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**2024 Rule of Law Report
Country Chapter on the rule of law situation in Hungary**

Accompanying the document

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

2024 Rule of Law Report

The rule of law situation in the European Union

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ABSTRACT

The 2023 judicial reform is being implemented. The National Judicial Council is exercising its new competences to effectively counterbalance the powers of the President of the National Office for the Judiciary. Rules on preliminary references to the Court of Justice of the EU have been clarified, in line with the requirements of EU law. The transparency of case allocation in the *Kúria* has further improved, yet concerns remain regarding the lack of transparency of case allocation in lower courts. While the new legal framework aims at limiting the risk of arbitrary decisions about the career of judges, no further steps were taken to address concerns raised by the National Judicial Council. Political influence on the prosecution service remains, with the risk of undue interference with individual cases. The freedom of expression of judges remains under pressure and smear campaigns against judges continue in the media. The level of remuneration of judges and court staff has further deteriorated. The efficiency of the judiciary in civil, commercial and administrative cases, as well as the overall level of digitalisation of the justice system, remain high.

Hungary has adopted a new anti-corruption strategy for 2024-2025. Legislation on lobbying and revolving doors is planned, while enforcement and oversight remain an issue as regards asset declarations. The new Integrity Authority reports certain obstacles in fulfilling its oversight tasks effectively, and the impact in practice of the Anti-Corruption Task Force remains to be seen. Shortcomings regarding political party and campaign financing remain unaddressed. Some high-level corruption cases have reached the indictment stage, but the lack of a robust track record of investigations of corruption allegations concerning high-level officials and their immediate circle remains a serious concern. Court decisions reviewing prosecutorial decisions not to investigate or prosecute corruption are still not binding and have so far not brought significant results, although the possibility of judicial review incentivises prosecutors to assess allegations more thoroughly. The suspension of commitments from EU funds under several EU programmes and the lack of disbursements following a payment request under the Recovery and Resilience Plan persist, as no new measures have been adopted to remedy the outstanding rule of law and anti-corruption issues.

The threats to media pluralism highlighted in previous Rule of Law Reports have remained unaddressed. No measures have been adopted or are planned to regulate the channelling of state advertising to media outlets, to guarantee the functional independence of the media authority and to ensure the editorial and financial independence of public service media. Journalists and independent media outlets continue to face numerous challenges including seemingly coordinated smear and de-legitimisation campaigns, and selective access to government premises and events. Further legislative changes have introduced some restrictions to freedom of information.

Increasing state interventions and arbitrary decisions of the authorities remain a problem for the operation of businesses in the single market. The ‘state of danger’ has been further extended until November 2024. The quality of law-making and the frequent changes in legislation remain a significant cause for concern. The Constitutional Court still reviews the merits of final rulings of ordinary courts in politically sensitive cases. Obstacles affecting civil society organisations persist, while the new Protection of National Sovereignty Act further undermines civic space. Concerns related to the State’s role in financing civil society continue.

RECOMMENDATIONS

Overall, concerning the recommendations in the 2023 Rule of Law Report, Hungary has made:

- No progress on improving the transparency of case allocation systems in lower-instance courts, taking into account European standards on case allocation.
- No progress on adopting comprehensive reforms on lobbying and revolving doors, and further improve the system of asset declarations, providing for effective oversight and enforcement.
- No progress yet on establishing a robust track record of investigations, prosecutions and final judgments for high-level corruption cases.
- No progress on introducing mechanisms to enhance the functional independence of the media regulator taking into account European standards on the independence of media regulators.
- No progress on strengthening the rules and mechanisms to enhance the independent governance and editorial independence of public service media taking into account European standards on public service media.
- No progress on adopting legislation to ensure fair and transparent distribution of advertising expenditure by the state and state-owned companies.
- No progress on fostering a safe and enabling civic space and remove obstacles affecting civil society organisations, including by repealing legislation that hampers their capacity of working, in particular the immigration tax.

On this basis, and considering other developments that took place in the period of reference, in addition to recalling the obligation to comply with the rule of law-related rulings of the ECJ and the rule of law-related infringement procedures referred to in the country chapter, the Commission's assessment under the general regime of conditionality, the relevant concerns raised in the Article 7(1) TEU procedure initiated by the European Parliament, the relevant commitments made under the Recovery and Resilience Plan, and the relevant country-specific recommendations under the European Semester, it is recommended to Hungary to:

- Improve the transparency of case allocation systems in lower-instance courts, taking into account European standards on case allocation.
- Take structural measures to increase the remuneration of judges, prosecutors, and judicial and prosecutorial staff, taking into account European standards on remuneration for the justice system.
- Adopt comprehensive reforms on lobbying and revolving doors, and further improve the system of asset declarations, providing for effective oversight and enforcement.
- Establish a robust track record of investigations, prosecutions and final judgments for high-level corruption cases.
- Introduce mechanisms to enhance the functional independence of the media regulatory authority taking into account European standards on the independence of media regulators.
- Adopt legislation to ensure fair and transparent distribution of advertising expenditure by the state and state-owned companies.

- Strengthen the rules and mechanisms to enhance the independent governance and editorial independence of public service media taking into account European standards on public service media.
- Remove obstacles affecting civil society organisations and foster a safe and enabling civic space, including by repealing legislation that hampers their capacity of working, in particular the immigration tax.

I. JUSTICE SYSTEM¹

Hungary has a four-tier ordinary court system. 114 district courts operate at first instance, while 20 regional courts hear appeals from district courts and decide on certain cases at first instance. Five regional appeal courts decide on appeals against decisions of the regional courts. Administrative cases are dealt with by the ordinary courts (the Budapest Regional Appeal Court hears appeals against first-instance decisions of the eight regional courts with an administrative department). The main role of the Supreme Court (*Kúria*) is to guarantee the uniform application of the law. The Fundamental Law tasks the President of the National Office for the Judiciary (NOJ), elected by Parliament, with the central administration of the courts. The National Judicial Council is an independent body, with legal capacity and budgetary autonomy acquired following the June 2023 reform, which supervises the NOJ President and participates in the administration of the courts. Judges are appointed by the President of the Republic following a recommendation of the NOJ President based on a ranking of candidates established by the local judicial councils. The NOJ President cannot deviate from this ranking without the prior consent of the National Judicial Council. In the case of *Kúria* judges, the recommendation is made by the *Kúria* President. The Constitutional Court is not part of the ordinary court system. The prosecution service is independent under the Fundamental Law and is vested with powers to investigate and prosecute crime. The Hungarian Bar Association and the regional bar associations are autonomous self-governing public bodies.

Independence

The level of perceived judicial independence in Hungary is now average among both the general public and companies. Overall, 41% of the general population and 40% of companies perceive the level of independence of courts and judges to be ‘fairly or very good’ in 2024². The perceived level of independence among the general public has increased in comparison with 2023 (35%), but it is lower than in 2020 (48%). The perceived judicial independence among companies has increased since 2020 (26%), as well as in comparison with 2023 (32%)³.

Following the legislative reform in 2023, the National Judicial Council exercises its new competences to effectively counterbalance the powers of the President of the National Office for the Judiciary. As noted in the 2023 Rule of Law Report, Hungary adopted a

¹ The assessments included in this country chapter do not prejudice any future assessment under Article 24 of Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility or under Article 15 of Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy.

² Figures 51 and 53, 2024 EU Justice Scoreboard, and Figures 50 and 52, 2022 EU Justice Scoreboard. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

³ 45% of the companies are either fairly or very confident that their investments are protected by the law and courts. Only 19% of the surveyed companies see the quality, efficiency or independence of justice as one of the main reasons for concern about investment protection (Figures 55 and 56, 2024 EU Justice Scoreboard).

legislative reform which establishes as of 1 June 2023 stronger powers for the National Judicial Council. This reform was positively assessed by the Commission⁴. The Council has started to exercise its new powers, taking a series of actions within its competence⁵. For instance, the Council has given binding opinions on numerous proposals of the NOJ President to change the number of judicial posts in various courts or to second judges⁶. The NOJ cooperated with the Council to support its institution building; after the end of the 9-month ‘incubation period’⁷, since 1 March 2024, the National Judicial Council has been able to fully exercise its budgetary autonomy⁸. The newly elected 14 judges-members – including one regional court president⁹ – took office on 30 January 2024. On 14 February 2024, the Council set up an *ad hoc* committee to analyse the last election process and make recommendations for possible changes to the legislative framework¹⁰.

⁴ The reform aimed at addressing the justice-related milestones of Hungary’s RRP. It also relates to the horizontal enabling condition on the EU Charter of Fundamental Rights, as regards to judicial independence. On 13 December 2023, in the context of the Common Provisions Regulation, the Commission adopted a decision considering that Hungary had taken the necessary measures for the Commission to consider that the horizontal enabling condition on the Charter as regards judicial independence is now fulfilled. The European Parliament has challenged this decision before the Court of Justice (case C-225/24, pending).

⁵ On 7 June 2023, the Council elected its first (non-rotating) president and vice-president; made a legislative proposal – supported by the *Kúria* President, the NOJ President and the Hungarian Association of Judges – to the Minister of Justice related to judicial salaries; adopted its own budget; and requested the NOJ President to grant access to a classified report containing the results of an enquiry into the failure of the President of the Budapest Regional Court to shield a senior judge from undue external pressure. On 6 September 2023, the Council gave consent to the 2024 training schedule for judges. On 4 October 2023, the Council determined the structure of the NOJ President’s biannual report. On 8 November 2023, the Council gave consent to the decision of the NOJ President related to the rules on the end-of-the-year bonuses payable to judges. On 6 December 2023, the Council invited the Minister of Justice to review the Decree setting out the point system applicable to the evaluation of applications for judicial posts. On 27 March 2024, the Council gave binding opinions as regards the suitability of candidates for the post of *Kúria* Vice President. On 17 April 2024, the Council gave binding opinions as regards the suitability of candidates for the post of NOJ Vice President.

⁶ The Council has several times refused to give consent where it found that the NOJ President’s proposal lacked sufficient explanations (contribution from Res Iudicata Association for the 2024 Rule of Law Report, p. 11). The Council did not agree (Decision 89/2023 of 4 October 2023) with the secondment (*‘beosztás’*) as of 1 October 2023 to the Ministry of Foreign Affairs of a former member of the Constitutional Court who had been appointed to the Budapest Regional Appeal Court as of 2 September 2023 following his request, after becoming a judge in 2020 outside the ordinary appointment procedure.

⁷ For a period of nine months, the NOJ provided administrative support to the National Judicial Council which gained legal capacity and budgetary autonomy and had to build adequate administrative capacity. The Council accepted its first elected president’s report also covering the Council’s institution-building efforts in the period 7 June 2023 to 30 January 2024 (Decision 34/2024 of 13 March 2024). The Council’s institution building continued following the ‘incubation period’ (verbatim minutes of the 27 March 2024 meeting of the National Judicial Council).

⁸ Information received in the context of the country visit to Hungary from the National Judicial Council and the National Office for the Judiciary.

⁹ Stakeholders expressed concerns as regards the possibility for court presidents, appointed by the NOJ President, to become members of the National Judicial Council tasked with supervising the NOJ President (contribution from Res Iudicata Association for the 2024 Rule of Law Report, p. 13; contribution from Magistrats Européens pour la Démocratie et Libertés (MEDEL) for the 2024 Rule of Law Report, p. 14). Pursuant to the 2023 reform, court presidents and vice-presidents are no longer allowed to participate in the deliberation and vote on matters relating to their administrative activities.

¹⁰ Verbatim minutes of the 14 February 2024 meeting of the National Judicial Council. The President of the Council explained that the experiences of the last elections need to be analysed based on an overview of the way how the procedure was conducted in the different courts. The *ad hoc* committee was also tasked with

The transparency of case allocation in the *Kúria* has improved as a result of the 2023 reform. The *Kúria* President amended¹¹ the case allocation scheme as of 16 July 2023 to bring it in line with the requirements of the legislative reform¹² applicable as of 1 June 2023. In January and April 2024, the case allocation scheme was further amended. It now contains clearer rules on forming three- and five-judge panels where the number of judges assigned to the chamber exceeds five or when the number of presiding judges assigned to the chamber exceeds two¹³. Special rules applied to the composition of three-judge panels hearing cases related to the 2024 European parliamentary and municipal elections¹⁴. As of 6 February 2024, following the entry into force of a Ministerial Decree¹⁵, the *Kúria* extended the data content of the log files published weekly on its web site, which allow anyone to verify more easily whether the rules on case allocation have been duly applied. While also reorganising two Chambers of the Civil Department, the *Kúria* President dissolved, as of 1 January 2024, Chamber II of the Administrative Department and its judges were assigned to other chambers¹⁶. The *Kúria* explained this decision as motivated by staffing reasons¹⁷, however stakeholders described it as arbitrary¹⁸.

making proposals for a possible change to the applicable law and internal regulations, where necessary. Substitute members were elected on 15 January 2024. Former members of the Council decided not to run for office. The National Judicial Council is composed of the *Kúria* President ex officio and 14 judges-members (and 14 substitute members) elected by their peers for a period of six years. Judges-members (one court of appeal judge, six regional court judges and seven district court judges) are elected by a conference of delegates from among delegate judges. The full court of the *Kúria* and the plenary sessions of each of the five regional appeal courts and the 20 regional courts elect 2 to 20 delegates.

¹¹ In line with Sections 9(1), 151(2) and 155(2) of Act CLXI of 2011, as amended by Act X of 2023, the amendment to the case allocation scheme was issued by the *Kúria* President with the consent of the *Kúria*'s three departments (*'kollégium'*) and judicial council (input from Hungary for the 2024 Rule of Law Report, p. 2; contribution from the *Kúria* for the 2024 Rule of Law Report, p. 1).

¹² Act X of 2023. See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, pp. 5-6.

¹³ Contribution from the *Kúria* for the 2024 Rule of Law Report, p. 1.

¹⁴ Currently, the *Kúria*'s Administrative Department has seven chambers (one of them only dealing with the review of municipal decrees) composed of at least two presiding judges and at least three other judges. Election-related cases are heard by three-judge panels (Section 229(2) of Act XXXVI of 2023 on electoral procedure). Under the current rules, three-judge panels are composed of two presiding judges of the chamber and one other judge assigned to the chamber.

¹⁵ Decree 18/2023 of 7 December 2023 of the Minister of Justice amended Decree 14/2002 of 1 August 2002 of the Minister of Justice laying down the rules on judicial case management. On 13 December 2023, the Commission positively assessed this legislative amendment under Article 15 of the Common Provisions Regulation. The amendment clarifies that the *Kúria* shall enter into the register (*'lajstrom'*) corresponding to the case category (*'ügycsoport'*) all 'initial documents' (*'kezdőirat'*) received by electronic means in the order of receipt, under the next registration number, with the proviso that as for the registration of the cases, each case shall be assigned a case number in an automated manner, without human intervention. Hungary has committed to take the necessary actions to ensure that an external forensic expert, independent from the *Kúria*, the NOJ and the Government, will conduct an audit by 30 June 2024 with regard to the compliance with this new rule and that the European Commission will have access to the audit report. On 28 June 2024, a report by a forensic expert was delivered. Also, the amendment specifies the data content of the weekly log files that the *Kúria* publishes on its website, in accordance with Section 10(7) of Act CLXI of 2011. These logs now also show the date and time of arrival, registration and allocation of cases and the composition of the bench.

¹⁶ The number of judges assigned to these chambers now exceeds five (five judges sit on a panel hearing an administrative case). The ongoing cases heard by Chamber II were reassigned to other chambers.

¹⁷ According to the *Kúria*, the change in the organisation of the Administrative Department was entirely based on objective circumstances, with the retirement of one head of panel and one judge in January and March 2024, respectively (written contribution from the *Kúria* in the context of the country visit to Hungary).

Rules on preliminary references to the Court of Justice of the EU have been clarified, in line with the requirements of EU law. On 12 December 2023, Parliament adopted a law¹⁹ amending the Criminal Procedure Code to remove any doubt as regards the right of judges to request in criminal proceedings a preliminary ruling from the Court of Justice in relation to any EU legal act or legislation²⁰. At the same time, concerns have been raised as regards the national preliminary reference procedure before the *Kúria* in the interest of uniformity of law²¹. The Court of Justice confirmed in a preliminary reference from a Hungarian court that any court must be able to disregard the legal assessment of a higher national court if it considers, having regard to the interpretation of EU law provided by the Court of Justice, that such assessment does not comply with EU law²².

There has been no progress to address concerns regarding the lack of transparency of case allocation in lower courts. The 2023 Rule of Law Report recommended to Hungary to ‘[i]mprove the transparency of case allocation systems in lower-instance courts, taking into account European standards on case allocation’²³. In accordance with the applicable Hungarian legislation, these case allocation schemes continue to be established and regularly

According to the Government, the measure can be explained by the introduction of five-judge panels (a 20% decrease in the number of cases and, as a result, the unreasonableness of filling vacant positions).

¹⁸ Stakeholders indicated that Chamber II had handed down decisions unfavourable for the Government in politically sensitive cases; information received in the context of the country visit to Hungary from the National Judicial Council, Hungarian Association of Judges and Eötvös Károly Policy Institute. See also Kovács, Ágnes (2023): *Taking Revenge for Dissent: Hungary’s Chief Justice to Fully Eliminate Judicial Autonomy*, VerfBlog.

