputy Commissioners. Máté Szabó was elected Parliamentary Commissioner for Civil Rights by the Hungarian Parliament for six years in 2007. Since 1 January 2012, he has been Hungary's Commissioner for Fundamental Rights. The institution is regulated by Fundamental Law provisions (Article 30) and a separate Act.

175 Meeting in Budapest, 06.06.2012.

176 Eötvös Károly Public Policy Institute, the Hungarian Helsinki Committee and the Hungarian Civil Liberties Union: *Hungarian government Failed to Explain Undemocratic Measures*.

suggest that it doesn't really understand the norms that must underlie a healthy liberal democracy."¹⁷⁷

Some commentators would take a less critical view, pointing to democracy as a long-term process and the need for it to evolve. Kurt Volker, a former American official close to Senator John McCain, argues that what is happening in Hungary are "struggles within a democracy, not against it."¹⁷⁸ He underlines that "we should show a bit more humility and tolerance, both within Hungary and internationally. The West should respect Hungary, and equally, the Hungarian government should explain itself better."¹⁷⁹

Others defend the Fidesz reforms, underlining that democracy is not threatened in any way by pointing to for instance private universities and newspapers still being able to criticise the government.¹⁸⁰

As has been expressed several times in this report, the Norwegian Helsinki Committee remain critical of the way the reforms have been adopted – too swiftly and with little consultation – and also to several substantive parts of them.

Even after the parliament has modified some of the new laws in order to follow-up on some of the criticism, the conclusion remains that Fidesz, led by Prime Minister Orbán, has weakened institutional checks and balances and compromised the independence of institutions central to the rule of law and democracy. The new laws have inter alia:

- Narrowed the mandate of the Constitutional Court, limiting its ability to provide effective constitutional oversight of laws and policies;
- Allowed the government and Fidesz to appoint an unprecedented and unsound number of people with Fidesz affiliation to central positions and thereby cementing Fidesz domination and undermining checks and balances;
- Centralised power of organising the judiciary and licensing media;
- Allowed Fidesz to define a delimitation of constituencies that will favour Fidesz in future elections;
- Established an ambitious public works scheme designed to re-train both Roma and non-Roma long-term unemployed people, but without putting in place sufficient safeguards against abuse of administrative power by local mayors, and without implementing a strong training component of the program.

177 Francis Fukuyama: *What's Wrong with Hungary?* The American Interest, 06.02.2012. <http://blogs.the-american-interest.com/fukuyama/2012/02/06/whats-wrong-with-hungary/>

178 Kurt Volker: *Hungary through the mirror*. The Wall Street Journal, 26.04.2012. <http://online.wsj.com/article/SB10001424052702304811304577365862981395158.html>

179 Ibid.

180 Gellért Rajcsanyi: *Democracy in Hungary: the defence of Fidesz*. Open Democracy, 05.05.2012. <http://www.opendemocracy.net/gellper centC3per centA9rt-rajcsper centC3per centA1nyi/democracy-in-hungary-defence-of-fidesz>

The sum of legislative changes and appointment policies form a trend where power is being centralised and Fidesz is gaining hegemonic power; in short, *fideszification* of institutions necessary to uphold democracy is taking place. Some of the new laws leave room for arbitrary interpretation; opening up for rule of man rather than rule of law. Only the future will show how institutions adapt to the new laws and how they interpret them.

Although abuse of power and violations of individual rights are not reported to take place systematically, the government has created an environment where people seem to fear for their jobs if they are too critical of the government.

The government has shown some willingness to modify certain laws due to international pressure and criticism. However, modifications are often halfway and do not fundamentally address the issues raised by the criticism.

The government shows little sign of understanding that democracy does not give the victors of elections a mandate to do whatever they want or are able to due to their strength in parliament. Protecting the rights and interests of the opposition and of minorities are crucial in any constitutional or liberal democracy. It is also essential that media and courts are independent and equipped to fully expose and address abuse of power.

Unchecked power might be effective a while, but in the end it leads to escalation of frustrations and conflicts by those who does not benefit from it. That should be part of the learning lessons from the communist past.

Fidesz underlines that the motives behind the reforms is to finally get rid of the remnants of the non-democratic past; to conduct a *second transition to democracy*. However, the most striking feature of the communist past in Central and Eastern Europe was its concentration of power into the hands of the communist party elite. If serious about laying the grounds for a more democratic society, the government should definitely abandon its course of centralising power. Seen in this light, the new Constitution has *not* liberated Hungary of its communist past; it has however ensured a future for Fidesz beyond its electoral term.

