



## Hungary: Outstanding Human Rights Concerns

February 2015

Since the ruling party Fidesz won its first two-third majority term in April 2010 and renewed in the April 2014 election win, it has used its supermajority in the country's unicameral parliament to adopt far reaching legal changes including a new constitution and over 1000 laws in parliament with limited or no meaningful public consultation.

Legal changes and other policies by the government since 2010 have weakened checks on the executive and had a detrimental effect on the situation of human rights and rule of law in Hungary. The government has made political appointments to key positions in public institutions such as the Media Authority, National Judicial Office, and the Constitutional Court. Media freedom has been significantly curbed. The constitution enshrines discrimination against people with disabilities, women, and LGBT people. Religious freedom has been undermined. Homelessness has been criminalized.

Since its second two-third majority win in the April 2014 election, the Fidesz government has stepped up its pressure on media and civil society.

### Media Freedom

After taking office in May 2010, the government pushed through a [media law package](#) in parliament consisting of three new media laws without adequate public consultation. The media laws specify new content regulations for all media platforms, outline the authorities of the new media regulatory body, and set out sanctions for breaches of the laws. Among other things, the laws contain a vague provision on balanced content requirement that may have a chilling effect on media freedom.

Despite international concerns, [including](#) by the Council of Europe's Venice Commission, Secretary General and Commissioner for Human Rights, as well as the European Commission, the government has made only few and piecemeal amendments to the media laws.

The government has transferred the power to appoint the president of the Media Authority and Media Council (the same person) from the prime minister to the president of the republic, based on nomination by the prime minister. But this is a cosmetic change to the previous arrangement since the president of the republic is a member of the ruling party. The current structure does not remove the risk of political bias since the nominee will be appointed by the

president of the republic save in cases where the person does not meet the formal criteria for the post (relevant education, work experience).

The members of Media Council are nominated by a parliamentary committee composed of delegates of each parliamentary faction, where votes are weighted according to the proportion of each faction's representation in parliament. Candidates selected by the nominating committee are elected by a two-thirds parliamentary majority where the ruling party Fidesz has a supermajority. Effectively, this means that the ruling party is solely responsible for appointing the president of the Media Authority as well as the members of the Media Council.

Since the government's re-election, there has been renewed pressure against media in general and certain media outlets in particular.

In May 2014, the Constitutional Court, in which the majority of judges were appointed by a Fidesz controlled parliament, ruled that website operators are responsible for any comments to blog posts or news commentary that may violate the media law, which may hamper free speech, public debate, and internet freedom. Violations can result in disproportionately high fines.

In June 2014, the Supreme Court ruled that ATV, a TV station critical of the government, had violated the media law's restrictions on commentary by describing the far-right Jobbik party as "far-right" in a news cast. The court's rationale was that since Jobbik does not refer to itself as a "far-right party," describing it as such expresses an opinion and may leave viewers with a negative impression.

Also in June 2014, the editor-in-chief of Origo, an independent news website, was fired after publishing a story on alleged misuse of public funds by the state secretary at the Prime Minister's Office. In response to his dismissal, hundreds of media workers demonstrated in Budapest and 30 journalists resigned from Origo in protest.

The same month, parliament passed a law imposing taxes on advertising in the media which primarily affects commercial broadcaster RTL Klub, one of the few remaining independent TV channels in Hungary.

In October, the parliament announced a new internet tax which triggered large scale demonstrations in Hungary and drew international criticism. As a result, the government withdrew its legislative proposal.

The Hungarian government should be urged to:

- Establish a multiparty parliamentary nomination system for the president and other members of the Media Authority and Council in order to ensure their independence from government;
- Remove the vaguely defined “balanced content” requirement in the media legislation that may increase the risk of journalists of accruing high fines for breaches of the media laws.

### **Clampdown on Civil Society**

Since June, the Hungarian government has put pressure on nongovernmental organizations that receive foreign funding in ways that implicate freedom of association and expression.

In [June](#), the Hungarian government conducted surprise financial inspections on three nongovernmental organizations that administer foreign donor money, and smeared 13 other fund recipient NGOs, including leading human rights organizations, as “left-leaning” and “problematic.” The raids were linked to an ongoing dispute between the Hungarian and Norwegian governments, which provides the funds in question under the Norway Grants scheme. The US government has expressed concern about pressure on independent civil society groups in Hungary.

During a [July speech](#) in which he declared the end of liberal democracy in Hungary, Prime Minister Orban also [branded civil society as “foreign agents.”](#)

In August, investigations were launched against Okotars, one of the fund administering NGOs, on suspicion of alleged mismanagement of funds and in September, police raided two fund distributing NGOs, Okotars and Autonomia, seizing laptops, documents, and servers of both NGOs.

By the end of September, all four NGOs that distribute Norway Grants in Hungary had had their tax numbers suspended by the government, rendering them unable to issue invoices or to benefit from a scheme that allows tax payers in Hungary to donate 1 percent of their income to the civil society and religious organizations of their choice.

The Hungarian government should be urged to:

- Cease arbitrary inspections and legal action against civil society organizations that administer or receive foreign funds and to publicly acknowledge the importance of independent civil society in a European democracy.

## Independence of the Judiciary

Since 2012, when the new constitution entered into force, a series of legal and constitutional changes have undermined the rule of law and the independence of the judiciary. Despite some positive changes to the laws regulating the administration of the courts, the president of the National Judicial Office, a post appointed by the parliament for a body responsible for the administration of the courts, retains the power to block candidates nominated by the National Judicial Council for judicial appointments by declaring the process void and restarting it.