¹⁹ Section 35 of Act LXXXV of 2023 amending certain Acts required for strengthening the interconnectedness of universities, research institutes and the economy and certain Acts in the field of vocational training and culture entered into force on 13 February 2024. On 13 December 2023, the Commission positively assessed this legislative amendment under Article 15 of the Common Provisions Regulation.

²⁰ Section 490, paragraph (1), of the Criminal Procedure Code.

²¹ The preliminary reference procedure in the interest of uniformity of law can be applied in two scenarios: (i) when a *Kúria* chamber wishes to deviate from the *Kúria*’s published case-law, it must stay the proceedings and request a uniformity decision; (ii) the *Kúria* (Vice) President, the heads of *Kúria* departments and the Prosecutor General may request a uniformity decision if it is necessary to ensure the uniform interpretation of the law, or to alter or annul a previous uniformity decision, also if this question does not arise in a concrete pending case. The *Kúria*’s uniformity decisions are binding on the courts until the uniformity complaint panel changes the decision.. By contrast, other published decisions of the *Kúria* act as a limited precedent: since 1 April 2020, lower-level courts have been required by law to explain why they do not follow the interpretation of legal provisions given by the *Kúria* in its published decisions. Such deviation is a ground for an extraordinary remedy before the *Kúria*. Deviation by a *Kúria* chamber from the *Kúria*’s published case law requires a new decision of the *Kúria*’s uniformity complaint panel. Preliminary references in the interest of uniformity of law are heard by the uniformity complaint panels composed of the *Kúria* President and Vice President and 20 senior judges (the Secretary General, heads and deputy heads of department and presiding judges).

²² In January 2024, the Court of Justice ruled that the principle of the primacy of EU law must be interpreted as requiring the national court, having exercised the power conferred on it by Article 267 TFEU, to disregard the legal assessments of a higher national court if the referring court considers, having regard to the interpretation of a provision of EU law provided by the Court of Justice, that those assessments do not comply with EU law; that principle does not, however, preclude national legislation which merely requires lower national courts to give reasons for any departure from those assessments (judgment of the Court of Justice of 11 January 2024, *Global Ink Trade Kft.*, C-537/22, ECLI:EU:C:2024:6, para. 30). On 15 January 2024, the *Kúria* issued a press statement clarifying that the cited judgment of the Court of Justice does not affect the obligation of *Kúria* chambers to request a uniformity decision that is capable of removing the binding effect of the *Kúria*’s published case-law which is no longer compatible with EU law.

²³ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 2.

amended by court presidents. Judicial councils have no meaningful role in the process and parties to court proceedings cannot verify the proper application of the schemes or whether there was a derogation from them²⁴. The applicable rules have not been amended and there are no plans yet to do so²⁵. Therefore, there has been no progress on the recommendation made in the 2023 Rule of Law Report.

While the new legal framework aims at limiting the risk of arbitrary decisions about the career of judges, no further steps were taken to address concerns raised by the National Judicial Council. In July and September 2023, the National Judicial Council found that in 2022 the NOJ President and the *Kúria* President had respected applicable rules when appointing judges to the bench²⁶. There are however no legislative plans to address the concerns expressed by the National Judicial Council as regards the practice of the appointing authority when deciding in a single batch on multiple applications for multiple judicial posts²⁷. In the National Anti-Corruption Strategy, the Government called on the Minister of Justice to review the current point system applicable to the evaluation of applications for judicial posts, which stakeholders consider to favour candidates coming from public administration over candidates from within the judiciary²⁸. No follow-up has been given to the draft legislative proposal prepared by the NOJ President to amend the rules related to the assessment of the suitability for judicial tenure of judges appointed for an initial three-year period. This proposal would move forward their evaluation in view of a proposal for judicial tenure, thereby allowing for any judicial review of their evaluation to be completed before the end of their fixed-term appointment²⁹. When recommending the appointment of the *Kúria*

²⁴ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 6. According to stakeholders there is still too much room for deviation from the general rules on case allocation (contribution from Eötvös Károly Policy Institute for the 2024 Rule of Law Report, p. 15; information received in the context of the country visit to Hungary from the National Judicial Council) and court presidents can freely reshuffle or dissolve chambers of judges (joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, p. 11).

²⁵ Input from Hungary for the 2024 Rule of Law Report, p. 3. According to the Government, a pre-defined system for the allocation of cases ensures that the allocation of cases is independent from the court executives' ad hoc or subjective decision. Based on such system, both the judges and the clients can establish why a case was assigned to a specific judge/panel. According to stakeholders, the new rules on case allocation applicable to the *Kúria* could be applied to other courts as well (information received in the context of the country visit to Hungary from the Hungarian Association of Judges).

²⁶ Decisions 64/2023 of 5 July 2023 and 81/2023 of 7 September 2023, respectively.

²⁷ According to stakeholders, in the absence of legislative amendments, this loophole allows the circumvention of the merit-based appointment system (contribution from European Association of Judges for the 2024 Rule of Law Report, p. 6; contribution from Eötvös Károly Policy Institute for the 2024 Rule of Law Report, p. 11). See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 4. Stakeholders pointed out that in the absence of legislative amendments, this loophole is still available to circumvent the Council's right to veto and undermine the meritocratic appointment system (information received in the context of the country visit to Hungary from Hungarian Helsinki Committee). The Government has no plans to propose legislative amendments in that respect (written contribution from the authorities in the context of the country visit to Hungary).

²⁸ Contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, p. 4; contribution from Eötvös Károly Policy Institute for the 2024 Rule of Law Report, p. 11; information received in the context of the country visit to Hungary from the Hungarian Association of Judges. The National Judicial Council adopted a detailed proposal to change the point system (Decision 125/2023 of 6 December 2023). The Ministry of Justice has no plans to review the point system (written contribution from the authorities in the context of the country visit to Hungary).

²⁹ The draft legislative proposal does not include provisions preventing the interruption of the judicial career during the review of the evaluation, raising some concerns as regards effective judicial protection of the

Vice Presidents, the *Kúria* President is not bound by the ranking established by the full court, while the National Judicial Council gives a binding opinion as to the suitability of the candidates. On 13 June 2024, the Council of Europe’s Committee of Ministers reiterated its request to the Hungarian authorities to step up their efforts to find ways to introduce the required measures to ensure that a decision to remove the President of the *Kúria* is subjected to effective oversight by an independent judicial body³⁰.

The freedom of expression of judges remains under pressure. Smear campaigns against judges continue in the media³¹. Also, the February 2024 decision of the *Kúria* President to suspend the publication of the *Kúria*’s official court reports was criticized by stakeholders³². As regards the effect of the violations in the *Baka* case³³ on the freedom of judges to express their views on matters of public interest concerning the judiciary, on 13 June 2024, the Council of Europe’s Committee of Ministers reiterated serious concern that the Hungarian authorities had not produced their announced evaluation of the domestic legislation on the status of judges and the administration of courts³⁴.

The structure of the prosecution service remains unchanged and risks of undue interference with individual cases remain. The 2023 and previous Rule of Law Reports noted that the strictly hierarchical architecture of the prosecution service and a lack of internal checks and balances enhance the persistent risk of top prosecutors influencing the work of subordinate prosecutors, including in individual cases³⁵. Hungary has not implemented GRECO’s recommendation to review the possibility to maintain the Prosecutor General in office after the expiry of his/her mandate by a minority blocking of the election in Parliament of a successor³⁶. A new law³⁷ will allow the Minister of Justice to access the

judges concerned. See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 5.

³⁰ CM/Del/Dec(2024)1501/H46-15. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 7.

³¹ On 7 July 2023, government-aligned media released an article claiming that the National Judicial Council should be abolished for being biased. On 5 October 2023, another smear article claimed that members of the Council are ‘service staff of the empire’ (hinting at the United States). On 20 February 2024, the National Judicial Council, the NOJ President, the *Kúria* and the prosecution service issued open letters rejecting statements by an opposition party calling for the ‘listing’ of judges and prosecutors involved in criminal proceedings against members of Parliament. On 20 March 2024, government-aligned media released an article falsely ‘accusing’ the former president of the National Judicial Council of having terminated the pre-trial arrest of a person charged with possessing child pornography.

³² Statements of the Hungarian Association of Judges (23 February 2024) and of the National Judicial Council (27 February 2024). According to stakeholders, this measure could have a chilling effect on judges with consequences for the content of their decisions. According to the Government, following the completion of the internal investigation deemed necessary to clarify the editing principles, the *Kúria* President terminated the suspension still in February 2024.

³³ Judgment of the European Court of Human Rights of 23 June 2016, *Baka v Hungary*, 20261/12. The Court found that the impugned measures had a ‘chilling effect’, discouraging not only the applicant, but also ‘other judges and court presidents [...] from participating in public debate on [...] issues concerning the independence of the judiciary’ (§ 173).

³⁴ CM/Del/Dec(2024)1501/H46-15.

³⁵ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 8. See pillar II as regards the possibility of judicial review of prosecutorial decisions not to open or to close an investigation in corruption-related cases.

³⁶ GRECO Fourth Evaluation Round – Fourth Interim Compliance Report (9 June 2023), p. 9, paras. 54 et seq.

³⁷ Section 58 of Act XVII of 2024 adding Section 37/A to Act CLXIII of 2011 on the prosecution service.

pseudonymised version of all final decisions of the prosecution service and all other decisions (e.g. those of the investigating authorities) reviewed by the prosecution service.

Quality

Digitalisation of the justice system continues to be overall high while further investment remains necessary. Hungary continues to rank very high in terms of digital solutions allowing participation in court proceedings and online access to published judgments³⁸. However, the installation of necessary new terminals for hearings taking place via videoconference has not continued, even though judges increasingly schedule such hearings³⁹. Stakeholders report that no new tools or technologies (e.g. speech-to-text applications) have been introduced to counterbalance the shortage of court staff and that outdated devices (such as laptops) are rarely being replaced⁴⁰.

The National Judicial Council has made a new legislative proposal to the Ministry of Justice to increase judicial salaries and ensure automatic indexation, considering that the level of remuneration of judges and court staff has further deteriorated due to high inflation. As noted in the 2023 Rule of Law Report⁴¹, the Government has not yet taken a decision to increase the real value of judicial salaries. The salaries for judges, prosecutors, as well as court and prosecutorial staff were last increased in January 2022⁴²; since then, inflation has exceeded 37%⁴³. Junior judges perceive the attractiveness of their salaries as low, with reports of related resignations shortly after hiring⁴⁴. This negatively impacts the capacity of the judiciary to recruit and retain competent staff. Salaries for court staff barely reach the minimum wage and do not substantially increase for staff with significant work experience⁴⁵. The number of judges further decreased in 2023, and the number of applicants

³⁸ See Figures 46 to 48, 2024 EU Justice Scoreboard.

³⁹ Contribution from the Hungarian Association of Judges for the 2024 Rule of Law Report, p. 17.

⁴⁰ Contribution from Magistrats Européens pour la Démocratie et Libertés (MEDEL) for the 2024 Rule of Law Report, p. 16. The overall budget allocated to courts has decreased from 2023 to 2024 by 3%, from around HUF 160.38 billion (EUR 405 583 795) in 2023 to around HUF 155.66 billion (EUR 393 647 422) in 2024.

⁴¹ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 9.

⁴² Between 2020 and 2022, judicial salaries were increased in three stages, with an overall increase of around 60 %.

⁴³ Since 1 January 2022, the statutory salary base of judges and prosecutors has been HUF 566 660 (EUR 1 433). Judicial salaries are calculated by applying to the salary base various multiplying factors determined by law. Inflation stood at 15.3% in 2022, 17% in 2023 and is expected to stand at 4.5% in 2024, which poses a general challenge for public administration. The European Association of Judges '[c]onsiders that the current levels and conditions of remuneration of judges in Hungary is contrary to European and other international standards and is not compatible with the requirements established by decisions of the Court of Justice of the European Union' (European Association of Judges (2024), *Resolution on Judicial Remuneration in Hungary*).

⁴⁴ Information received in the context of the country visit to Hungary from Buda Central District Court; contribution from Res Iudicata Association for the 2024 Rule of Law Report, p. 14. Junior judges (*'bírószági titkárok'*) ('legal secretaries' in RRP milestone 169) are court staff having passed the bar examination and tasked with certain judicial functions determined in the case allocation scheme.

⁴⁵ Several courts struggle to fill vacancies (contribution from Res Iudicata Association for the 2024 Rule of Law Report, p. 14). Many staff members are leaving the court, especially in the central region, because of the extreme low salary, the increasing workload and the tense atmosphere (contribution from Magistrats Européens pour la Démocratie et Libertés (MEDEL) for the 2024 Rule of Law Report, p. 16). The salary of court staff consists of a basic salary (calculated on basis of judicial salary base) to which various supplements can be added. From 1 December 2023, the basic salary was at least gross HUF 266 800 (EUR 675) or HUF 326 000 (EUR 824) if the post requires secondary education. For a staff member with 35 years

for initial positions does not always allow to fill all vacancies⁴⁶. To address the situation, on 26 February 2024, the National Judicial Council made a new legislative proposal on the increase and automatic indexation of judicial salaries, which is currently being considered by the Ministry of Justice⁴⁷.

Concerns remain as regards the effectiveness of the legal aid scheme in both civil and criminal cases. The eligibility threshold for legal aid in civil procedure is high⁴⁸ leading, in general, to concerns as regards the inclusiveness of the legal aid scheme⁴⁹. Fees for defence lawyers under the legal aid scheme are regarded as critically low⁵⁰, impacting access to justice and the right to a fair trial. Also, as reported last year, access to justice could be improved through specific arrangements for persons at risk of discrimination, for elderly persons and for women victims of violence⁵¹.

Efficiency

The efficiency of the judiciary in civil, commercial and administrative cases continues to remain high⁵². As in previous years, Hungary performs very well as regards the estimated time needed to resolve litigious civil and commercial cases at all court instances, as well as administrative cases at all court instances⁵³. According to the Government, the backlog of cases has been reduced further⁵⁴. Cases with lengthy proceedings cluster in courts in the central region around Budapest⁵⁵, where the overall caseload tends to be higher.

of experience, the net salary is around HUF 270 000 (EUR 683) (contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, p. 24).

⁴⁶ Contribution from the Hungarian Association of Judges for the 2024 Rule of Law Report, p. 17. For 35 trainee positions nationwide in 2023, only 43 applicants applied, of which 35 passed the entrance exam and only 24 positions were filled.

⁴⁷ Information received in the context of the country visit to Hungary from the Government. The National Judicial Council proposed to raise the salary base for judges by 35% as of 1 January 2024, to introduce automatic indexation of the salary base as of 1 March 2025 and to raise as of 1 January 2025 the special duty allowance payable to judges working at lower-level courts. In the budget planning period, the *Kúria* President indicated the need for an inflation-linked salary increase for judges and court staff (written contribution from the *Kúria* in the context of the country visit to Hungary).

⁴⁸ Contribution by Amnesty International for the 2024 Rule of Law Report, p. 23.

⁴⁹ Contribution by Amnesty International for the 2024 Rule of Law Report, p. 23, see also the 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 9.

⁵⁰ Contribution from the Hungarian Association of Judges for the 2024 Rule of Law Report, p. 17. See also Figure 24, 2024 EU Justice Scoreboard.

⁵¹ See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 9. In its 2023 concluding observations on Hungary, the UN Committee on the Elimination of Discrimination against Women noted with concern persistent barriers to women's and girls' access to justice, in particular for women and girls facing intersecting forms of discrimination who have limited access to justice owing to social stigma, the inaccessibility of the judicial system and gender bias among law enforcement officers, including the police (contribution from UN Human Rights Regional Office for Europe for the 2024 Rule of Law Report, p. 45).

⁵² Figures 5 to 11, 2024 EU Justice Scoreboard and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 9.

⁵³ Figures 7 and 8, 2024 EU Justice Scoreboard.

⁵⁴ Contribution by the Hungarian government for the 2024 Rule of Law Report, p. 7.

⁵⁵ For example, in the Criminal Department of the Budapest Regional Court, the rate of proceedings with length of more than two years has increased from 10 % to 35 % in five years (contribution from Res Iudicata Association for the 2024 Rule of Law Report, p. 16).

There were no further developments regarding a compensation scheme for cases involving protracted administrative and criminal proceedings. The 2021 Act on pecuniary compensation for delay in civil proceedings⁵⁶ guarantees in principle genuine redress for violations of Article 6 of the European Convention on Human Rights. However, the law does not cover non-contentious civil proceedings, such as enforcement proceedings⁵⁷, administrative and criminal cases. On 13 June 2024, the Council of Europe’s Committee of Ministers ‘noted with grave concern the continued absence of a reaction to the Committee’s decisions regarding the outstanding criminal, administrative, and non-contentious civil compensatory remedies’⁵⁸. According to stakeholders, the protraction of court proceedings in certain high-profile criminal cases is imputable to malfunctions of court administration⁵⁹.

II. ANTI-CORRUPTION FRAMEWORK

The Ministry of Interior is responsible for the overall coordination of the anti-corruption policy and oversight over the National Protective Service⁶⁰. As a law enforcement agency, the National Protective Service is still in charge of crime prevention and detection, lifestyle monitoring and integrity testing for staff subordinated to the Ministry of Interior⁶¹. The Constitution Protection Office, a national security agency overseen by the Prime Minister’s Cabinet Office, is empowered to carry out integrity tests for all other public officials⁶². The Integrity Authority is an independent authority set up based on the commitments under the conditionality procedure and the Recovery and Resilience Plan to enhance oversight over public spending with a focus on EU funds⁶³. Similarly, the Anti-Corruption Task Force was set up to examine existing anti-corruption policies and to elaborate new proposals⁶⁴. The

⁵⁶ Act XCIV of 2021.