According to the Economist, "Orbán promised to sweep away corrupt Socialist-era networks. But one lot of Magyar oligarchs has been replaced by another, the allies of Fidesz".¹⁸¹

Therefore, current developments in Hungary remain of great concern. It seems that old patterns and habits are returning. It also shows that twenty years of democratic

181 *Hungary's ailing economy*. Economist 09.06.2012. <http://www.economist.com/node/21556619>

rule is not enough to internalise democratic values to such a degree that a party with a supermajority in the Parliament is able to resist temptations to centralise power and expand its reach illegitimately into the future.

In many former communist countries, similar patterns of democratic backsliding are occurring. The efforts by regimes to stay in power indefinitely are motivated by lust for power, of course, but must also be seen in light of the vast economic benefits that follow political positions. Opaque party financing, political corruption, servile media and politically abused courts is the perfect condition for authoritarian or half-authoritarian regimes to stay in power.

Recent polls indicate that support for Fidesz and Jobbik is declining. In 2012, Fidesz' rating was half of what it was before the election in 2010.¹⁸² Half-way through the term, the economy is not showing great signs of improving. Unemployment and inflation rates remain high. The many new jobs Fidesz promised in the election campaign have yet to materialise.¹⁸³ Hungary needs investment, but many companies and investors are scared by retroactive taxes and by political and legislative unpredictability.¹⁸⁴

According to a study by a polling institute in September 2012, "only about 40 per cent of voters would consider taking part in elections scheduled in the near future".¹⁸⁵ Around half of the electorate is currently undecided.

The strong presence of the extreme right is a real problem, especially if the economic situation gets worse. The role of civil society in creating opportunities and alternatives to extreme right movements will be crucial in the time to come.

It is, however, unlikely that Hungary will join the club of autocratic regimes any time soon due to pressure from civil society, the opposition and the international community. Many of the persons that the Norwegian Helsinki Committee met with expressed hope in the coming generation, who is still absent from the public debate. But, at the same time, a survey made it clear that half of young Hungarians plan to emigrate.¹⁸⁶

Hungary has a proud tradition of its own citizens being able to correct mistakes. In addition to Hungary's integration into European institutions, there is also a vivid academic life, strong civil society organisations and there are media outlets determined to detect and fight back against authoritarian tendencies.

182 Link to original survey (in Hungarian): <http://median.hu/object.c15476c0-27e7-4b14-afbf-6f962170aceb.ivy>

183 Ibid.

184 *Hungary's ailing economy*. The Economist, 06.09.2012. <http://www.economist.com/node/21556619>

185 <http://median.hu/object.c15476c0-27e7-4b14-afbf-6f962170aceb.ivy> (In Hungarian)

186 *Hungary's ailing economy*; Link to survey (in Hungarian): http://www.tarki.hu/hu/news/2012/kitekint/20120523_migracio.html

A political culture that supports the principles of democracy should be strengthened. This includes respect for democratic values and human rights. The recent developments in Hungary confirm the importance of supporting and protecting democracy in relatively new democracies. Although institutions may be in place; democratic culture is also needed, and it takes a long time to develop such a culture.

Hungary illustrates that a democracy depends not only on the existence of institutions to remain democratic. Democratic culture and ability to resist doing all you can to strengthen party domination of institutions are equally important.

In order to save democracy in Hungary, there is a need for a comprehensive and thorough consensus building process in the country which applies basic principles of democracy to the Hungarian context and institutional set-up.

In addition to following up on the somewhat detailed criticisms from European institutions and civil society organisations related to specific legal provisions, Fidesz and the Orbán government should therefore establish a forum – a Democracy Commission or Roundtable – for a comprehensive discussion on democracy and human rights in Hungary. If the forum is set up in such a way that it gains trust from all political parties, civil society, important institutions and other stakeholders, it could develop proposals to the parliament that eventually may bring about Hungary's second transition to democracy.

10. Recommendations

The Norwegian Helsinki Committee recommends the government of Hungary to:

- Respect principles of democracy, including rule of law, the independence of the judiciary, and free media, and restoring a culture of political talks and consultations with the opposition;
- Comply with recommendations of European Union institutions, the Council of Europe, the Venice Commission, and OSCE institutions in order to safeguard the independence of institutions which are necessary to uphold full-fledged democracy and ensure compliance with international standards of democracy and human rights;
- Establish a forum – a Democracy Commission or Roundtable – composed of a wide spectre of trusted participants from civil society and important institutions as well as from political parties in order to discuss and draft guidelines for how to strengthen democracy in the country; including ways to ensure transparency of party financing and mechanisms to fight political corruption. The forum must be composed in such a way that it gains trust from all stakeholders and its recommendations will be taken seriously by the Parliament. The Forum should also be mandated to consult with European and international institutions;
- Apply a human rights approach to solving minority issues, including issuing public statements against discrimination and hate speech directed against Roma, and providing training schemes for the police on effective methods of addressing hate crimes;
- Apply zero tolerance against extreme right groups harassing and attacking Roma through prosecution of such actions as well as by taking firm and consistent public position against intolerance and racism through speeches, public statements etc. by senior public figures.

