

# 2024 Rule of Law Report - targeted stakeholder consultation

Fields marked with \* are mandatory.

## Introduction

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

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

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

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

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

## Type of information

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

## A) Legislative developments

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

## B) Policy developments

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

## C) Developments related to the judiciary / independent authorities

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

## D) Any other relevant developments

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

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

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

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

## About you

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\* I am giving my contribution as

Civil society organisation/NGO

\* Organisation name

250 character(s) maximum

Háttér Society

Main Areas of Work

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

If "Other", please specify

Human rights of LGBTQI people

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

500 character(s) maximum

[www.en.hatter.hu/](http://www.en.hatter.hu/)

Founded in 1995, Háttér is the oldest and largest LGBTQI organization in Hungary. Its aims are calling attention to the problems faced by LGBTQI people; providing support services; exploring the situation and needs of LGBTQI people; mainstreaming these concerns in laws and public services; protecting the human rights of LGBTQI people and tackling discrimination against them; and promoting their health and well-being.

Transparency register number

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

397132948685-34

\* Country of origin

Please add the country of origin of your organisation

Hungary

First name

Eszter

Surname

Polgári

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

hatter@hatter.hu

\* Publication of your contribution and privacy settings

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

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

I agree with the personal data protection provisions.

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

## Questions on horizontal developments

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

Overview topics for contribution

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

Please provide any relevant information on horizontal developments here

*5000 character(s) maximum*

## Questions for contribution

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The following four pillars (I.-IV.) are sub-divided into topics (A., B., etc.) and sub-topics (1., 2., 3., etc.). For each of the topics and sub-topics, you are invited to provide (1) information on measures taken to implement the recommendations addressed to the Member State in the 2023 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter of the 2023 Rule of Law Report and (2) any other significant developments since January 2023[3]. Please always include a link to and reference relevant legislation/documents (in the national language and/or where available, in English). Significant developments can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices.

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

should be covered.

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

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

Member State covered in contribution [only one choice possible]

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

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

## I. Justice System

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

*5000 character(s) maximum*

## A. Independence

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

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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

Promotion of judges and prosecutors (incl. judicial review)

*5000 character(s) maximum*

Allocation of cases in courts

*5000 character(s) maximum*

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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

## Independence/autonomy of the prosecution service

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

Civil society organizations litigating before Hungarian courts constantly fear that the governing parties – having constitutional majority in the Parliament – will over-legislate positive court judgments, i.e. simply eliminate the results of strategic litigation through enacting legislation overwriting court decisions. On April 21, 2023 the Veszprém Regional Court quashed the government office's decision and obliged the government office to carry out a new assessment: the judgment argued that trans women are entitled to the 'Women 40' preferential pension scheme. (Judgment of the Veszprém Regional Court no. 101.K.701.331/2022/7.) The plaintiff, represented by Háttér Society, obtained her legal gender recognition in 2013, but when she inquired about her eligibility for early pension in 2021, she learned that the pension provider continued to record her as man. She challenged the decision in court, where the government office argued that the 'Women 40' benefit was intended to compensate women for their role in raising children and maintaining a family (although single women are by no means excluded from it). The court ruled that the government office had unlawfully narrowed the definition of "sex" in the relevant legislation to sex at birth. In compliance with the court's ruling, the government office initially amended the plaintiff's data in the register allowing her to retire after 40 years of employment. Háttér Society communicated about the legal victory, which attracted significant attention from the press. In response to that, in mid-July 2023, government MPs submitted an amendment to Act no. LXXX of 1997 on social security pension benefits: only the insurance period corresponding to gainful activities performed as a woman could count towards the eligibility period. [Bill no. T/4659. Available at: Available at: <https://www.parlament.hu/irom42/04659/04659.pdf> (in Hungarian)] The proposal was eventually withdrawn in October 2023 without further explanation. [Petition for withdrawal dated on October 17, 2023. Available at: <https://www.parlament.hu/documents/d/guest/onallo-inditvany-visszavonasa-t4659> (in Hungarian)] Although the government office whose decision was quashed by the court, initially recognized the plaintiff's eligibility for the 'Women 40' pension benefit, the Hungarian State Treasury withdrew the government office's decision (Decision no. EFMÉLTF/49-2/2023.), and the latter passed a new decision holding that only the period after 2013 counts towards the qualifying period. (Decision no. FEL/L100/1338/2021.) The petition for judicial review is currently pending at the Veszprém Regional Court. Despite the fact that in the given case, the legislative proposal was dropped, actions of political actors unequivocally interfered with the administration of justice, and state authorities sought to circumvent the judgment of the Veszprém Regional Court.