The constitution, its [March 2013 Fourth Amendment](#), and related laws have restricted the powers of the constitutional court undermining its ability to serve as a check on the executive authority. According to the fourth constitutional amendment, the court can no longer review laws pertaining to the central budget and taxation issues and is not able to hear *actio popularis* cases brought by NGOs and others to litigate issues of broader public concern. The court is also prevented from consulting its own case law prior to January 2012. The Fourth Amendment restricts the court from ruling on the substance of constitutional amendments, a measure which allowed the government to reintroduce via a constitutional amendment the power to criminalize homelessness despite a law doing so having been previously struck down by the court as unconstitutional (discussed in more detail below).

The restructuring of the constitutional court in 2011, adding four new posts to the existing 11, and subsequent new appointment of judges to the bench has resulted in a majority of judges on the bench appointed by the ruling party.

The Hungarian government should be urged to:

- Restore all of the powers of the constitutional court and respect and implement its rulings;
- Implement the recommendation of the Council of Europe Venice Commission in relation to judicial appointments to remove the National Judicial Office president's effective veto on such appointments.

## Criminalization of Homelessness

The Constitutional Court in November 2012 [struck down a national law](#) criminalizing homelessness. In March 2013, rather than repeal the discriminatory law, the government through the Fourth Amendment, restricted the Constitutional Court from reviewing substantive changes to the constitution (as noted above) and amended the constitution to allow parliament and local governments to enact legislation banning homeless from residing habitually in public spaces and to prevent the court from striking it down for a second time.

In September 2013, the [Hungarian parliament adopted a law](#) enabling local governments to ban homeless people from residing habitually in public spaces. The city of Budapest in November 2013 adopted a municipal decree banning homeless people from public areas in most of central Budapest. By December 2014, at least 420 homeless people had been charged with a misdemeanour for infringing the ban. Repeated offenses may lead to imprisonment or community work. In January 2015, the Supreme Court struck down the parts of the decree outlining public areas banning the homeless as unlawful as the City could not identify the reasons for their “protected value.” The ruling does not prevent the local government from adopting a future decree and identifying the “protected value” of public areas from where authorities aim to ban homeless people.

The Hungarian government should be urged to:

- Reverse the constitutional amendment permitting criminalization of homeless people and repeal the national legislation with the same effect.

### **Persons with intellectual and psychosocial disabilities**

According to the constitution, [people with certain disabilities are ineligible to vote](#) which is in violation of Hungary’s international obligations, including the International Convention on the Rights of Persons with Disabilities which Hungary ratified in 2007.

The Hungarian government should be urged to:

- Ensure that all citizens are entitled to vote regardless of disability and amend the constitution to reflect this.

### **Freedom of Religion**

The 2011 Church Act deregistered hundreds of churches and introduced a system where some religious groups benefit from state subsidies while others do not. The decisions as to what groups are recognized as “churches” and therefore benefit from state subsidies are made by a parliamentary committee. Changes to the Church Act in September 2013, which allow all religious organizations to label themselves as “churches,” do not address the problem of differential treatment of religious groups, as only churches recognized by parliament are eligible for state subsidies. The European Court of Human Rights in September confirmed its April 8 2014 ruling that Hungary’s Church Act violates freedom of religion and association, rejecting Hungary’s appeal. The Hungarian government has yet to implement the ruling.

The Hungarian government should be urged to:

- Implement the European Court of Human Rights ruling and ensure that eligibility for state subsidies by religious groups is determined by an independent body and subject to appeal in courts.

### **Inadequate State Response to Domestic Violence**

Despite the 2013 domestic violence law, [victims of domestic violence still face obstacles](#) in receiving protection, including negligent and hostile police responses, ineffective protection orders, [victim blaming attitudes among police, prosecution and judiciary](#), and a lack of number of shelter spaces and social workers trained to deal with domestic violence victims. While the government signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence in May 2014, it has to date not ratified it.

The Hungarian government should be urged to:

- Ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence;
- Take further specific steps to improve the protection of women victims of domestic violence, in particular by extending the protection under the new law to noncohabitating couples and removing the requirement that violence must occur more than once before the domestic violence provision applies;
- Establish specialized police units on domestic violence and violence against women;
- Increase the number of shelter spaces for domestic violence victims;
- Adopt national guidelines for medical professionals and social workers on how to identify and effectively combat domestic violence.

### **Roma Rights**

Hungary's Roma face daily harassment and widespread discrimination, including in the fields of housing, education, and health care. In 2014, forced evictions took place in Hungary's third largest city Miskolc where the local government has led a campaign to evict hundreds of Roma. Romani children are subject to segregation in education either in segregated classrooms in mainstream schools or in special needs schools that have a disproportionate number of Romani children enrolled. Officials from the far-right party Jobbik often use anti-Roma and anti-Semitic rhetoric in public speeches and statements. Vigilante groups have on numerous occasions organized violent marches through Roma neighborhoods, threatening and intimidating residents.

The Hungarian government should be urged to:

- Take concrete steps to tackle violence and discrimination of Roma and ensure the protection of the rights of the Roma minority, especially in light of the rising popularity of the overtly anti-Roma, far-right Jobbik party;
- Make strong and clear public condemnations at the highest levels of [anti-Roma and anti-Semitic speech](#);
- End segregation of Romani children in mainstream schools and ensure that all children are provided education in an inclusive setting.