The European Commission, other European Union institutions, the United States, Norway and other democratic states should:

- Continue to raise issues concerning legal and political developments that undermine democracy and rule of law. The European Commission should continue to initiate infringement procedures in cases where Hungary breaches European Union treaties;
- Point to the need for measures to build consensus among political parties and other stakeholders on the application of democratic principles in Hungary;
- Support criticism by the Council of Europe, the Venice Commission, the OSCE and other international organisations of legal provisions that are violating international human rights and European constitutional principles;

- Keep up pressure on the Hungarian government to rectify legislation that is not in line with international law and European Union treaties, maintaining a strict and principled approach;
- Address in systematic and comprehensive ways similar trends in other European Union member states and neighbouring states that limit freedom of the media, undermine the independence of the courts, centralise power, and weaken checks and balances on the executive.

Norway, Iceland and Liechtenstein, as contributors to financial mechanisms for Hungary and other Central and Southern European Union member states, should ensure that the European Economic Area (EEA) and Norway Grants:

- Support projects of independent institutions and organisations that contribute to strengthening respect for human rights, minority rights, and democratic principles;
- Support projects that address minority issues, in particular the situation of the Roma minority.

Since Norway, Iceland and Liechtenstein as financial contributors might get special relationship with Hungarian authorities; they should seek any possibility to advocate models of governance and organisational set-ups that contribute to strengthening democracy based on their own national experiences.

Annex 1: List of Meetings

(in alphabetical order)

Andreassen, Vegar	First Secretary, Royal Norwegian Embassy	06.06.2012
Angell-Hansen, Bente	Secretary General of the Norwegian Ministry of Foreign Affairs	16.01.2012
Bajnai, Gordon	Patriotism and Progress Public Policy Foundation, Former Prime Minister of Hungary	30.01.2012
Bársony, Katalin	Executive Director, Romedia Foundation	06.06.2012
Belánszky-Demko, Zsolt	Head of the Department for Civil Relations at the Ministry for Public Administration and Justice	01.02.2012
Bodoky , Tamás	Journalist and Editor-in-chief of atlatzso.hu	05.06.2012
Bodrogi, Bea	Co-director, Civilmedia	10.10.2012
Bozóki, András	Professor at Central European University, Former Minister of Culture	31.01.2012
Dalma, Dojcsak	Legal counsel, Civilmedia	10.10.2012
Dénes, Balázs	Executive Director, Hungarian Civil Liberties Union	01.02.2012
Domina, Kristóf	Director, The Athena Institute	06.06.2012
Ertsey, Katalin	Member of Parliament, LMP	31.01.2012
Ettema, Menno	Educational Advisor, Council of Europe	31.01.2012
Farkas Jr., János	President of the local minority self-government, Gyöngyöspata	07.06.2012
Farkas Sr., János	Former president of the local minority self-government, Gyöngyöspata	07.06.2012
Gulyás, Gergely	Member of Parliament, Fidesz	31.01.2012, 06.06.2012
Gyöngyösi, Márton	Member of Parliament, Jobbik	31.01.2012
Haja, Barnabás	Office for the Commissioner for Fundamental Rights	01.02.2012