⁵⁷ Joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, p. 28. The sanction regime for non-execution of court decisions in press rectification, personality rights and freedom of information cases lacks dissuasive effect, leading to excessively long enforcement proceedings (contribution from Hungarian Helsinki Committee for the 2024 Rule of Law Report, p. 44).

⁵⁸ Interim Resolution CM/ResDH(2024)119. See also joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, p. 28.

⁵⁹ Contribution from Transparency International Hungary for the 2024 Rule of Law Report, p. 12. In particular, certain cases have been pending before the first-instance courts for years because they have been re-started more than once following changes in the composition of the bench. The protraction of criminal proceedings imputable to the authorities may lead to a more lenient criminal sanction.

⁶⁰ A department of the National Protective Service is entrusted with corruption prevention tasks, including intra-governmental cooperation and evaluation of the 2020-2022 anti-corruption strategy and action plans. Since 1 January 2021, the Service has been in charge of corruption prevention in the health care and, since 1 July 2020, the public education sectors.

⁶¹ Following April 2022, the competence of the National Protective Service was reduced to a significant extent; for more information see further below in this text on integrity tests.

⁶² Act IV of 2022 amending certain Acts related to Act II of 2022 on the list of Ministries of Hungary. Since 25 May 2022, corruption prevention in the National Tax and Customs Administration is under the competence of the Constitution Protection Office (input from Hungary for the 2023 Rule of Law Report, p. 19).

⁶³ Setting up the Integrity Authority is a commitment under the conditionality procedure (corresponding to RRP milestone 160). In this context, a new internal audit directorate has also been set up within the government body coordinating EU funds to strengthen internal controls to prevent the misuse of EU funds (RRP milestone 224). The Directorate-General for Auditing European Funds has been transformed in an autonomous body from the Ministry of Finance (RRP milestone 225).

⁶⁴ Setting up the Task Force is a commitment under the conditionality procedure (corresponding to RRP milestone 166). The Task Force is mandated to examine existing anti-corruption measures and to elaborate proposals to enhance the detection, investigation, prosecution and sanctioning of corrupt practices. It includes an even number of government and non-governmental members. Delegate members who participate

State Audit Office contributes to corruption prevention with its competences for the audit of the financial management of public funds, the monitoring of state-owned companies' compliance with statutory public disclosure obligations, as well as political party finance and campaign finance audits. As to the repression of corruption, the police can investigate private sector corruption and corruption-related economic crimes. The investigation and prosecution of corruption in the public sector fall under the exclusive competence of the Central Chief Investigating Prosecution Office and its six regional offices⁶⁵. The prosecution service oversees investigations and is supported by the investigative forces of the police and the National Protective Service.

The perception among experts and business executives is that the level of corruption in the public sector remains high. In the 2023 Corruption Perceptions Index by Transparency International, Hungary scores 42/100 and ranks 27th in the EU and 76th globally⁶⁶. This perception has been relatively stable over the past five years⁶⁷. The 2024 Special Eurobarometer on Corruption shows that 88% of respondents consider corruption widespread in their country (EU average 68%) and 24% of respondents feel personally affected by corruption in their daily lives (EU average 27%)⁶⁸. As regards businesses, 78% of companies consider that corruption is widespread (EU average 65%) and 41% consider that corruption is a problem when doing business (EU average 36%)⁶⁹. Furthermore, 40% of respondents find that there are enough successful prosecutions to deter people from corrupt practices (EU average 32%)⁷⁰, while 25% of companies believe that people and businesses caught for bribing a senior official are appropriately punished (EU average 31%)⁷¹.

While the implementation of some remedial measures put forward in response to the EU conditionality procedure is ongoing, important shortcomings remain and no new measures were adopted to remedy the outstanding concerns. To protect the EU budget against corruption and systemic rule of law issues, on 15 December 2022 the Council, on a

in the Task Force meetings, but do not have a voting right, include the State Audit Office, the Competition Authority, the Public Procurement Authority, the Authority for the Supervision of Regulated Activities, the National Office for the Judiciary and the prosecution service. Other relevant actors, such as the Government Control Office, the National Data Protection and Freedom of Information Authority, the Commissioner for Fundamental Rights and the Hungarian National Bank, are so far not participating in the work of the Task Force.

⁶⁵ As of 1 November 2023, the Budapest Investigating Prosecutor's Office, previously under the control of the Budapest Prosecutor's Office, was integrated into the regional investigative bodies of the Central Chief Investigating Prosecution Office. The primary objective of the change was to address workload imbalances and the burden of the regional investigating prosecution offices.

⁶⁶ Transparency International (2024), Corruption Perceptions Index 2023. The level of perceived corruption is categorised as follows: low (the perception among experts and business executives of public sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50).

⁶⁷ In 2019, the score was 44, while, in 2023, the score is 42. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points) and is relatively stable (changes from 1-3 points) in the last five years.

⁶⁸ Special Eurobarometer 548 on Corruption (2024). The Eurobarometer data on citizens' corruption perception and experience is updated every year. The previous data set is the Special Eurobarometer 534 (2023).

⁶⁹ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). The Eurobarometer data on business attitudes towards corruption as is updated every year. The previous data set is the Flash Eurobarometer 524 (2023).

⁷⁰ Special Eurobarometer 548 on Corruption (2024).

⁷¹ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024).

proposal from the Commission, temporarily suspended EU funds under several EU programmes⁷² and prohibited entering into new legal commitments with public interest trusts⁷³, until further reforms are introduced. Pursuant to the procedure set out in the Conditionality Regulation⁷⁴, Hungary may any time notify remedial measures to demonstrate that the relevant breaches of the principles of the rule of law and/or their effects or risks for the Union budget and the Union's financial interests have been removed. In the absence of a written notification from Hungary, the Commission reassessed on its own motion the situation in Hungary based on the information available. On 13 December 2023, the Commission considered that the situation that had led the Council to adopt measures had not been remedied and that the Union's budget remained at the same level of risk as established by the Council on 15 December 2022. In its assessment, the Commission listed a number of issues that are still outstanding, concluding that the measures adopted by the Council should remain in place⁷⁵. Furthermore, no disbursement of funds under the Recovery and Resilience Plan can be made to Hungary until all the 'super milestones', including those related to the key implementation steps of the conditionality procedure, have been satisfactorily implemented.

A new National Anti-Corruption Strategy and Action Plan is now in place⁷⁶. On 14 February 2024, Hungary adopted the medium-term National Anti-Corruption Strategy for 2024-2025 and its related Action Plan, applicable as of 15 February 2024⁷⁷. On process, the draft had been consulted with some key international stakeholders, but national consultations appear to have remained limited⁷⁸. On substance, the strategic documents envisage measures related to new ethical standards for public officials on conflicts of interest, asset declarations, and political party financing⁷⁹. The goal is to put forward a whole-of-society approach in the fight against corruption. While this is beneficial, it remains to be seen in the implementation if this new strategic framework can effectively address systemic weaknesses in public institutions and state organs as public service providers. As noted also by the OECD and the Council of Europe, a comprehensive and strategic policy approach to effectively tackling corruption, including high-level corruption, remains missing from the strategy. Most integrity and corruption prevention measures target low and mid-level officials and the integrity

⁷² See, in particular, Article 2(1) of Council Implementing Decision (EU) 2022/2506.

⁷³ Public interest trusts receive significant public funding and have been found to be managed by board members close to the Government (2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 22). Hungary has not adopted any new remedial measures with a view to addressing the weaknesses in relation to public interest trusts.

⁷⁴ Council Implementing Decision (EU) 2022/2506 of 15 December 2022. Article 7 of the Conditionality Regulation provides for a specific procedure to adapt or lift the measures adopted by the Council if the Member State remedies the situation - in part or in full - that had led to the adoption of Council measures.

⁷⁵ Commission Decision C(2023) 8999 final of 13 December 2023.

⁷⁶ Apart from the new National Anti-Corruption Plan for 2023-2025, a separate Anti-Fraud and Anti-Corruption Strategy specifically for the protection of EU funds entered into force in 2022, which the Government committed to coordinate. See also the commitments under RRP milestones 178, 179, 220, 221.

⁷⁷ Government Decision 1025/2024 of 14 February 2024 on the adoption of the medium-term National Anti-Corruption Strategy for 2024-2025. The draft strategy was prepared by the National Protective Service.

⁷⁸ The draft was consulted with the European Commission, the OECD, the Council of Europe, the national Anti-Corruption Task Force and a few selected national stakeholders. On 13 June 2023, the Anti-Corruption Task Force adopted an opinion on the draft strategy (Anti-Corruption Task Force (2023), *Complementary Report on the draft medium-term National Anti-Corruption Strategy for 2023-2025*). On 16 October 2023, the Minister of Interior sent a letter explaining why the Government did not take up certain proposals (Minister of Interior (2023), *Letter to the chairperson of the Anti-Corruption Task Force*).

⁷⁹ For more details on lobbying, revolving doors and political party finance, see further below in this text.

framework applicable to persons with top executive functions remains weak⁸⁰. As regards the governance framework, the Anti-Corruption Task Force is tasked to help evaluate the progress as regards the implementation of the Action Plan⁸¹. A final government assessment report of the level of implementation to be prepared by the Ministry of Interior is planned for 2026⁸².

The Integrity Authority reports certain obstacles to fulfilling its oversight tasks effectively, and the impact in practice of the proposals made by the Anti-Corruption Task Force remains to be seen. Largely, the Integrity Authority seems to have the adequate capacity and the necessary level of independence to carry out its work⁸³. It referred two cases to the prosecution service in 2023, one following a whistle-blower report and the other identified through its own risk assessment⁸⁴. On 29 June 2023, the Integrity Authority published its first annual analytical integrity report covering 2022⁸⁵, and on 14 December 2023 its position⁸⁶ on the Government's reply to the report⁸⁷. The Government responded positively to about a quarter of the recommendations issued by the Integrity Authority, committing to take further action⁸⁸. In practice, some obstacles remain, particularly where the Authority needs to rely on cooperation with other public bodies⁸⁹. In addition, the Authority

⁸⁰ OECD (2023), *A strategic approach to public integrity in Hungary: The 2023-2025 National Anti-Corruption Strategy and Action Plan*; Council of Europe (2023), *Hungary: anti-corruption group calls for measures to prevent corruption in central government and law enforcement*.

⁸¹ This requires measurable progress and impact indicators and a sufficiently high level of transparency. The strategy does not contain a plan for communications to internal and external stakeholders about its implementation, as also highlighted by the OECD (OECD (2023), *A strategic approach to public integrity in Hungary: The 2023-2025 National Anti-Corruption Strategy and Action Plan*, p. 8). Stakeholders have criticized the implementation of the previous strategy for not being done transparently (information received in the context of the country visit to Hungary from K-Monitor and Transparency International Hungary). See also 2023 and 2021 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 10 (2023), p. 11 (2021).

⁸² This would be in the first quarter of the year 2026, see RRP milestone 179.

⁸³ Information received from the Integrity Authority in the context of the country visit to Hungary.

⁸⁴ Written contribution from the Integrity Authority in the context of the country visit to Hungary. Also, the Authority initiated proceedings in two cases and submitted one administrative appeal against a decision of the Public Procurement Arbitration Board; it notified the Hungarian Competition Authority in one case, which led to the opening of a competition procedure; and requested the designated managing authority to initiate an irregularity procedure in two cases.

⁸⁵ Integrity Authority (2023), *Annual Analytical Report*, (29 June 2023).

⁸⁶ Integrity Authority (2023), *The position of the Integrity Authority regarding the Government's answer* (14 December 2023).

⁸⁷ Hungarian Government (2023), *The Government's positions as regards the findings of the Integrity Authority's 2022 annual analytical integrity report*.

⁸⁸ Out of 49 recommendations, the Government fully agreed to take action in about one dozen (13) and disagreed with 21 recommendations, while no action will be taken with regard to 5 other recommendations, where the Government does not see a need to act or takes only note. Pursuant to Section 13 of Act XXVII of 2022, the Government is not required to agree with all of the recommendations, but it must reply to the Integrity Authority and explain how it will address the findings made in the annual analytical integrity report.

⁸⁹ Information received from the Integrity Authority in the context of the country visit to Hungary. The Authority has established working relations with the relevant authorities and is empowered to act in case of detected irregularities affecting EU funds and to initiate proceedings to be conducted by other public bodies, such as the Committee of Immunities in the Parliament, the Tax and Customs Administration or the police, while it cannot impose sanctions itself. In addition, to enhance cooperation with other public bodies, the Integrity Authority proposed to amend and mirror the powers it has under the Act XXVII of 2022 establishing the Integrity Authority also in sectoral laws.

reported that it does not have direct access to all the data registers containing information that may be needed for it to carry out its tasks⁹⁰ and in certain cases no such data is available⁹¹. To enhance cooperation with other public bodies that it heavily relies upon, the Integrity Authority has proposed to the Government to mirror its powers⁹² also in sectoral laws⁹³. Stakeholders also highlighted the need for a strategy for the Authority, including the definition of criteria for the selection of cases for investigation⁹⁴. The Anti-Corruption Task Force, created to support the Government's overall anti-corruption policy coordination, adopted its second annual report⁹⁵. Non-governmental members of the Task Force expressed concerns as regards its capacities⁹⁶, scope and the Government's limited uptake of proposals and questioned the Task Force's meaningful impact in practice⁹⁷.

The possibility of judicial review has reportedly led the prosecution service to assess the follow-up on crime reports more thoroughly, even though court decisions overturning prosecutorial decisions remain non-binding⁹⁸. A year after its introduction, Hungary has started the revision of the possibility for a judge to review prosecutorial and investigative authorities' decisions not to investigate reported corruption suspicions or to terminate ongoing corruption investigations without indictment⁹⁹, which has been in force since 1

⁹⁰ E.g. the central register on beneficial ownership managed by the Tax and Customs Administration, where data can only be provided upon targeted request. Overall, the Integrity Authority reports that, where there is no direct access, the requested data received from other institutions and entities is at times fragmented, partially incomplete, and often unchecked. Regarding the responses to data requests, the speed, ability, quality, and usability of the data poses obstacles to the effective operations and fulfilment of the Authority's tasks (Integrity Authority (2023), 2022 Annual Analytical Report, p. 5). The Government reports that work is ongoing to allow for direct access, with closer cooperation between the Integrity Authority and the Tax and Customs Administration having started in January 2024 (information received in the context of the country visit to Hungary from the Ministry of Justice).

⁹¹ The Integrity Authority has no access to beneficial ownership information on private equity funds because, in line with national law adopted in 2022, information about the investors/beneficial owners has been removed from the register maintained by the Tax and Customs Administration; the Hungarian National Bank only verifies ownership at the moment of the authorisation and registration process but does not record such data (written contribution from the Integrity Authority in the context of the country visit to Hungary).

⁹² As stipulated in Act XXVII of 2022 establishing the Integrity Authority. Other institutions and entities seem to apply only the sectoral legislation regulating their activity which does not refer to the Authority's direct access to their data bases or the obligation to cooperate with the Authority. This could be solved by 'mirroring' the relevant provisions of Act XXVII of 2022 in the sectoral legislation concerned.

⁹³ Integrity Authority (2024), *Annual Report to the Hungarian National Assembly 2023*, p. 9, including a set of recommendations to enhance the protection of the EU budget, p. 11.

⁹⁴ Information received in the context of the country visit to Hungary from K-Monitor and Transparency International Hungary. See also Hadházy, Ákos (2024), Facebook post of 29 January 2024.

⁹⁵ The Task Force adopted its annual report covering the year 2023 at its meeting held on 12 March 2024. The Government replied on 10 June 2024. According to the Government, it supported all consensual proposals which prescribed tasks for the Government.

⁹⁶ Three out of ten non-governmental members had resigned, with Hungary reporting that the remaining two vacancies were filled in February 2024.

⁹⁷ Three non-governmental members of the Task Force voted against the Task Force's second annual report. See Task Force (2024), *2023 Report of the Anti-Corruption Task Force*; and Átlátszó (2024), *Átlátszó, K-Monitor and Transparency have not accepted the annual report of the Anti-Corruption Working Group*. The Government is not obliged to follow the proposals of the Task Force, but to provide a justification not to do so (K-Monitor (2023), *Anti-Corruption Task Force: what is the situation eight months after its launch?*). See also K-Monitor and Transparency International Hungary (2024), *Special report on the 2023 Anti-Corruption Task Force Report: Current issues in the fight against corruption in Hungary*.

⁹⁸ Information received in the context of the country visit to Hungary from the prosecution service.

⁹⁹ Input from Hungary for the 2024 Rule of Law Report, p. 15.

January 2023¹⁰⁰. The Prosecutor General has published guidelines, including instructions how to file a review request, which stakeholders have found to be user-friendly¹⁰¹. However, shortcomings remain in particular as regards the temporal scope of the new measure¹⁰² and the lack of the binding nature of court decisions quashing the prosecutor's decision not to prosecute¹⁰³. Stakeholders have also raised concerns as to its results in practice¹⁰⁴. Until 29 February 2024, 74 motions for judicial review had been filed with the competent Buda Central District Court¹⁰⁵; most of them were allegations of abuse of office, unrelated to public funds¹⁰⁶.

Integrity tests and lifestyle monitoring remain the main tools to detect and deter corruption, although their effectiveness is limited in detecting high-level corruption.