## B. Quality of justice

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

2)

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

5000 character(s) maximum

### Resources of the judiciary (human/financial/material)

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

### Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)

5000 character(s) maximum

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

5000 character(s) maximum

## C. Efficiency of the justice system

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

2)

### Length of proceedings

5000 character(s) maximum

The Hungarian Parliament in an omnibus bill passed during the emergency situation in May 2020 banned legal gender recognition for trans people by introducing the concept of the 'sex at birth' into the Act on Registry Procedures (ARP). (Act no. XXX of 2020, Section 33) Háltér Society represented a client who submitted his request for legal gender recognition after the new rule was introduced in May 2020. The request was rejected by the Budapest Capital Government Office (BCGO) and a petition for judicial review was filed. The preceding judge at the Budapest Regional Court requested – while suspending the case at hand – the Constitutional Court to review whether the impugned provision of the ARP is in compliance with the Fundamental Law (concrete constitutional review). In line with Article 24 (2) b) of the Fundamental Law, the Constitutional Court in such cases, i.e. when a judge seeks the review of the constitutionality of any law applicable in a particular case, shall deliver a decision “as a priority but within no more than ninety days”. The judge’s petition for constitutional review arrived on July 25, 2021, and it was only dealt with in Decision no. 3058/2023. (II. 16.), significantly exceeding the time limit for the decision. Not only did the Constitutional Court failed to keep the deadline set out in the Fundamental Law, but the concrete case in the context of which the petition had been filed remained suspended for over a year and a half. The Constitutional Court rejected the petition and found that the challenged provision, i.e. the unamendable registration of the 'sex at birth' does not violate the Fundamental Law. The Budapest Regional Court following the decision of the Constitutional Court had no other option but to reject the petition. Between July 1 and November 30, 2020 three constitutional complaints were submitted directly against the modified provision of the ARP under Article 26 (2) of the Act CLI of 2011 on the Constitutional Court. These constitutional complaints were only decided (and rejected) after the decision in the concrete review case had been rendered, i.e. in May 2023, some almost 3 years after the submission of the petition. [Constitutional Court Order no. 3235/2023. (VII. 2.)]

The standing rules of the Constitutional Court indicate that in case of constitutional complaints the decision on admissibility has to be taken within 120 days after receiving the complaint. Although the standing rules have no normative value and are thus not enforceable, the deadline is not even remotely respected by the Constitutional Court. Háltér Society represented a client seeking to get her foreign same-sex marriage recognized in Hungary as registered partnership. After exhausting all the remedies, she submitted a constitutional complaint against the rejection of the Curia (Supreme Court). (Case number: IV/2589/2022) The complaint was registered on January 12, 2023 (after the Constitutional Court had requested supplementing arguments), and the decision on admissibility was communicated almost a year after the initial submission, on November 21, 2023. No decision has been taken so far.

Similarly, in a case concerning the recognition of a foreign name change for a transgender person with double citizenship the constitutional complaint was registered by the Constitutional Court on July 5, 2022, and the decision on rejection was only communicated on November 28, 2023. [Constitutional Court Order no. 3529/2023. (XII. 14.)] No separate decision on admissibility was taken.

As the constitutional complaint is deemed an effective remedy for the purposes of submitting an individual complaint to the European Court of Human Rights (i.e. it needs to be exhausted), victims of human rights violations are put on hold for an excessive period of time awaiting the decision of the Constitutional Court – which due to being politically loyal to the government rarely rules in their favor in LGBTQI rights cases – before they can submit a complaint under Article 34 of the European Convention on Human Rights.