Hay, Jeff	Political Officer, Embassy of the United States of America	08.06.2012
Jeney, Orsolya	Director, Amnesty International Hungary	10.10.2012
Jeszzenszky, Géza	Ambassador of Hungary to Norway	07.02.2012, 16.05.2012
Juhász, Péter	Spokesperson One Million Voices for the Freedom of Press and Romani Program Fieldwork Coordinator, Hungarian Civil Liberties Union	02.02.2012
Kádár, András	Co-chair, Hungarian Helsinki Committee	04.06.2012, 10.10.2012
Kegyé, Adel	Staff lawyer, Chance for Children Foundation	10.10.2012
Kounalakis, Eleni	Ambassador of the United States	08.06.2012
Kovács, Zoltán	Minister of State for Government Communication & President of Hungarian Human Right Working Group	05.06.2012
Kurucz, Marion	Producer, Romedia Foundation	06.06.2012
Landi, Balázs	Secretariat of the Former President of Hungary	01.02.2012
Langerne Victor, Katalin	Deputy State Secretary, Ministry of Human Resources/State Secretariat for Social Inclusion.	10.10.2012
Lukács, Tamás	Member of Parliament, KDNP. Chairman of the Parliamentary Committee for Human Rights	05.06.2012
Majtényi, László	Chairman, Eötvös Károly Institute	31.01.2012
Midttun, Atle	Assistant Director General of the Norwegian Ministry of Foreign Affairs	16.01.2012
Mong, Attila	Journalist, Mérték	05.06.2012
Móra, Veronica	Director, Hungarian Environmental Partnership Foundation	10.10.2012

Muhi, Erika	Director of NEKI (Legal Defence Bureau for National and Ethnic Minorities)	10.10.2012
Nagy-Navarro, Balázs	Former TV journalist and President of the Council of Public Media Trade Unions	02.02.2012
Ódor, Bálint	Deputy State Secretary, European Director. Ministry of Foreign Affairs Republic of Hungary	06.06.2012
Oláh, Sándor	Salgotarjan Roma Self-government body	07.06.2012
Pardavi, Márta	Co-chair, Hungarian Helsinki Committee	30.01.2012, 04.06.2012, 10.10.2012
Polgár, Tamás	Advisor, Royal Norwegian Embassy	02.02.2012
Polyák, Gábor	Lawyer, Mérték	05.06.2012, 10.10.2012
Rysst-Jensen, Vibeke	Assistant Director General of the Norwegian Ministry of Foreign Affairs	16.01.2012
Sandescu, Anca	Human Rights Trainer, European Roma Rights Centre	31.01.2012
Simon, Eva	Member of the Executive Committee, Hungarian Civil Liberties Union	10.10.2012
Simon, Mihály	Field Worker, Hungarian Civil Liberties Union	07.06.2012
Sitter, Nick	Professor at Central European University and BI Norwegian Business School	02.02.2012
Sletner, Siri Ellen	Ambassador, Royal Norwegian Embassy	02.02.2012, 06.06.2012
Sólyom, László	Former President of Hungary	01.02.2012
Szabó, Máté	Commissioner for Fundamental Rights	01.02.2012
Szabó, Máté Dániel	Director, Eötvös Károly Institute	31.01.2012
Tretvoll, Marte	Trainee, Royal Norwegian Embassy	02.02.2012
Vajda, Zsuzsanna	Professor, Faculty of Social Sciences, Corvinus University	06.06.2012

Weyer, Balázs	Former Editor-in-chief at origo.hu	06.06.2012
Wintermantel, Peter	Head of Department, Head of Secretariat of the European Director, Ministry of Foreign Affairs Republic of Hungary	06.06.2012
Zombor, Ferenc	Secretary General, Office for the Commissioner for Fundamental Rights	01.02.2012

The delegation oversaw a demonstration in front of the New Theatre against the new director György Dörner on February 1st 2012.¹⁸⁷

NHC attended the following lectures and debates:

- “Whither Hungary? Economic and political developments” with Professor Csaba László from the Hungarian Academy of Science and Central European University. Lecture at Norwegian Institute of Foreign Affairs (NUPI) 27 January 2012;
- “Blir Ungarn det første landet som sparkes ut av EU?” Lecture by Nick Sitter at the University of Oslo, 9 February 2012.

187 See Thorpe (2012) and Paterson (2012) for news coverage on the event.

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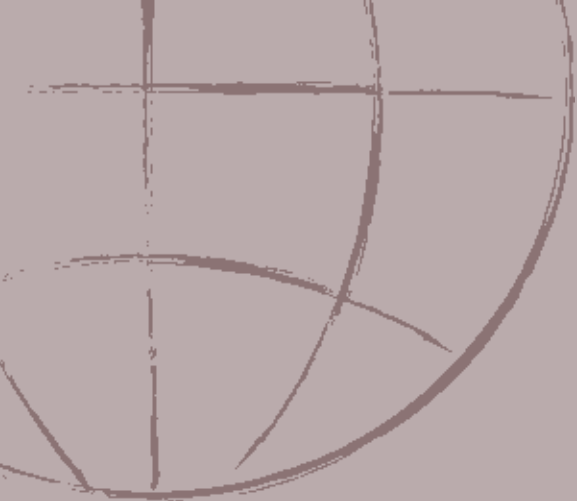
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