Also in 2023, reliability testing through integrity surveillance and testing of public officials was reported to be the primary tool used to detect corruption in the public sector¹⁰⁷. In practice, this has been effective primarily for petty corruption cases, such as gratitude payments in healthcare¹⁰⁸. Other tools that could be more effective in detecting a wider variety of corruption cases (including high-level corruption), such as asset declarations,

¹⁰⁰ A government assessment report on the functioning of the judicial review planned for the fourth quarter of 2023 is still pending. The possibility of judicial review was introduced in the Criminal Procedure Code by Act XLIV of 2022 to enhance the effective prosecution of corruption by addressing the concerns raised in the past as regards the accountability of the prosecution service (see 2022 and 2023 Rule of Law Reports, Country Chapter on the rule of law situation in Hungary, pp. 9, 15-16 (for 2022), and p. 13). Anyone can request a review and trigger the oversight procedure for any corruption-related cases dismissed or terminated after 1 January 2023. If the prosecution service does not grant the request, the judge can decide that an investigation should take place or should be continued and send the case back for investigation to the prosecution service. If the prosecution service does not act, the judge informs the person who has requested the review that they can represent an indictment before the court.

¹⁰¹ Information received in the context of the country visit to Hungary from K-Monitor.

¹⁰² The new law does not clarify the scope of application in time of the new rules and, in particular, fails to clarify that the new procedure will also apply to (non-time-barred) criminal offences committed before 1 January 2023. See Council Implementing Decision (EU) 2022/2506 of 15 December 2022, recital 46.

¹⁰³ The prosecution service is only obliged to take the court decision into account. See Council Implementing Decision (EU) 2022/2506 of 15 December 2022, recital 46.

¹⁰⁴ See for example K-Monitor (2023), *Anti-corruption criminal procedure reform: the rules are there, but the practice is unchanged* (15 December 2023).

¹⁰⁵ Of the 74 motions, the court considered 43 motions, rejected 37 and granted a motion for review in 6 cases until 29 February 2024. In addition, the court received one repeated motion for reconsideration, which was also dismissed. Until 1 November 2023, no motion for prosecution was filed, see K-Monitor and Transparency International Hungary (2023), *Special report on the 2023 Anti-Corruption Task Force: Current issues in the fight against corruption in Hungary*. According to its website (<https://integritashatosag.hu/ugyek/felulbiralati-inditvanyok/felulbiralati-inditvanyok-2/>), the Integrity Authority has filed five motions for revision, two of which were successful. In one case, the prosecution decided to continue the investigation, and in another case, the court overturned the investigative authority's decision to drop the procedure. One of the motions has been rejected by the Buda Central District Court. The Integrity Authority has filed one repeated motion for revision, which is still pending.

¹⁰⁶ Information received in the context of the country visit to Hungary from the prosecution service.

¹⁰⁷ Information received in the context of the country visit to Hungary from the prosecution service.

¹⁰⁸ Gratuity payments in the health care sector are reported to be the most serious disturbance and challenges that the National Protective Service is in charge of, with a total of 218 cases of corruption and other criminal offences in the health sector having been reported or investigations been initiated against 1 354 persons in the course of 2023 (input from Hungary for the 2024 Rule of Law Report, p. 12). In its RRP, Hungary committed to implement an awareness-raising campaign against gratuity payments (RRP milestones 182-183 and target 184).

whistleblower disclosures and registers¹⁰⁹, continue to play a relatively minor role in corruption investigations¹¹⁰. The National Protective Service continues to be considered indispensable to gather evidence essential for initiating corruption investigations and prosecutions¹¹¹. It is tasked with carrying out integrity tests and lifestyle monitoring for staff subordinated to the Ministry of Interior and other public administrative bodies¹¹². For the integrity testing of all other public officials conducted by the Constitution Protection Office, risks to the transparency of such proceedings, as previously reported, has materialised in the reporting period¹¹³. Information or data about reliability testing, including numbers of corruption suspicions reported to the prosecution service, is no longer publicly available for those public officials who are covered by the mandate of the Constitution Protection Office¹¹⁴.

Whereas the number of convictions for corruption-related crimes has increased in low level corruption cases, there has been no progress yet to establish a robust track record against high-level corruption. The 2022 and 2023 Rule of Law Reports recommended to Hungary to ‘[e]stablish a robust track record of investigations, prosecutions, and final judgments for high-level corruption cases’¹¹⁵. The prosecution service continues to view the level of cooperation between the relevant state entities combating corruption, as well as human and financial resources, and specialisation as adequate to carry out their tasks¹¹⁶. The new IT system for the prosecution service, planned to address the persisting challenge in evidence-gathering and sharing, is still not in place and is now planned to be operational by

¹⁰⁹ The central register for beneficial ownership information managed by the Tax and Customs Administration is accessible only to those who have a legitimate interest to the central register. Access has been granted in this manner since 1 July 2022. Stakeholders had warned in previous years that excessive fees and too strict accessibility criteria set by the Administration would deter ordinary citizens from using the central database. Information received in the context of the country visit to Hungary from K-Monitor and Transparency International Hungary. Transparency International recommend increased transparency of private equity funds, which play a role in hiding ill-gotten gains from corruption (Transparency International (2022), *Exporting Corruption*, p. 52). The EU legislation on anti-money laundering and counter terrorist financing imposes obligations on all Member States to identify the ultimate beneficial owner. Beneficial owners are individuals who benefit from a company even though they are not formally named as owner of the business.

¹¹⁰ Information received in the context of the country visit to Hungary from the prosecution service. See also contribution from K-Monitor for the 2022 Rule of Law Report, p. 18. This is the case since 2021 (see 2021 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 12).

¹¹¹ See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 14.

¹¹² These include employees of territorial government bodies and specialised territorial child protection services, as well as the state employed health care staff.

¹¹³ Since the Constitution Protection Office is a national security service, the potential detection of corruption by this Office can fall under national security rules and thus remain undisclosed. As a result, the decision not to further pursue a corruption investigation is de facto impossible to review, with corruption cases risking not to be pursued. See also 2023 Rule of Law Report, Country chapter on the rule of law situation in Hungary, p. 14 with further stakeholder references. Other than for the National Protective Service, no data on detected corruption cases was shared or is available from the Constitution Protection Office.

¹¹⁴ The Constitution Protection Office, overseen by the Prime Minister’s Cabinet Office, performs the integrity tests of the officials and employees of governmental bodies (e.g. ministries), with the exception of the military and the officials and employees of governmental bodies (e.g. the Police, the penitentiary system) and sectors (e.g. healthcare, public education) overseen by the Minister of Interior.

¹¹⁵ 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 2.

¹¹⁶ Information received in the context of the country visit to Hungary from the prosecution service. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 15.

the end of 2025¹¹⁷. The reported indictment rate for corruption crimes continues to be high, according to the prosecution service¹¹⁸, with one new indictment in 2023 also in a complex corruption and money laundering case against a large number of defendants, including one former high-level official¹¹⁹. In 2023, the prosecution service reported that 364 persons had been convicted at a final instance for corruption-related crimes¹²⁰. However, most cases target low to mid-tier officials while leaving out the top-level officials of the country's public administration, and convictions in high-level corruption cases continue to be rare¹²¹. Generally, in complex high-level corruption cases, court proceedings tend to be excessively long¹²². The risk of undue interference with individual cases persists in the prosecution service¹²³, while also the police's operational independence appears to be affected by political influence on the prosecution service¹²⁴. Serious concerns remain therefore about the absence of a robust track record of investigations of corruption allegations concerning high-level officials and their immediate circle. Stakeholders also continued to raise concerns about clientelism, favouritism and nepotism in high-level public administration and about the risk of impunity caused by a disparity in the treatment of corruption cases for political

¹¹⁷ Financial data relevant for investigations is spread over numerous separate state registers. The new IT system for the handling of sensitive documents would facilitate administrative work and data exchange for data searches by prosecutors (information received in the context of the country visit to Hungary from the prosecution service). It was originally planned to be fully functional and operational by Q2 2024, see 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 16, and RRP milestone 180. Also, a new case management IT system facilitating administrative work and the exchange of non-sensitive information is planned to be fully functional and operational by the end of 2025, see RRP milestone 181.

¹¹⁸ A total of 1 698 procedures registered in police proceedings for corruption crimes were completed, leading to indictment (compared to 1 224 in 2022) (input from Hungary for the 2024 Rule of Law Report, pp. 14-15). See also European Anti-Fraud Office (OLAF) (2024), *Annual Report 2023* for the latest data on judicial follow-up by Member States, indicating an indictment rate in Hungary.

¹¹⁹ Information received in the context of the country visit to Hungary from the prosecution service, referring to an overall number of 22 defendants in this case. Allegations of evidence-tampering by the prosecution service upon Government instructions and the obstruction of justice by the Government in this high-level corruption case involving a former state secretary of the Ministry of Justice and the chief bailiff prompted the prosecution service to initiate investigations for failure to report bribery, see Reuters (2024), *Hungary prosecutors probe graft case tape leaked by former government insider* and Telex (2024), *Former Justice Minister's ex-husband releases recording he claims proof of high-level involvement in corruption case*. For more details, see Intellinews (2023), *Hungary's highest-profile corruption case lifts the veil on how Orbán's regime really operates*. See also The Budapest Times (2024), *KNYF: 'No documents disappeared in so-called Volner-Schadl case'*.

¹²⁰ Input from Hungary for the 2024 Rule of Law Report, pp. 14-15. In 2022, there were 326 final convictions, largely for petty corruption cases.

¹²¹ Contribution from Democracy Reporting International for the 2024 Rule of Law Report, p. 4. See also Council of Europe (2023), *Hungary: anti-corruption group calls for measures to prevent corruption in central government and law enforcement*.

¹²² Transparency International Hungary and K-Monitor (2023), *Special report on the 2023 Anti-Corruption Task Force: Current issues in the fight against corruption in Hungary*. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 16 and footnote 104 with further references.

¹²³ See in this context Section I above, p. 11. The full implementation of the GRECO recommendations as regards the effective functioning of the prosecution would further strengthen the anti-corruption framework. See GRECO Fourth Evaluation Round – Third Interim Compliance Report (2022), p. 6, paras. 31-35. This concerns in particular the limitation of prosecutors' immunity to functional immunity but also the procedures to lift parliamentarians' immunity, which risk hampering the timely evidence-gathering in corruption investigations against parliamentarians.

¹²⁴ GRECO Fifth Evaluation Round – Evaluation Report (2023), p. 29, para. 126, pointing at hierarchical pressure on police officers to discontinue investigations in certain sensitive cases.

purposes¹²⁵. Overall, considering the lack of significant developments¹²⁶, no progress was made on establishing a robust track record to fight high-level corruption, as recommended in the previous years.

Enforcement against foreign bribery is still lacking. International recommendations to design a strategy to proactively detect and investigate foreign bribery cases and to provide for more time in the application of investigation measures in highly complex multi-jurisdictional cases remain among other recommendations unfulfilled since 2012¹²⁷. The Government considers Hungary's legislative framework appropriate to prevent and repress foreign bribery, focusing its activity in this area on organising trainings and on creating a framework for improving cooperation¹²⁸. While one conviction is reported¹²⁹, no new investigations into foreign bribery have been initiated during the reporting period¹³⁰.

The legislative steps taken to facilitate on-the-spot checks conducted by the EU Anti-Fraud Office (OLAF) for investigations involving EU funds have proven effective. In 2023, based on the legislation adopted in October 2022¹³¹, OLAF requested in several instances the National Tax and Customs Administration to secure the presence of a finance guard during OLAF's on-the-spot checks to ensure cooperation of the economic operator subject to the control and it received the necessary support. Following allegations of a corruption ring in managing authorities, more than 50 suspects have been brought before the courts on bribery charges in connection with EU funds, including a former deputy state secretary and 25 legal entities¹³². Furthermore, the Integrity Authority conducted successful

¹²⁵ Corruption Research Center Budapest (2023), *Fourteen Graphs and Two Tables on the New Trends of Corruption in the Hungarian Public Procurement 2005-2022*; information received in the context of the country visit to Hungary from Transparency International Hungary, K-Monitor, Corruption Research Center Budapest and Átlátszó. There is a prevalence of informal power networks, and centralised political corruption in Hungary, bolstered by economic connections within networks that revolve around a few oligarchs with close political ties, according to Bertelsmann Stiftung (2024), *Transformation Index: Hungary Country Report*.

¹²⁶ See above in this Section II on oversight and control mechanisms.

¹²⁷ OECD (2023), *Implementing the OECD Anti-Bribery Convention, Phase 4 Evaluation of Hungary: additional written follow-up report*. See also OECD (2023), *OECD Working Group on Bribery public statement on Hungary*. Transparency International (2022), *Exporting Corruption*, p. 51, reporting about little to no enforcement referencing that in the period of 2018-2021, Hungary opened one investigation, commenced no cases and concluded no cases.

¹²⁸ See Government Decision 1025/2024 of 14 February 2024.

¹²⁹ According to information received from the Government, in April 2024, the Budapest Regional Court convicted a defendant for having traded in honorary consular titles of different non-EU countries.

¹³⁰ Input from Hungary for the 2024 Rule of Law Report, p. 13.

¹³¹ Act XXIX of 2022 on the control of the use of European Union budget funds, which entered into force on 11 October 2022. In RRP milestone 226, Hungary committed to reforms to strengthen the cooperation with OLAF to reinforce the detection of fraud related to the implementation of Union support.

¹³² Prosecution service (2024), *Indictment in a case related to tender grants obtained through corruption – with video – press release of the Central Chief Investigating Prosecution Office*. The case concerns 108 EU-funded calls for proposals and a total of HUF 25 bn grant amount sought. See also Magyar Hang (2024), *54 people indicted in corruption case involving the Ministry of Finance and the Prime Minister's Office*; 24.hu (2024), *The prosecution service would send to prison Mihály Varga's former deputy state secretary and László Palkovics' confidant*; Forbes (2024), *Here is another 25 billion forint government corruption scandal: dozens of Mihály Varga's former subordinates are involved*. 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 18.

own-initiative proceedings in at least one case concerning budget fraud, including EU subsidies, in a case involving a high-level official and his family, finding irregularities¹³³.

There has been no further progress on lobbying and post-employment regulation, with plans to legislate in this area only in 2025. The 2023 Rule of Law Report recommended to Hungary to ‘[a]dopt comprehensive reforms on lobbying and revolving doors [...] providing for effective oversight and enforcement’¹³⁴. The new National Anti-Corruption Strategy 2024-2025 and Action Plan contain a commitment of the Government for a legislative proposal on lobbying law, including rules on revolving doors, to be prepared by the Ministry of Justice by 30 November 2025¹³⁵. Whether the proposal will provide for the creation of a transparency register and a legislative footprint to disclose contacts with interest representatives in the decision-making process, which are so far missing in Hungary, is not yet decided¹³⁶. In this context, the Minister of Justice is tasked by Government decision to evaluate and prepare a report on current lobbying practices¹³⁷. The Government committed further to a non-binding Code of Conduct for persons with executive functions, including contacts with lobbyists and post-employment restrictions¹³⁸. For Parliament, no steps have been reported for the establishment of a clear set of rules on contacts between members of Parliament and lobbyists to address concerns regarding the level of transparency in the decision-making process¹³⁹. Thus, Hungary’s lobbying rules remain incomplete, with no systematic follow-up ensured in case of non-compliance¹⁴⁰. Post-employment restrictions and cooling-off periods remain largely fragmented¹⁴¹ and limited in personal scope¹⁴². At the same time, no further steps have been taken to provide for more effective enforcement¹⁴³. A code of ethics for members of Parliament, that would include post-employment guidelines, is

¹³³ Integrity Authority (2024), *Conclusion of inquiry III_86_2023 – modernisation of cattle farm*. For more details, Telex (2024), *The Integrity Authority filed a complaint over the half-billion forint ‘dairy farm’ of the family of ex-minister János Süli*. The case was already publicly reported about in 2020 (Átlátszó (2020), *Corruption info: hundreds of millions of euros in EU funding for the company of the son of the minister responsible for the Paks investment*). See however the post of the National Assembly member Hadházy, Ákos (2024), Facebook post of 29 January 2024 on alleged inactivity of the Integrity Authority. Regarding the allegations reported about over the last two years of a corruption ring in managing authorities linked to national and EU funds that raised concerns as to the lack of systemic oversight, see above in this section on the track record.

¹³⁴ 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 2.

¹³⁵ Government Decision 1025/2024 of 14 February 2024. See also written contribution from the authorities in the context of the country visit to Hungary.

¹³⁶ Information received in the context of the country visit to Hungary from the Hungarian authorities.

¹³⁷ Information received in the context of the country visit to Hungary from the National Assembly.

¹³⁸ Information received in the context of the country visit to Hungary from the Hungarian authorities.

¹³⁹ See GRECO (2022), Fourth Evaluation Round – Third Interim Compliance Report, paras. 9-10. According to the National Assembly, parliamentary rules are clear and interest representatives have the opportunity to express their opinions (information received in the context of the country visit to Hungary from the National Assembly).

¹⁴⁰ See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, pp. 18-19.

¹⁴¹ 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary. See in this context also GRECO (2023), Fifth Evaluation Round – Evaluation Report, p. 56 *et seq.*

¹⁴² They apply only to a small group of officials and a limited set of public institutions, such as the State Audit Office and the National Media and Infocommunications Authority, see 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, pp. 17-18 (for 2022) and pp. 19-20 (for 2023).

¹⁴³ No sanctions are enforced in practice. The Government is still to specify the sectors and public officials’ positions to which cooling-off time restriction will apply with regard to business careers of public officials in the area, in which they were active beforehand.

planned¹⁴⁴. Without more steps taken for a comprehensive reform on lobbying and post-employment rules, there has been no further progress on the recommendation made in the previous years.

There has been no further progress to improve the asset declarations’ system, including effective oversight. The 2023 Rule of Law Report recommended to Hungary to ‘further improve the system of asset declarations, providing for effective oversight and enforcement’¹⁴⁵. On 7 December 2023, the Integrity Authority presented an ad-hoc report on Hungary’s asset declaration system, including an extensive set of recommendations to the Government¹⁴⁶. There is no official Government reply to this report yet. The National Anti-Corruption Strategy for 2024-2025 includes plans for the Ministry of Justice to create the possibility for electronic submission of asset declarations and to propose the introduction of an effective, proportionate, and dissuasive administrative and criminal sanctions’ regime for breaches of asset declaration obligations¹⁴⁷. The power to verify asset declarations has not yet been effectively transferred and provided to the Integrity Authority¹⁴⁸. In practice, according to the Integrity Authority, obstacles for its oversight role remain substantial, including the lack of direct access to certain registers necessary for the effective fulfilment of its verification tasks¹⁴⁹. Stakeholders stressed emerging risks, with private equity funds and fiduciary asset management arrangements providing for new opportunities to potentially hide assets, as they are removed from general oversight and access by the Integrity Authority¹⁵⁰.

¹⁴⁴ Government Decision 1025/2024 of 14 February 2024. According to Section 85 of Act XXXVI of 2012, restrictions apply for a period of two years after the termination of the mandate to members of Parliament to prevent economic conflicts of interest in that they are restricted to conclude a purchase agreement to acquire shareholdings of a business organisation operating with influence over the Hungarian or foreign State, a local government, the association of local governments, a foreign municipality, a political party, or a domestic or foreign religious community. GRECO has repeatedly called for the introduction of a code of ethics/conduct for members of Parliament, covering, among others, post-employment rules, and complementary, practical measures for their implementation, see GRECO Fourth Evaluation Round – Third Interim Compliance Report, pp. 3-4, paras. 8-11, with reference to the Fourth Evaluation Report, p. 17.

¹⁴⁵ 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 2.

¹⁴⁶ Integrity Authority (2023), *Ad-hoc report on asset declarations*. The report’s assessment was excluded from the Integrity Authority’s first annual analytical integrity report described above in this pillar I, p. 17.

¹⁴⁷ Government Decision 1025/2024 of 14 February 2024, Chapter 1. See also written contribution from the authorities in the context of the country visit to Hungary.

¹⁴⁸ Hungary committed under the RRP to provide the Integrity Authority with exclusive competence to verify the asset declarations of certain high-risk officials covered in Section 183 of Act CXXV of 2018 (including the Prime Minister, ministers, state secretaries, political director of the Prime Minister), as well as with the power to directly verify the public asset declarations of all high-risk officials. This is for example the case for the asset declarations of members of Parliament, where the Committee of Immunities of the National Assembly is tasked to verify asset declarations. For non-public asset declarations of high-risk officials, the Integrity Authority shall have at least the power to request the competent bodies to carry out the verification of those declarations and obtain the result of that verification.

¹⁴⁹ Integrity Authority (2023), *2022 Annual Analytical Report*, p. 152. See also above in this pillar I, pp. 17-18.

¹⁵⁰ Information received in the context of the country visit to Hungary from the Integrity Authority, K-Monitor and Transparency International Hungary. Even if a declarant as a beneficiary of private equity funds intends to transparently submit information on such assets in the declaration, the declaration form does not provide for sufficient clarity on how to report, as only shares in funds can be reported, with private equity not having shares but beneficiaries. Furthermore, since there is no publicly available database on such assets, there is no way to check or audit the income or the beneficiary status of equity funds. Reportedly, ministers were encouraged by a non-public Government decision (4100/2022) to transfer their holdings in public limited companies and small and medium-sized enterprises into such trusts. See RTL (2024), *The government covers up certain corporate assets of ministers with an undisclosed decision*; 24.hu (2024), *Ministerial fortunes may remain invisible as a result of a government decision*.

With regard to asset declarations of members of Parliament, concerns persist regarding their effective and regular monitoring and verification¹⁵¹. In the reporting period, no procedure against a member of Parliament before the National Assembly's Immunity Committee was initiated, and two members of Parliament decided to correct and rectify their asset declarations retrospectively following reports in media¹⁵². As previously reported, there is still no obligation for regular monitoring for the respective entities in Parliament or the Tax and Customs Administration to check the correctness and completeness of the declarations made. Asset declarations are generally verified only upon notification of suspicions, and potential follow-up is left to the discretion of the public official's employer or, in case of members of Parliament and other high-ranking officials, to the Immunity Committee. However, neither declarations of most high-ranking officials nor information about any follow-up are publicly available¹⁵³. Other previously identified shortcomings remain unaddressed, including more effective monitoring, verification, oversight and enforcement¹⁵⁴. Against this background, no progress has therefore been made towards implementing the recommendation made in the 2023 Rule of Law Report¹⁵⁵.

Guides and awareness-raising measures on conflicts of interests are envisaged, while legislative fragmentation and systemic weaknesses remain. The Government included in the Action Plan of the National Anti-Corruption Strategy 2024-2025 the adoption of a Code of Conduct for persons with executive functions¹⁵⁶, the aim of which is to provide new soft law rules for political and professional senior managers, their advisers, and Prime Minister's delegates. To increase awareness of integrity also in the National Assembly, in particular, on conflicts of interests, gifts and benefits, the Code of Conduct is planned to cover also members of Parliament and employees of the Office of the National Assembly¹⁵⁷. However, in 2023, there were no developments to address the systemic weaknesses reported on in 2023¹⁵⁸. These include, among others, the fragmentation of the regulatory framework on conflict of interests, including the lack of a general definition of conflict of interests and the

¹⁵¹ GRECO also found that the verification of declarations was clearly insufficient (GRECO (2023), Fifth Evaluation Round – Evaluation Report, p. 4, para. 3). In January 2024, members of Parliament continued largely to submit their asset declarations on paper. Of these, 63 used electronic software to complete and print the declaration, while 136 completed the declaration on paper (written contribution from the National Assembly in the context of the country visit to Hungary). No failures to comply within the deadline are reported.

¹⁵² Information received by the National Assembly in the context of the country visit to Hungary.

¹⁵³ While the declarations of members of Parliament are publicly available, they are often scanned documents filled out by hand, thus not being machine-readable. Furthermore, in 2023, while previously available, family members' names in asset declarations of member of Parliament have been retrospectively removed from all declarations published from 2010 onwards (information received in the context of the country visit to Hungary from National Data Protection and Freedom of Information Authority).

¹⁵⁴ See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary. See also K-Monitor (2023), *Hungarian MP's Assets: Less Declared and Still not Monitored*.

¹⁵⁵ Important weaknesses, risks and shortcomings remained as regards elements of the asset declaration system which create possible loopholes undermining the effectiveness of the measure were also identified by the Communication on the application of Regulation (EU, Euratom) 2020/2092 (15 January 2024). Council Implementing Decision (EU) 2022/2506 of 15 December 2022, recital 41.

¹⁵⁶ See above and RRP milestone 178.

¹⁵⁷ Written contribution from the National Assembly in the context of the country visit to Hungary.

¹⁵⁸ See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, pp. 21-23.

absence of a central supervisory body remain so far, as also pointed out by the Integrity Authority¹⁵⁹.

The new whistleblower protection law for EU funds entered into force. The new law transposing the EU Directive¹⁶⁰ to enhance the protection of whistleblowers reporting on potential wrongdoings relating to breaches of EU law has been in force since 24 July 2023¹⁶¹. Stakeholders flagged risks of legal uncertainty, with weaker protection levels for those cases that concern national funds compared to those that relate to EU funds¹⁶². An accompanying Government Decree sets out which Government bodies will be required to establish separate whistleblower disclosure systems¹⁶³ apart from the already operated online disclosure channels¹⁶⁴. The anonymous, secure whistleblower hotline of the Integrity Authority for corruption, fraud and conflicts of interests related to EU funds became operational in June 2023¹⁶⁵. Overall, some disclosures reportedly reach the respective entities, but whistleblower reporting is not yet a widespread practice¹⁶⁶. Also in 2023, no further steps have been taken yet to address the major operational deficiencies in the whistleblower regime in practice, including the limited protection against retaliation and the risks of disclosure of the whistleblowers' identity¹⁶⁷.

Shortcomings with regard to political party and campaign rules and their narrow scope of application remain unaddressed. As reported last year, some measures had been taken to increase the transparency of political party financial registries¹⁶⁸. The Government announced in its National Anti-Corruption Strategy 2024-2025 a review of the operations of political organisations and the enforcement of political party finance rules with a focus exclusively on preventing foreign funding of political parties¹⁶⁹. In February 2024, the State Audit Office imposed fines on six political parties for alleged illegal foreign funding during the 2022 election campaign¹⁷⁰. Challenges previously identified regarding political party and campaign

¹⁵⁹ Integrity Authority (2023), *2022 Annual Analytical Report*, p. 119.

¹⁶⁰ Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law.

¹⁶¹ Act XXV of 2023 on complaints, public interest disclosures and rules related to whistleblowing.

¹⁶² Information received in the context of the country visit to Hungary from K-Monitor and Transparency International Hungary; K-Monitor and Transparency International Hungary (2023), *Letter to the European Commission, Possible infringements of Directive 2019/1937 on the protection of persons who report breaches of Union law by the Hungarian Government*, noting that disclosures to media remain unprotected.

¹⁶³ Government Decree 225/2023 of 8 June 2023.

¹⁶⁴ At the Commissioner for Fundamental Rights, the National Protective Service, the Competition Authority, the Public Procurement Authority and the Prime Minister's Office.

¹⁶⁵ See written contribution from the Integrity Authority in the context of the country visit in Hungary and the Integrity Authority's website to report: <https://integritashatosag.whispli.com>.

¹⁶⁶ Anonymous whistleblowing on EU fraud can also be disclosed on the anti-lop.hu website. In 2023, reportedly 25 whistleblowing reports were received on the website, of which three are under investigation, and ten have been rejected as unfounded or after investigation. See also the Special Eurobarometer 584 on Corruption (2024) on the level of corruption reporting. The reluctance to report is partially due to the lack of financial support for those who risk potential retaliation (information received in the context of the country visit to Hungary from K-Monitor and Transparency International Hungary). Also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 23.

¹⁶⁷ See OECD (2021), *Implementing the OECD Anti-Bribery Convention, Phase 4 Two-Year Follow-Up Report: Hungary*, p. 3. The general prohibition of retaliation of the new, enforced Act applies only to whistleblower disclosures related to subject-matters in EU legal acts.

¹⁶⁸ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, pp. 24-25.

¹⁶⁹ See Government Decision 1025/2024 of 14 February 2024.

¹⁷⁰ State Audit Office (2024), *Partial Audit Report*. Bloomberg (2024), *Hungary Clamps Down on Orban's Opponents with Hefty Fine*. Intellinews (2024), *Hungarian State Audit Office fines opposition parties for*

financing rules¹⁷¹ have not been addressed in the reporting period and no actions in this regard are planned under the Strategy and Action Plan. Overall concerns therefore remain as regards the transparency of party financing¹⁷².

New obstacles to the transparency of public procurement appeared, while different levels of control exist for national and EU-funds related procurements. Businesses' attitudes towards corruption in the EU show that 29% of companies in Hungary (EU average 27%) think that corruption has prevented them from winning a public tender or a public procurement contract in practice in the last three years¹⁷³. Some measures to enhance competition in public procurement are included in the National Anti-Corruption Action Plan for 2024-2025¹⁷⁴. The members of the Anti-Corruption Task Force report that most of the proposals made in its report related to public procurement did not receive support by the Government¹⁷⁵. Stakeholders report that since autumn 2023, new obstacles have appeared for transparency of public procurement¹⁷⁶, highlighting practical challenges. For instance, they report that a new feature renders the bulk download of data on public procurement, and hence statistical analysis concerning risks of corruption and political favouritism, difficult¹⁷⁷. This restricts possibilities for public monitoring. Corruption risk sectors remained largely the same compared to previous years, with high risks in public procurement, construction, health, IT,

alleged foreign campaign finance. There are no legal possibilities to appeal the findings. Parties are subject to the prohibition of foreign funding. The Protection of National Sovereignty Act extended this prohibition to non-profit organisations which are now prohibited from accepting foreign funding and from using anonymous election donations or financial support from non-legal persons. The definition of foreign funding has a broad scope, encompassing not only financial contributions from other state and foreign natural or legal persons, but also already the provision of trainings.

¹⁷¹ Including the narrow scope of application, campaign activities that are conducted outside the official campaign period, systemic overspending on outdoor billboard advertising during the 2022 elections, political advertising on the social media platform Facebook, financed by third parties and intermediaries, including the conservative social media incubator Megafon Centre training pro-government influencers and promoting their posts as one of the largest spenders on political ads on Facebook in the election campaign, see 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, pp. 24-25; on the level of spending, see Lakmusz (2024), *How does anyone who is not a friend of Fidesz become a 'leftist'*; and Telex (2024), *SAO: CÖF and Megafon said that they had not cooperated with Fidesz*.

¹⁷² See in this context also OSCE ODIHR and Venice Commission (2020), *Guidelines on Political Party Regulation*, Second Edition, para. 194; OSCE ODIHR (2022), *Hungary Parliamentary Elections and Referendum - 3 April 2022 - ODIHR Election Observation Mission Final Report*, p. 22. State Audit Office audit findings cannot be challenged before an administrative court. See also GRECO (2019), *Third Evaluation Round – Second Addendum to the Second Compliance Report*, para. 24.

¹⁷³ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024), Report, IV. Reporting of Corruption.

¹⁷⁴ Government Decision 1025/2024 of 14 February 2024, Chapter 5. See also European Commission (2024), *2024 Country Report Hungary*, pp. 9 and 62 for further measures to enhance competition.

¹⁷⁵ See K-Monitor and Transparency International Hungary (2024), *Special report on the 2023 Anti-Corruption Task Force Report: Current issues in the fight against corruption in Hungary*.

¹⁷⁶ The new website of the Public Procurement Authority uses 'captcha' barriers, introduced to address IT security issues, which however limit machine-readability and comparability of vast amount of data by public monitors.

¹⁷⁷ Due to this new feature, public monitors, such as researchers and civil society, incurred extra costs, in order to still be able to obtain big data to continue their analysis of corruption risks and patterns in procurement over time. Information received in the context of the country visit to Hungary from Transparency International Hungary, K-Monitor and Corruption Research Center Budapest, indicating that the bulk download is now more difficult, as it would now have to be done manually step-by-step, as users can only log-in for a limited period of time, with repeated requests to authenticate again with 'captcha'.

and communication services¹⁷⁸. National legislation does not allow public entities to conclude contracts with or make payments to non-transparent entities. However, stakeholders report about emerging risks concerning transactions through non-transparent structures with transactions often being concluded through private equity funds or trust funds, preventing the public disclosure of their beneficial owners and change in ownership in practice¹⁷⁹. This uncertainty creates a challenge for the supervisory authority to track compliance with loan limits to companies owned by the owner of the bank. It also makes it difficult for the public to monitor the use public money if the state sells companies or concludes tender contracts with private equity funds¹⁸⁰. Overall, corruption risks were found to have increased in 2023 for public tenders related to national funds that are not controlled by the EU and thus where different levels of control and oversight applies¹⁸¹. In this context, high corruption risks were identified in particular for the local level and municipalities, indicating examples of how political networks can lead to abuse of tender processes, including favouritism due to close ties between business and politics¹⁸². Stakeholders continue to report about selective awarding to political affiliates¹⁸³, which carry the potential to increase corruption risks in a procurement market that is already vulnerable to corruption¹⁸⁴.

III. MEDIA PLURALISM AND MEDIA FREEDOM

Hungary's Fundamental Law¹⁸⁵ and sectoral legislation provide the legal framework for the protection of media freedom and pluralism. The Media Act¹⁸⁶ regulates, in detail, both the Hungarian media regulator, as well as the governance of public service media. The Freedom of Information Act establishes a detailed framework which regulates the right to access

¹⁷⁸ Input from Hungary for the 2024 Rule of Law report, pp. 11-13. See also Anti-Corruption Task Force (2023), *2022 Report of the Anti-Corruption Task Force*, and Corruption Research Center Budapest (2024), *Two Communication Companies in the Hungarian Public Procurement Market 2012-2023*.

¹⁷⁹ Information received in the context of the country visit to Hungary from Transparency International Hungary, K-Monitor and Corruption Research Center Budapest. According to the Government, national legislation does not allow public entities to conclude contracts with or make payments to non-transparent entities; information on the transparency of such entities is available and beneficial owners are in all cases identified.

¹⁸⁰ Assets of private equity funds have increased from 0.2% in 2020 to 2.3% of GDP in 2023.

¹⁸¹ Corruption Research Center Budapest (2023), *The new trends of corruption risks in Hungarian public procurement* (2023). On government communications contracts, see Szabad Európa (2024), *Overpricing is only one of the tricks – this is how Gyula Balásy gets all state orders*. Regarding EU-related procurement, see Integrity Authority (2024), *Conclusion of inquiry III_86_2023 – modernisation of cattle farm* and the Annual Analytical Report for 2022 with recommendations for managing authorities. Hungary has committed to reduce to 15% the high share of calls for tenders that result in a single bid, see RRP, while the share of single bids is reportedly significantly higher for high-value, non-EU fund-related public procurements. See also European Commission (2024), *The Single Market and Competitiveness Scoreboard* on access to public procurement in Hungary reporting 33% of single bids for 2022.

¹⁸² SELDI (2023), *Bridges to nowhere – State Capture and Corruption Risks in Fiscal Transfers and Public Procurement at the Local Level in Southeast Europe*, p. 57: when the mayor is from the same political party as the one forming the ruling coalition on the national level the value of public procurement contracts increases by approximately 56% in Hungary.

¹⁸³ Corruption Research Center Budapest (2023), *Fourteen Graphs and Two Tables on the New Trends of Corruption Risk in the Hungarian Public Procurement 2005-2022*; Corruption Research Center Budapest (2023), *White Elephants in Hungary – Lessons of some EU funded projects*. See also Átlátszó (2023), *We identified the companies that have won hundreds of public contracts in a single city*.

¹⁸⁴ See in this context also European Commission (2024), *2024 Country Report Hungary*, p. 4.

¹⁸⁵ Article IX(2) of the Fundamental Law.

¹⁸⁶ Act CLXXXV of 2010.

information held by public authorities¹⁸⁷. The Press Act¹⁸⁸ lays down general and fundamental rules on freedom of the press and media content.

There has been no progress to strengthen the functional independence of the Hungarian media regulator. The 2023 Rule of Law Report recommended to Hungary to ‘[i]ntroduce mechanisms to enhance the functional independence of the media regulatory authority taking into account European standards on the independence of media regulators’¹⁸⁹. The decision-making body of the Authority, the Media Council, remains composed of members all nominated by Parliament. The Commission’s action against Hungary in front of the Court of Justice - in relation to the Media Council’s refusal to renew the broadcasting license of independent radio station *Klubrádió*, which resulted in the radio being taken off air - is ongoing¹⁹⁰. In light of the unresolved concerns with regard to the authority, the 2024 Media Pluralism Monitor (MPM) once more assesses the independence and effectiveness of the Media Authority as an area presenting high risk, referring to the authority’s composition, lack of transparency of its decision-making process and ‘clear political bias’¹⁹¹. Given that no measures have been adopted or are planned to strengthen the regulator’s functional independence, there has been no progress as regards the recommendations made in the previous years.

There has been no progress to increase transparency and fairness in the distribution of state advertising. The 2023 Rule of Law Report recommended to Hungary to ‘adopt legislation to ensure fair and transparent distribution of advertising expenditure by the state and state-owned companies’¹⁹². No measures have been announced to that effect. Stakeholders concur that the State is, by far, the most important player in the media advertising ecosystem and that the channelling of significant state resources to pro-government media continues to prevent a level playing field in the Hungarian media landscape¹⁹³. MPM 2024 states that ‘for years now, the government is seen as the largest advertiser on the Hungarian media market’, continues to consider this to be an area of medium risk¹⁹⁴. Given that no legislative or other measures have been adopted or are planned by the Government, there has been no progress as regards the recommendations made in the previous years.

There are no specific rules on transparency in the ownership structure of media companies. Registers maintained by the media authority contain limited information on

¹⁸⁷ Hungary ranks 67th in the 2024 Reporters without Borders World Press Freedom Index compared to 72nd the previous year.

¹⁸⁸ Act CIV of 2010.

¹⁸⁹ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 2. In the 2023 Rule of Law Report, the Commission concluded that no progress had been made on the recommendation (2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 2).

¹⁹⁰ Action brought by the Commission on 17 February 2023 in case *Commission v Hungary* (Case C-92/23). *Klubrádió* currently operates online.

¹⁹¹ Media Pluralism Monitor 2024, country report on Hungary, pp. 15-16.

¹⁹² 2022 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 2. In the 2023 Rule of Law Report, the Commission concluded that no progress had been made on the recommendation (2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 2).

¹⁹³ Contribution from International Press Institute for the 2024 Rule of Law Report, p. 18; contribution from Mérték Media Monitor for the 2024 Rule of Law Report, p. 19; contribution from Reporters Without Borders for the 2024 Rule of Law Report, pp. 16-17.

¹⁹⁴ Media Pluralism Monitor 2024, country report on Hungary, p. 29.

media service providers, but direct ownership information is available via the business register. This leads the 2024 MPM to once more consider this a high-risk area although it points out that ‘in practice [...] the public is often aware of the ultimate beneficial owners behind a particular outlet’ due to the attention which journalists and researchers have given to this matter¹⁹⁵. There has been no change to the Hungarian system of review of market concentration in the media market and, to date, no attempt by the Media Authority to examine the impact of major operations on the plurality and diversity of the Hungarian media market¹⁹⁶.

There has been no progress to enhance the independence of public service media. The 2023 Rule of Law Report recommended to Hungary to ‘[s]trengthen the rules and mechanisms to enhance the independent governance and editorial independence of public service media taking into account European standards on public service media’¹⁹⁷. No significant legislative or policy changes have been adopted or are planned in terms of the governance and funding of public service media, and concerns in relation to its financial and editorial independence persist¹⁹⁸. As a consequence, the 2024 MPM has maintained its very high-risk score for this area based on its findings, among others, that public service media is financially dependent on the governing majority and the lack of effective control mechanisms¹⁹⁹. There has thus been no progress on the recommendations made in the previous years²⁰⁰.

Further legislative changes have introduced some restrictions to the freedom of information which had been subject to a recent reform. The 2023 Rule of Law Report noted that a recent reform sought to facilitate access to public information and rendered the charging of fees exceptional. The reform aimed to accelerate litigation in connection with data of public interest, by introducing very tight procedural deadlines. Stakeholders also noted that the reform had established the over-arching principle that public information should be provided free of charge, rendering associated fees exceptional²⁰¹. Stakeholders report that the reform has indeed resulted in speeding up litigation in freedom of information cases in front of the courts, although extraordinary remedies before the *Kúria* and ineffective enforcement proceedings significantly delay the release of the documents and data

¹⁹⁵ Media Pluralism Monitor 2024, country report on Hungary, pp. 19-20.

¹⁹⁶ See 2020, 2021 and 2022 Rule of Law Reports, Country Chapters on the rule of law situation in Hungary. An overview of the media market, including main players and trends, can be found in the 2023 Media Market Report prepared by the Media Authority. National Media and Infocommunications Authority (2023), *Media Market Report 2023*.

¹⁹⁷ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 2. In the 2023 Rule of Law Report, the Commission concluded that no progress had been made on the recommendation (2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 2).

¹⁹⁸ For details with regard to the legislative framework regulating public service media see 2022 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, pp. 22-23.

¹⁹⁹ Media Pluralism Monitor 2024, country report on Hungary, pp. 29-30.

²⁰⁰ According to the European Parliament’s Flash Eurobarometer: News & Media Survey 2023, 25% of respondents in Hungary stated that they trust public TV and radio stations, below the EU average of 48%.

²⁰¹ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 28. Stakeholders point out that under the new rules, the defendant may present its defence (the reasons for rejecting the access to documents application) orally at the first court hearing; in such a situation, the data requester cannot prepare effectively and has to develop its arguments right during the first hearing. Courts have adequate resources to process freedom of information cases within the statutory deadlines (information received in the context of the country visit to Hungary from the National Office for the Judiciary).

requested²⁰². In 2023 and 2024, Parliament adopted further legislative amendments, introducing new grounds for rejecting freedom of information requests²⁰³. Furthermore, in direct response to a court decision which had ordered access to certain unclassified but unpublished government documents, as of 1 March 2024 a legislative amendment²⁰⁴ expressly allowed the authorities to limit public access to this category of documents. According to stakeholders, these amendments make access to public information more difficult²⁰⁵. Parliament has so far not implemented a Constitutional Court decision²⁰⁶ requiring legislative amendments to establish effective judicial protection in case of freedom of information requests related to public funds, addressed to the recipients of such funds. While Hungary committed²⁰⁷ to ensure that all public bodies publish specified data on the new transparency portal, stakeholders point out that proactive data publication on the new portal is not mandatory for all entities performing a public duty and certain features of the portal hamper its usefulness in accessing data²⁰⁸. The MPM 2024 maintains its high-risk score for this area²⁰⁹.

²⁰² Joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, pp. 64-65; contribution from Hungarian Civil Liberties Union for the 2024 Rule of Law Report, p. 20. The *Kúria* has 60 days to rule on a petition for review limited to points of law (Section 31/C(5) of Act CXII of 2011); this procedural deadline cannot be extended.

²⁰³ Act CI of 2023 amended Act CXXII of 2009 and Act CXII of 2011. As of 30 December 2023, the new Section 3/A of Act CXXII of 2009 obliged State-owned companies to deny for a period of 10 years, following advice from a Minister, the freedom of information requests related to their foreign investments and foreign relations. As of 1 January 2024, the new Section 30(2a) of Act CXII of 2011 provides that public service entities may deny a freedom of information request if granting it would require the collection of data from another public service entity or would require the production of new data by comparing data in possession of the two entities. According to the Government, this amendment was necessary in order to meet the requirements set out both by the *Kúria* and the Constitutional Court (written contribution from the authorities in the context of the country visit to Hungary).

²⁰⁴ The new Section 7/A of Act CXXV of 2018 on Government administration introduced by Act CIX of 2023. On 16 March 2023, the Budapest Regional Court (15.P.22.010/2022/15), confirmed on appeal by the Budapest Regional Appeal Court (Pf.20236/2023/5) on 13 June 2023, ordered the Government to grant news portal hvg.hu access to unclassified but unpublished Government decisions. The new provision allows the authorities to refuse public access to such unclassified documents for a period of 20 years maximum to ‘safeguard the public interest’.

²⁰⁵ Joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, p. 64; contribution from Transparency International Hungary for the 2024 Rule of Law Report, p. 13.

²⁰⁶ Decision 7/2020. (V. 13.) AB concerned a freedom of information request addressed to a private company (not an entity performing a public duty) related to the construction of a motorway financed from EU funds.

²⁰⁷ Hungary committed to ensure that all public bodies proactively publish a predefined set of information on the use of public funds in a central register in an open, interoperable and machine-readable format, which allows bulk download and data to be sorted, searched, extracted, compared and reused; access to the data shall be provided free of any charge and without the need to register (RRP milestones 175, 176).

²⁰⁸ K-Monitor (2023), *Report on the Access to Information*, pp. 5-9. The new Central Public Data Information Register is an online repository where certain public entities upload metadata on their contracts (not the contracts themselves). The National Data Protection and Freedom of Information Authority has launched ‘transparency procedures’ in case of non-compliance; these procedures focused on data that had already been made public in the Electronic Public Procurement System. The Register does not allow search by the name of companies that were awarded the contracts. While data are accessible and downloadable in CSV and PDF formats, bulk access to data is prevented by ‘captchas’. The Register has a limited personal scope compared to the already existing but not widely used public data site (kozadat.hu) because it exempts several entities performing a public duty (*‘közfeladatot ellátó szerv’*). Only public entities having a budgetary status (*‘kölségvetési szerv’*) under Act CXCV of 2011 fall under the scope of the new disclosure rules (Section 37/C of Act CXII of 2011). Municipalities, municipality-owned companies, public interest trusts (e.g. Mathias Corvinus Collegium), State-owned companies (e.g. Hungarian National Asset Management Inc.,

Journalists and other media professionals continue to face numerous challenges. Following an amendment to the Criminal Code²¹⁰, slanderous or defamatory statements made in the press or in the media as part of the public discourse are no longer punishable, unless they ‘are aimed at a manifest and seriously offensive denial of the human dignity of the aggrieved party’. While stakeholders point out that physical attacks against journalists are very rare in Hungary, they continue to draw attention to the selective access to government premises and events, as well as the prevalence of seemingly coordinated smear and delegitimisation campaigns against various journalists who are frequently labelled ‘foreign agents’, ‘mercenaries’ and ‘traitors’²¹¹. The 2024 MPM continues to consider the safety of journalists to be an area of medium risk²¹². The 2023 Mapping Media Freedom monitoring report flags the targeting of numerous media outlets by Distributed Denial-of-Service (DDoS) cyberattacks as a new emerging threat²¹³. The Council of Europe’s Platform to promote the protection of journalism and safety of journalists registered two new alerts relating to, respectively, the adoption of the Protection of National Sovereignty Act²¹⁴ and DDoS attacks²¹⁵.

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Hungary is a parliamentary republic with a unicameral Parliament (National Assembly). Parliament, among other functions, adopts and amends the Fundamental Law of Hungary, legislates, including cardinal laws²¹⁶, elects the Prime Minister, and elects – by a two-thirds majority – the top rank public officials of the country. The President of the Republic is elected by Parliament. There are a number of institutions tasked with counter-balancing the powers of the legislature and the executive, and are entrusted with guaranteeing the respect of the constitutional order, including the Constitutional Court, the State Audit Office and the Ombudsperson (‘Commissioner for Fundamental Rights’); the latter is also tasked with the roles of the equality body and national human rights institution. The Constitutional Court reviews the constitutionality of laws and judicial decisions. In addition to the Government, the President of the Republic, every parliamentary committee and any member of Parliament may table a draft law.

Increasing state interventions and arbitrary decisions of the authorities weaken legal certainty and remain a problem for the operation of businesses in the single market. The

Hungarian Tourism Agency, Bethlen Gábor Fund Management Inc.) and the Hungarian National Bank are not required to provide data to the new Register. The entities falling outside the scope of the new rules are still obliged to publish data in accordance with the ‘general disclosure list’ (Annex 1 to Act CXII of 2011) but non-compliance is not sanctioned.

²⁰⁹ Media Pluralism Monitor 2024, country report on Hungary, p. 14.

²¹⁰ Sections 226(3) and 227(3) of Act C of 2012, amended by Act XXX of 2023 as of 2 June 2023.

²¹¹ Contribution from International Press Institute for the 2024 Rule of Law Report, p. 20; contribution from Reporters Without Borders for the 2024 Rule of Law Report, p. 18. See also Human Rights Watch (2024), ‘*I Can’t Do My Job as a Journalist*’ – *The Systematic Undermining of Media Freedom in Hungary*, p. 24-25.

²¹² Media Pluralism Monitor 2024, country report on Hungary, pp. 14-15.

²¹³ Media Freedom Rapid Response (2023), Mapping Media Freedom - Monitoring Report 2023, p. 28.

²¹⁴ See pillar IV.

²¹⁵ Council of Europe, Platform to promote the protection of journalism and safety of journalists.

²¹⁶ The Fundamental Law provides for the adoption of 36 cardinal laws containing detailed rules on the functioning of key institutions. They may be adopted or amended by a two-thirds majority of the members of Parliament present. The Venice Commission has been critical of Hungary for using cardinal acts beyond what is strictly necessary which has been considered questionable from a democratic perspective as it makes it difficult to introduce reforms in the future (CDL-AD(2012)009, para. 47).

2023 Rule of Law Report noted that the Government continued to use its emergency powers extensively, which undermines legal certainty and affects the operation of businesses in the single market²¹⁷. The Government extended until November 2024 the ‘state of danger’ declared by the Government on 25 May 2022 ‘in view of the armed conflict and humanitarian catastrophe in Ukraine and with a view to averting their impact on Hungary’²¹⁸. In this way, the Government can override Acts of Parliament. Several emergency measures adopted in the reporting period might have an impact on the business environment²¹⁹, while others do not seem to be related to the ‘state of danger’²²⁰. Parliamentary oversight of individual emergency measures is weak²²¹. Stakeholders reported that the Constitutional Court cannot ensure the effective and timely review of emergency measures²²² and that the extensive and prolonged use of the Government’s emergency powers has undermined legal certainty²²³. The Government has continued to declare certain investment projects to be of ‘strategic importance for the national economy’ or of ‘priority’. While the Government maintains that legal remedies before the ordinary courts exist, these types of projects are exempt from public oversight and control²²⁴ merely through decrees, which can only be challenged before the

²¹⁷ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 31.

²¹⁸ Government Decrees 167/2023 of 11 May 2023, 515/2023 of 22 November 2023 and 86/2024 of 17 April 2024 amended Government Decree 424/2022 of 28 October 2022 by extending the ‘state of danger’ until 26 November 2023, 24 May and 19 November 2024, respectively. The Government needed an authorisation from Parliament to extend the ‘state of danger’. This authorisation was given through Section 2(1) of Act XLII of 2022, as amended by Act XI of 2023, Act LXXII of 2023 and Act VIII of 2024. In parallel, Hungary has been under a ‘crisis situation caused by mass immigration’ since 10 March 2016.

²¹⁹ E.g. in the second half of 2023, the rules applicable to insolvency and winding up have been amended several times through Government Decrees: 265/2023 of 28 June 2023, 267/2023 of 29 June 2023, 335/2023 of 20 July 2023, 436/2023 and 437/2023 of 21 September. Also, Government Decree 279/2023 of 29 June 2023 increased from 10 to 15 % the discount retailers are forced to offer on certain food products. In 2023, the Government adopted 119 emergency measures; some emergency measures were subsequently incorporated in statute (information received in the context of the country visit to Hungary from the National Assembly). The Commission has brought infringement procedures against certain emergency measures considered incompatible with EU law (e.g. INFR(2021)2158, INFR(2022)4009, INFR(2022)4108). According to the Government, some emergency measures were adopted in the reporting period in order to protect vulnerable social groups and economic segments.

²²⁰ For instance, Government Decree 523/2023 of 30 November 2023 removes the protection granted to listed buildings and local heritage requirements established by local municipalities in the case of certain investments of strategic importance for the national economy. The apparent objective is to facilitate the building of a new university campus in the 8th District of Budapest without the consent of the local authorities (contribution from Hungarian Helsinki Committee for the 2024 Rule of Law Report, p. 38).

²²¹ Contribution from Democracy Reporting International for the 2024 Rule of Law Report, p. 5. The Government needs to keep Parliament informed about the decrees adopted during the ‘state of danger’; Parliament may repeal such Government decrees (Article 53 of the Fundamental Law); the Government has to take all measures necessary to guarantee the continuous functioning of Parliament and the Constitutional Court (see Article 52 of the Fundamental Law). Parliament has no ex ante control over individual emergency measures.

²²² Joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, p. 74; contribution from Eötvös Károly Policy Institute for the 2024 Rule of Law Report, p. 38.

²²³ Contribution from Council of Bars and Law Societies of Europe for the 2024 Rule of Law Report, p. 68.

²²⁴ The Government has issued Decrees under Act LIII of 2006 (replaced, as of 1 January 2024, by Act C of 2023 on Hungarian architecture). See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 32. Such measures include Government Decree 220/2023 of 1 June 2023 (two ports on Lake Balaton), Government Decree 263/2023 of 28 June 2023 (smart logistics park), Government Decree 373/2023 of 7 August 2023 (primary school), Government Decree 390/2023 of 14 August 2023 (technology park), Government Decree 418/2023 of 31 August 2023 (building material factory), Government Decree 423/2023 of 5 September 2023 (worker hostel next to an economic zone), Government Decree 429/2023 of 14 September 2023 (bank building, hotel development), Government Decree 483/2023 of 31 October 2023

Constitutional Court. So far, the Court has not annulled any of these Decrees²²⁵. On 19 June 2024, in the context of the European Semester, the Commission proposed that the Council recommend that Hungary ‘[i]mprove the regulatory framework and enhance competition in product markets and services by avoiding arbitrary administrative interventions and the selective use of tailor-made legislation providing undue advantage or disadvantage to specific companies, by applying competition scrutiny systematically to business transactions and by reducing the use of emergency measures to what is strictly necessary, in line with the principles of the single market and the rule of law’²²⁶.

The quality of law-making and the frequent changes in legislation remain a significant cause for concern. Stakeholders reported that while draft pieces of legislation are published on the Government’s website, response times are limited to the statutory eight days and there is no meaningful feedback²²⁷. Stakeholders also note that important legislative changes are not subject to public consultation or a meaningful debate in Parliament because of the Government’s practice to include only technical amendments in draft laws and then, following a purely formal process, introduce new provisions in the bill through the Committee on Legislation²²⁸ just before the final vote in Parliament²²⁹. The quality of law-

(new production hall and office), Government Decree 495/2023 of 2 November 2023 (industrial park), Government Decree 502/2023 of 13 November 2023 (industrial and logistics park), Government Decree 555/2023 of 12 December 2023 (apartment building), Government Decree 577/2023 of 18 December 2023 (university campus), Government Decree 671/2023 of 29 December 2023 (shooting range), Government Decree 10/2024 of 25 January 2024 (truck parking and logistics centre).

²²⁵ The Constitutional Court has dismissed the constitutional complaints challenging Government Decrees 384/2016 of 2 December 2016 and 141/2018 of 27 July 2018 (Decision 3441/2022. (X. 28.) AB and case II/02785/2023). The Constitutional Court has rejected the constitutional complaints challenging Government Decree 141/2018 of 27 July 2018 (Orders 3264/2021. (VII. 7.) AB, 3299/2021. (VII. 22.) AB and 3300/2021. (VII. 22.) AB), Government Decree 523/2021 of 6 September 2021 (3454/2022. (X. 28.) AB) and Government Decree 314/2022 of 11 August 2022 (Order 3087/2024. (III. 1.) AB). On 17 July 2024, the Constitutional Court found that a provision of Government Decree 6/2022 of 14 January 2022, repealed as of 1 August 2023, had been unconstitutional; it dismissed the remainder of the complaint.

²²⁶ COM(2024) 617 final. The Commission has launched several investigations and infringement procedures against Hungary, many concerning legislation in fields defined by the Hungarian Government as having strategic interest. For instance, the Commission has recently referred Hungary to the Court of Justice of the EU in two cases concerning restrictive Hungarian measures in the construction sector (cases C-499/23 and C-144/24) and is actively pursuing cases in other sectors, including public procurement and motorway concessions. Commission services are also closely monitoring the situation in the retail sector and are carrying out investigations with regard to potential violations of EU law in this area. A pattern of instances where companies from elsewhere in the EU are effectively hindered in their economic activities in another Member State would constitute a major threat to the Single Market.

²²⁷ Joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, p. 91. The Hungarian Chamber of Commerce and Industry – a public body set up by law – has entered into a strategic cooperation with the Government and several Ministries and it has the opportunity to comment on draft legislation (information received in the context of the country visit to Hungary from the Hungarian Chamber of Commerce and Industry).

²²⁸ The Committee on Legislation is a special committee whose activities are specifically related to the legislative functions of the National Assembly; it is chaired by the Deputy Speaker. As a rule, the Committee intervenes following the end of the detailed debate in plenary (Section 46(2) of the Rules of Procedure).

²²⁹ Joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, p. 70; contribution from Eötvös Károly Policy Institute for the 2024 Rule of Law Report, p. 36.

making and the frequent changes in legislation remain a significant cause for concern about the effectiveness of investment protection among companies in Hungary²³⁰.

Concerns regarding the independence and effective functioning of the Commissioner for Fundamental Rights remain. The UN Sub-Committee on Accreditation (SCA) of the Global Alliance of NHRIs (GANHRI) has not revised its earlier recommendation that the Hungarian national human rights institution be downgraded to B-status²³¹. Stakeholders reported that the deficiencies pointed out by the SCA persist²³². In December 2023, the Deputy Commissioner organised a conference on vulnerable groups in the courtroom, with a special focus on children and refugees²³³. The mandate of the Commissioner was significantly extended in 2023 with regard to the protection of persons with disabilities²³⁴, as well as whistleblower protection²³⁵. According to stakeholders, the trend²³⁶ to merge all specialised human right protection institutions into the Commissioner's Office could be highly problematic due to not only the lack of functional independence of the Office, but also due to the decreased institutional focus and resources in an organisation with multiple mandates²³⁷. In that context, the Government refers to the Paris Principles²³⁸ that require that

²³⁰ 23% of the surveyed companies perceive the frequent changes in legislation or concerns about quality of law-making process as a reason for the lack of confidence in investment protection (Figure 56, 2024 EU Justice Scoreboard).

²³¹ The SCA found that the Commissioner for Fundamental Rights 'has not effectively engaged on [...] all human rights issues, including in relation to vulnerable groups such as ethnic minorities, LGBTI, refugees and migrants as well as constitutional court cases deemed political and institutional, media pluralism, civic space and judicial independence (2022 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 27).

²³² Contribution from Hungarian Helsinki Committee for the 2024 Rule of Law Report, p. 40, joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, pp. 78-79. According to stakeholders, the rules of the selection and appointment process have not been amended, and respective concerns have not been addressed. The publicly available information on the Commissioner's work evidences that it still does not effectively promote and protect all human rights and vulnerable groups. The Commissioner did not issue any public reports that dealt with the rights of LGBTIQ people or refugees and migrants, despite the wide-ranging rights violations suffered by these groups in Hungary, and did not focus in any of its public reports on the situation of human rights defenders, media pluralism or judicial independence either. According to the Government, the Commissioner is independent in his or her actions, subject only to the law, and cannot be instructed in connection with his or her activities.

²³³ In addition, in June and October 2023 and February, April and June 2024, the Commissioner participated at conferences about children's rights, equal treatment, sustainable development, national minorities and the role of ombudspersons.

²³⁴ As of 1 January 2023, the Commissioner has assumed the responsibilities of the independent mechanism defined in the UN Convention on the Rights of Persons with Disabilities (see 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 33). The Commissioner has set up a Disability Advisory Board for the close cooperation with CSOs and the performance of his tasks related to the independent disability mechanism (input from Hungary for the 2024 Rule of Law Report, p. 21).

²³⁵ Input from Hungary for the 2024 Rule of Law Report, p. 21. Act XXV of 2023 on complaints, disclosures in of public interest and related rules on reporting abuses entered into force on 24 July 2023. The system run by the Commissioner's Office is meant to be the external reporting channel as defined in Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (the 'Whistleblowing Directive').

²³⁶ Since 2015, the Commissioner has been tasked with the role of National Preventive Mechanism under the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. In 2020, the Commissioner took over the responsibilities of the Independent Police Complaints Board. In 2021, the Equal Treatment Authority was merged into the Commissioner's Office.

²³⁷ Contribution from Hungarian Helsinki Committee for the 2024 Rule of Law Report, pp. 40-41.

²³⁸ Principles relating to the Status of National Institutions, adopted by the UN General Assembly on 20 December 1993.

national institutions possess the widest possible mandate to promote and protect human rights.

New rules rendered the judicial review of administrative decisions more difficult. As of 1 January 2024, a public authority may amend or repeal its administrative decision after receiving an application seeking judicial review but before transmitting the file to the court²³⁹. If the citizen or a business fails to contest the amended decision within eight days, the application for review becomes ineffective, and the authority is not obliged to transmit the file to the court. According to stakeholders²⁴⁰, these new rules, and in particular the tight deadline, is a disincentive for citizens and businesses to seek judicial review, which raises issues under European standards²⁴¹. Also, the Court of Justice of the EU has found that national law preventing third-country nationals who, on the basis of confidential information obtained by the Constitution Protection Office, have had their residence permit withdrawn, or have been refused such a permit, from being informed even of the substance of the grounds forming the basis of those decisions and from using such information for the purposes of an administrative procedure or judicial proceedings violates EU law²⁴².

Concerns persist due to the absence of effective judicial or other oversight as regards the use of secret surveillance measures outside criminal proceedings. The 2023 Rule of Law Report noted that ‘[f]urther concerns [had] been raised due to the absence of effective oversight as regards the use of secret surveillance measures outside criminal proceedings’²⁴³. No steps have been taken to address these concerns. Stakeholders note that the excessively broad range of potential victims of surveillance may give rise to mass-surveillance²⁴⁴. On 13 June 2024, the Council of Europe’s Committee of Ministers ‘strongly exhorted the authorities to adopt, without further delay, the measures required to bring the domestic legislation on secret surveillance for national security purposes fully and effectively in line with the Convention requirements’²⁴⁵. Previous reports highlighted that journalists and other media professionals have been targeted by spyware²⁴⁶. In spite of subsequent investigations into the

²³⁹ Section 115(5) and (6) of Act CL of 2016 on general rules of administrative procedure and Section 83(7) and (6) of Act I of 2017 on the code of administrative litigation. Before this legislative amendment, the citizen or business could amend the application before the court within a fair and reasonable time limit (30 days). After the legislative amendment, the citizen or business is bound by a strict 8-day time limit before the file reaches the court. If the public authority decides not to file a defence with the court, it can amend its administrative decision to the detriment of the citizen or business (e.g. by increasing the amount of the administrative fine) at any point of time until the file is transmitted to the court or even until the end of the court proceedings.

²⁴⁰ Contribution from Magistrats Européens pour la Démocratie et Libertés (MEDEL) for the 2024 Rule of Law Report, pp. 23-24; contribution from Res Iudicata Association for the 2024 Rule of Law Report, pp. 22-23. The Hungarian Chamber of Commerce and Industry has not registered any questions, comments or complaints from its members as regards the judicial review of administrative decision (information received in the context of the country visit to Hungary from the Hungarian Chamber of Commerce and Industry).

²⁴¹ Judgments of the European Court of Human Rights of 27 February 1980, *Deweert v Belgium*, 6903/75 and of 9 November 2004, *Marpa Zeeland B.V and Metal Welding B.V. v Netherlands*, 46300/99.

²⁴² See for EU law requirements judgment of the Court of Justice of 25 April 2024, *NW and PQ*, C-420/22 and C-528/22, ECLI:EU:C:2024:344, para. 101.

²⁴³ See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 33. The execution of judgments of the European Court of Human Rights of 12 January 2016, *Szabó and Vissy v Hungary*, 37138/14 and of 29 September 2022, *Hüttl v Hungary*, 58032/16 is pending.

²⁴⁴ Joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, p. 61.

²⁴⁵ CM/Del/Dec(2024)1501/H46-17.

²⁴⁶ For details, see 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 29.

matter, there were no consequences for individuals or entities concerned, nor were any legislative changes initiated²⁴⁷. In February 2024, Hungary signed with China a memorandum of understanding on performing joint patrolling services which allows Chinese police to operate on the territory of Hungary²⁴⁸.

The Constitutional Court still reviews the merits of final rulings of ordinary courts in politically sensitive cases. The 2023 Rule of Law Report noted that legal certainty had been improved as public authorities could no longer challenge final judicial decisions before the Constitutional Court²⁴⁹. The Constitutional Court, composed of members elected by Parliament without the involvement of the judiciary, is still reviewing judgments of the ordinary courts acting as ‘a court of fourth instance’²⁵⁰. In several such cases, some of them politically sensitive, final judgments of the ordinary courts were annulled²⁵¹. Stakeholders noted that the Constitutional Court does not have a case allocation scheme and cases are assigned to judges-rapporteurs under non-transparent rules²⁵². Moreover, although the law requires that the Constitutional Court render a decision on a constitutional complaint within a reasonable time, stakeholders noted that the Constitutional Court is not bound by procedural deadlines when hearing such cases²⁵³. As a rule, this domestic remedy needs to be exhausted before filing an application with the European Court of Human Rights²⁵⁴. As of 14 December

²⁴⁷ Friedrich Naumann Foundation and International Press Institute (2024), *Watching the Watchdogs – Spyware surveillance of journalists in Europe and the ongoing fight for accountability*, pp. 12-14.

²⁴⁸ Reuters (2024), *In unusual move, China offers to back Hungary in security matters*. The text of the agreement is not public.

²⁴⁹ On 13 December 2023, the Commission positively assessed this legislative amendment under Article 15 of the Common Provisions Regulation.

²⁵⁰ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, pp. 27-28. Normally, the Constitutional Court reviews the constitutionality of judicial decisions and annuls them only if they violate fundamental rights. However, in certain cases the Constitutional Court qualifies the *contra legem* interpretation of the law by ordinary courts as a breach of the right to a fair trial, allowing the Constitutional Court to assess the merits of the case (see Decision 20/2017. (VII. 18.) AB, paragraphs 23-30; Decision 23/2018. (XII. 28.) AB, paragraphs 26-30).

²⁵¹ Joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, p. 23. On 9 May 2023, the Constitutional Court annulled a *Kúria* judgment that had dismissed the application of a mayor from the governing party brought against his political opponent because of libel (Decision 3234/2023. (VI. 2.) AB); on 11 July 2023, the Constitutional Court annulled a judgment of the Győr Regional Court that had allowed a local referendum concerning the expansion of the Győr industrial zone (Decision 16/2023. (VII. 25.) AB); on 19 July 2023, the Constitutional Court annulled two *Kúria* judgments that had allowed a national referendum on questions concerning public education (Decisions 20/2023. (VIII. 7.) AB and 21/2023. (VIII. 7.) AB); on 19 December 2023, the Constitutional Court annulled a *Kúria* judgment that had dismissed the application of a public interest trust headed by the Prime Minister’s political director brought against an opposition party for libel (2/2024. (I. 9.) AB); on 9 January 2024, the Constitutional Court annulled two *Kúria* judgments that had allowed a national referendum on questions concerning public education (Decisions 3/2024. (I. 25.) AB and 4/2024. (I. 25.) AB); on 5 July 2024, the Constitutional Court annulled a *Kúria* decision confirming the election of the opposition candidate for the post of mayor of Budapest (case IV/02641/2024).

²⁵² Joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, p. 12.

²⁵³ Joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, p. 23. For instance, on 9 May 2023, the Constitutional Court dismissed a constitutional complaint, filed on 26 June 2013, challenging an individual judgment in a freedom of information case (Decision 3233/2023. (VI. 2.) AB).

²⁵⁴ Decision of the European Court of Human Rights of 19 June 2018, *Mendrei v. Hungary*, 54927/15, of 12 March 2019, *Szalontay v Hungary*, 71327/13, and of 4 June 2019, *Karsai v Hungary*, 22172/14.

2023, an omnibus law²⁵⁵ inserted a new provision in the Constitutional Court Act²⁵⁶ allowing the Constitutional Court to give an advisory opinion – upon request of the Court of Justice of the EU²⁵⁷ – on the interpretation of the rules related to Hungary’s constitutional order, constitutional requirements, constitutional traditions, national identity, sovereignty, population, and rights and freedoms enshrined in the Fundamental Law.

On 1 January 2024, Hungary had 45 leading judgments of the European Court of Human Rights pending implementation, an increase of two compared to the previous year²⁵⁸. Hungary’s rate of leading judgments from the past 10 years that remain pending is at 76% (compared to 71% in 2023), which remains the highest in the EU, and the average time that the judgments have been pending implementation is over 6 years and 2 months (compared to over 6 years and 8 months in 2023)²⁵⁹. The oldest leading judgment, pending implementation for almost 15 years, concerns the violation of the right to freedom of assembly²⁶⁰. As regards the respect of payment deadlines, on 31 December 2023 there were 47 cases in total awaiting confirmation of payments (compared to 82 in 2022)²⁶¹. On 1 July 2024, the number of leading judgments pending implementation had increased to 47²⁶². The execution of the judgments of the European Court of Human Rights in the *Kenedi v Hungary*²⁶³ and *Magyar Helsinki Bizottság v Hungary*²⁶⁴ cases is still pending. Hungary also faces challenges as regards the effective implementation of judgments of the Court of Justice of the EU²⁶⁵.

²⁵⁵ Act LXXXV of 2023.

²⁵⁶ Section 38/A of Act CLI of 2011 on the Constitutional Court.

²⁵⁷ EU law does not provide for such a request by the Court of Justice of the EU.

²⁵⁸ The adoption of necessary execution measures for a judgment by the European Court of Human Rights is supervised by the Council of Europe’s Committee of Ministers. It is the Committee’s practice to group cases against a State requiring similar execution measures, particularly general measures, and examine them jointly. The first case in the group is designated as the leading case as regards the supervision of the general measures and repetitive cases within the group can be closed when it is assessed that all possible individual measures needed to provide redress to the applicant have been taken. According to the Government, it always cooperates with the Committee of Ministers, however often complex measures need to be taken to execute the judgments.

²⁵⁹ All figures are calculated by the European Implementation Network and are based on the number of cases that are considered pending at the annual cut-off date of 1 January 2024. See the Contribution from the European Implementation Network for the 2024 Rule of Law Report, p. 5.

²⁶⁰ Judgment of the European Court of Human Rights of 7 October 2008, *Patyi and Others v Hungary*, 5529/05, pending implementation since 2009.

²⁶¹ Council of Europe (2024), *Supervision of the execution of judgments decisions of the European Court of Human Rights – 17th Annual Report of the Committee of Ministers – 2023*, p. 137.

²⁶² Data according to the online database of the Council of Europe (HUDOC).

²⁶³ Judgment of the European Court of Human Rights of 26 May 2009, *Kenedi v Hungary*, 31475/05. The Court found the violation of the applicant’s right to freedom of expression on account of the continued resistance of the authorities to grant him access to documents concerning the Hungarian secret services for the purpose of historical research and the lack of an effective remedy in this respect.

²⁶⁴ Judgment of the European Court of Human Rights of 8 November 2016, *Magyar Helsinki Bizottság v Hungary*, 18030/11. The Court found the violation of the applicant’s freedom to receive information on account of the authorities’ refusal, in 2009, to provide it with the names of public defenders and the number of their appointments for a survey on the efficiency of the public defenders system.

²⁶⁵ On 24 April 2024, the Commission called on Hungary to fully comply with the ruling of the Court of Justice in case C-66/18 and decided to send a letter of formal notice to that end. Also on 24 April 2024, the Commission decided to send a letter of formal notice to Hungary for failing to comply with the ruling of the Court of Justice in case C-823/21. In another case, on 13 June 2024, the Court of Justice found that Hungary had failed to take all the necessary measures to comply with the judgment delivered by the Court on 17

There has been no progress in removing existing obstacles affecting civil society organisations, while new legislation further undermined civic space. The 2023 Rule of Law Report recommended to Hungary to ‘[f]oster a safe and enabling civic space and remove obstacles affecting civil society organisations, including by repealing legislation that hampers their capacity of working, in particular the immigration tax’²⁶⁶. While the overall legal framework for CSOs²⁶⁷ did not change in 2023 and is generally in line with European standards²⁶⁸, the space for civil society continues to be rated as ‘obstructed’²⁶⁹. Stakeholders reported that government-coordinated smear campaigns and vilification of independent CSOs remain a current practice²⁷⁰. The implementation of the law²⁷¹, adopted in 2021 to repeal the Transparency Act²⁷² in line with the judgment of the Court of Justice²⁷³, is pending²⁷⁴. The so-called ‘child-protection law’²⁷⁵, amending, among others, the law on national public education²⁷⁶, authorises the responsible minister to regulate by decree the conditions of registration for CSOs that are allowed to give sex education classes in public education institutions. No such decree has been issued ever since, thereby limiting the activity of the CSOs concerned²⁷⁷. As of 1 January 2023, in response to a judgment of the Court of

December 2020 in Case C-808/18; according to the Court of Justice, that failure, which consists in deliberately avoiding the application of a common EU policy as a whole, constitutes an unprecedented and extremely serious infringement of EU law.

²⁶⁶ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 2. In 2023, the Commission registered ‘[n]o progress on removing obstacles affecting civil society organisations’. See also 2022 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 2.

²⁶⁷ Including Act V of 2013 on the Civil Code and Act CLXV of 2011 on the Freedom of Association, Public Benefit Status and the Operation and Financing of Civil Society Organisations.

²⁶⁸ Joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, p. 86.

²⁶⁹ Rating by CIVICUS; ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

²⁷⁰ Joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, p. 69; contribution from Human Rights Watch for the 2024 Rule of Law Report, p. 20.

²⁷¹ Act XLIX of 2021; an application seeking the review of the law is pending before the Constitutional Court (Case IV/05049/2021).

²⁷² Act LXXVI of 2017 on the transparency of organisations which receive support from abroad.

²⁷³ Judgment of the Court of Justice of 18 June 2020, *Commission v Hungary (Transparency of associations)*, C-78/18, ECLI:EU:C:2020:476.

²⁷⁴ Under the new rules, in May 2022, the State Audit Office carried out legality checks on all accounts of CSOs with an annual balance sheet exceeding a certain amount and, therefore, considered capable of influencing public life. The Summary Report published by the State Audit Office on 2 December 2022 announced that the rules governing both the selection criteria and the methodology for the assessment would be reviewed. The audit of the financial management of CSOs is included in the 2024 audit plan of the State Audit Office (information received in the context of the country visit to Hungary from the State Audit Office).

²⁷⁵ Act LXXIX of 2021 on stricter action against paedophile offenders and amending certain acts for the protection of children lays down a number of restrictive and discriminatory measures; in particular, it prohibits or limits access to content that propagates or portrays the so-called ‘divergence from self-identity corresponding to sex at birth, sex change or homosexuality’ for individuals under the age of 18. The Commission considered that the law violates the internal market rules, the fundamental rights of individuals (in particular LGBTIQ people) as well as - with regard to those fundamental rights - the EU values; on 15 July 2022, the Commission decided to refer Hungary to the Court of Justice (case C-769/22, pending).

²⁷⁶ Act CXC of 2011 on national public education.

²⁷⁷ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Hungary, p. 36. The Media Authority, relying on the so-called ‘child-protection law’, decided that the official campaign video of the 28th Budapest Pride festival may be aired by a commercial TV channel between 10 p.m. and 5 a.m. only (Decision 496/2023 of 4 July 2023).

Justice²⁷⁸, Hungary amended its legislation which criminalised the organisation of activities carried out with a view to assisting the initiation of applications for international protection that do not fulfil the national criteria for granting that protection. Another law²⁷⁹ introducing a special 25% immigration tax applicable to financial support received by organisations carrying out ‘activities facilitating immigration’, which also raised concerns, continues to apply, although it is not enforced in practice²⁸⁰. On 12 December 2023, Parliament adopted the Protection of National Sovereignty Act²⁸¹; it establishes a new office with broadly defined competences tasked with reporting on any person or organisation suspected of serving foreign interests and/or receiving foreign funding. Independent media outlets issued a statement warning that the new law is ‘capable of severely restricting the freedom of the press’²⁸². In June 2024, the new office launched investigations into the activities and funding of an anti-corruption CSO and an investigative media outlet²⁸³. The new law also amended the political party and campaign finance rules without public consultation. Therefore, there has been no progress on the recommendation made in the 2023 Rule of Law Report.

Concerns related to the State’s role in financing civil society persist. Overall, 40% of civil society’s resources come from public funding²⁸⁴. Stakeholders report that this income is distributed unevenly²⁸⁵, and that the operation of state funding for CSOs is non-transparent²⁸⁶.

²⁷⁸ The Court of Justice has held that Section 353/A of Act C of 2012, introduced by Section 11(1) of Act VI of 2018 (part of the so-called ‘Stop Soros’ legislative package) breached Union law, see judgment of the Court of Justice of 16 November 2021, *Commission v Hungary (Incrimination de l’aide aux demandeurs d’asile)*, C-821/19, ECLI:EU:C:2021:930.

²⁷⁹ Section 253 of Act XLI of 2018.

²⁸⁰ Joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, p. 69.

²⁸¹ Act LXXXVIII of 2023 on the protection of national sovereignty. On 7 February 2024, the Commission decided to launch infringement proceedings against Hungary; on 23 May 2024, the Commission sent a reasoned opinion. On 18 March 2024, the Venice Commission concluded that the Act has established a new body with extremely broad competences which can interfere with the privacy of any legal or natural entity and engage in naming and shaming of this entity without being subject to any control or review mechanism; it risks having a chilling effect on the free and democratic discussion in the Hungarian society; the regulation related to the establishment of the Sovereignty Protection Office and its mandate and competencies is at odds with international standards and should be repealed (Venice Commission, CDL(2024)002, para. 65).

²⁸² Contribution from International Press Institute for the 2024 Rule of Law Report, p. 16; contribution from Mérték Media Monitor for the 2024 Rule of Law Report, p. 21; contribution from Reporters Without Borders for the 2024 Rule of Law Report, p. 17. See also Friedrich Naumann Foundation and International Press Institute (2024), *Watching the Watchdogs – Spyware surveillance of journalists in Europe and the ongoing fight for accountability*, p. 14.

²⁸³ Telex (2024), *Transparency International and Átlátszó became the first targets of the Sovereignty Protection Office*; Transparency International Hungary (2024), *Press statement: Hungary’s Sovereignty Protection Office targets Transparency International Hungary with investigation*.

²⁸⁴ The total income of associations and foundations in 2022 was HUF 1 270 billion (EUR 3.2 billion), more than the year before (HUF 1 070 billion; EUR 2.7 billion). Of this, some 40% came from public funding, 25% from private sources, with the rest originating from generated own income and a variety of other sources (joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, p. 89).

²⁸⁵ 68.5% of the CSOs work with an annual budget of not more than HUF 5 million (EUR 12 644), and only 8% have income larger than HUF 50 million (EUR 126 444), with the average per organisation being around HUF 25 million (EUR 63 222). Independent organisations promoting human rights and similar issues and independent theatres rarely are able to secure public funding (joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, pp. 89-90).

²⁸⁶ Joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, p. 90; contribution from Ökotárs for the 2024 Rule of Law Report, p. 22.

Funding earmarked for civil society is often absorbed by organisations affiliated with the governing parties²⁸⁷. Also in this respect, no progress has been made on the implementation of the recommendation made in the previous years to remove obstacles affecting CSOs. The increasing lack of state funding is to some extent offset by the growing amount of individual donations²⁸⁸. Cutting off CSOs from public funding increases their dependence on crowdsourcing tools and on philanthropies and donors from abroad²⁸⁹.

There is little room for CSOs and human rights defenders to engage effectively with public institutions on issues of significant societal impact. The involvement of local communities in debates related to investment projects (e.g. vehicle battery factories), has been limited through legislation²⁹⁰. The Government continued the practice of ‘national consultation’²⁹¹. Independent CSOs can participate in the monitoring committees that oversee the spending of EU funds at national level and in the Anti-Corruption Task Force²⁹².

²⁸⁷ The central state support instrument to CSOs, the National Cooperation Fund provides grants annually to some 4 000 organisations with a total budget of HUF 13.9 billion (EUR 35 151 607) in 2024. According to the Government, the evaluation of applications and the monitoring of the attainment of the objectives supported are carried out by five committees, each consisting of nine members, some of whom are elected by CSOs themselves. Additionally, the Village and Town Civil Funds (for CSOs operating in settlements under and over 5 000 inhabitants, respectively) each distributed HUF 5 billion (EUR 12 644 000). A large part of the Hungarian civil society sector is not eligible for funding by the National Cooperation Fund which actively promotes government agendas (European Commission: Civil Society Landscape in the European Union - Research in support of the Citizens, Equality, Rights and Values (CERV) Programme, p. 19). A specific provision of the Public Finances Act (Section 111(9) CXCV of 2011, in fine) allows the funding through the Town Civil Fund of CSOs that stand elections (see K-Monitor (2024), *According to the State Audit Office, the Prime Minister’s Office lawfully awards public funds to organisations that stand elections*). According to media reports, 251 (87%) of the organisations awarded at least HUF 15 million (EUR 37 933) from the Town Civil Fund in 2021, 2022 and 2024 were affiliated with the governing party (Válasz Online (2024), *Fidesz has built a gigantic network of GONGOs for the elections – several little ‘Szilárd Németh’ can jump into action*).

²⁸⁸ In 2023, both the amount collected from the assignment of 1% of personal income tax (a scheme available since 1997) and the number of taxpayers using this option grew significantly, by approximately 26% compared to 2022 (with a total amount HUF 15.3 billion – EUR 38 692 057 – offered by 1.8 million taxpayers). At the same time, tax incentives for donations remain meagre: there are no tax benefits at all for private persons after their donations, and companies may decrease their corporate tax base with 20% of the donation, but only in case of CSOs with public benefit status (21% of all organisations) (joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, p. 90).

²⁸⁹ In 2023, important new opportunities opened thanks to the EU’s Citizens, Equality, Rights and Values (CERV) program and USAID’s Central Europe program (joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, p. 90; contribution from Ökotárs for the 2024 Rule of Law Report, p. 22).

²⁹⁰ Between April and December 2023, an emergency measure (Government Decree 146/2023 of 27 April 2023) allowed that townhall meetings discussing local matters be held solely via electronic means of communication. Also, on 23 May 2024, the European Commission decided to open an infringement procedure by sending a letter of formal notice to Hungary (INFR(2024)2011) for failing to fully implement the requirements of the Convention on access to information, public participation in decision-making and access to justice in environmental matters (Aarhus Convention). According to the European Commission, in its national legislation, Hungary does not ensure the right to challenge before a court all decisions or omissions of national authorities in the following environmental policy areas: nature protection, water management, air quality, waste management, industrial emissions, and noise protection.

²⁹¹ The ‘national consultation’ is a tool consisting of letters sent directly to every Hungarian household ‘on behalf of the Government of Hungary’, accompanied by questionnaires allowing the citizens to submit answers to sets of questions formulated by the Government and supported by a countrywide billboard and

Annex I: List of sources in alphabetical order*

* *The list of contributions received in the context of the consultation for the 2024 Rule of Law report can be found at https://commission.europa.eu/publications/2024-rule-law-report-targeted-stakeholder-consultation_en*

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media campaign. The 'national consultation' organised between November 2023 and January 2024, focused on the presumed impact of various EU policies on Hungary's national sovereignty.

²⁹² Joint contribution from Amnesty International Hungary and eight other CSOs for the 2024 Rule of Law Report, p. 92. According to stakeholders, the application of Háttér Society (an LGBTIQ organisation) to participate in a monitoring committee was arbitrarily rejected (contribution from Háttér Society for the 2024 Rule of Law Report, p. 12; contribution from ILGA-Europe for the 2024 Rule of Law Report, p. 29). According to the Government, any CSOs can present their own views in the process of public consultation on draft laws.

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Annex II: Country visit to Hungary

The Commission services held virtual meetings in February 2024 with:

- Amnesty International Hungary
- *Átlátszó*
- Bea Bodrogi lawyer, media expert
- Buda Central District Court
- Corruption Research Center Budapest
- ELTE Media Department
- Eötvös Károly Policy Institute
- Hungarian Association of Journalists (*MÚOSZ*)
- Hungarian Association of Judges (*MABIE*)
- Hungarian Bar Association (*MŰK*)
- Hungarian Civil Liberties Union (*TASZ*)
- Hungarian Chamber of Commerce and Industry (*MKIK*)
- Hungarian Helsinki Committee
- Integrity Authority
- K-Monitor
- *Kúria* (Supreme Court)
- Media Service Support and Asset Management Fund (*MTVA*)
- Mérték Media Monitor
- Ministry for European Affairs
- Ministry of Finance
- Ministry of Interior
- Ministry of Justice
- National Assembly (*Országgyűlés*)
- National Data Protection and Freedom of Information Authority (*NAIH*)
- National Judicial Council (*OBT*)
- National Media and Infocommunications Authority (*NMHH*)
- National Office for the Judiciary (*OBH*)
- Office of the Commissioner for Fundamental Rights
- Prosecution Service of Hungary
- State Audit Office (*Állami Számvevőszék*)
- Transparency International Hungary

* The Commission also met the following organisations in a number of horizontal meetings:

- Amnesty International EU
- Centre for Democracy and Technology Europe
- Centre for European Volunteering
- Civil Liberties Union for Europe
- Civil Rights Defenders

- Civil Society Europe
- Culture Action Europe
- Democracy Reporting International
- European Centre for Non-Profit Law
- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Free Press Unlimited
- International Federation for Human Rights
- International Planned Parenthood Federation
- International Press Institute
- Irish Council for Civil Liberties
- JEF Europe
- Open Society Foundations
- Philanthropy Europe Association
- PICUM
- Reporters Without Borders
- SOLIDAR
- Transparency International EU