Other - please specify

*5000 character(s) maximum*

Failure to implement the judgments of the European Court of Human Rights:

The European Court of Human Rights (ECtHR) delivered a judgment in *Rana v. Hungary* on July 16, 2020: the decision found a violation for non-compliance with Hungary's positive obligation to provide an accessible and foreseeable procedure for non-Hungarians lawfully resident in the country to get their gender legally recognized. (*Rana v. Hungary*, appl. no. 40888/17, judgment of July 16, 2020) The applicant in the case – in line with standards set out in the case-law of the ECtHR concerning Hungary – submitted a constitutional complaint to exhaust the domestic remedies (while parallel turning to the ECtHR). The Constitutional Court rejected the constitutional complaint, but ex officio proceeded to examine if the case presents any unconstitutional omission. In Decision no. 6/2018. (VI. 27.), it found that the Parliament failed in fulfilling its legislative obligation and called on them to rectify the situation, i.e. enact rules that allow legal gender recognition for refugees in Hungary, by December 31, 2018. No such legislative proposal has been tabled so far, and since May 29, 2020 legal gender recognition is not available for Hungarian citizens either.

Failure to comply with the judgment of the Court of Justice of the European Union in the *Coman* case (C-673/16)

The Hungarian authorities have consistently rejected the recognition of foreign same-sex marriages in Hungary, even if one of the partners is a Hungarian citizen. *Háttér Society* litigated several cases where the plaintiffs requested recognition of their same-sex marriage concluded abroad. While the Budapest Capital Regional Court delivered a judgment that mandated the recognition of a marriage as registered partnership (Judgment no. 9.K.700.491/2022/12), in the review procedure the Curia overturned it. The judgment – having precedential status now – stated the Hungarian legal framework offers no such possibility. (Judgment no. Kfv.V.37.135/2023.6.)

*Háttér Society* sent a public interest submission to the Ministry of Justice containing a legislative proposal for the amendment of Act no. XXVIII of 2017 on private international law. With reference to prior – later overturned – Hungarian court judgments and the *Coman* judgment of the CJEU, the submission contained a proposal that would have allowed for the automatic recognition of foreign same-sex marriages as registered partnerships in Hungary. (The letter, sent on August 10, 2023, is on file with *Háttér Society*.)

In its response dated on October 20, 2023, the Ministry of Justice explained in great detail why the submitted legislative proposal cannot be endorsed. The Article L (1) of the Fundamental Law defines the institution of marriage as the union of a man and a woman, same-sex couples may benefit from concluding a registered partnership, which is designated to give them legal recognition. The Ministry emphasized that “same-sex marriages concluded abroad where the personal law of one of the partners is the Hungarian law, must be deemed non-existent in Hungary”. The legal evaluation is the same if none of the partners has Hungarian law as their personal law, but one of their countries of citizenship does not recognize same-sex marriages. If the countries of both spouses recognize same-sex marriages, then their recognition would violate the Hungarian public order. In sum, under no circumstances can same-sex marriages concluded abroad get recognition in Hungary. (Response of the Ministry of Justice, dated on October 20, 2023, on file with *Háttér Society*.)

## II. Anti-Corruption Framework

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

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

5000 character(s) maximum

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

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

## B. Prevention

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

5000 character(s) maximum

In compliance with the expectations set by the European Union, the Hungarian state set up a number of monitoring committees whose task is to oversee the use of public funds. Háttér Society – among others – applied, by the deadline set out in the call, for membership in the Monitoring Committee for Hungary’s Recovery and Resilience Plan. The results of the selection process were communicated on May 22, 2023: the letter explained that Háttér Society received maximum points in the evaluation, but because in the given policy area, there was another organization with the same score, the criterion prescribed for a tie was applied: the organization with longer existence was chosen. Through a freedom of information request, Háttér Society got access to the list of chosen organizations, and the one selected in the impugned policy area was established 16 years after Háttér. For non-compliance with the rules on selection, Háttér submitted a complaint on June 19, 2023. The Prime Minister’s Office in a decision containing contradictory arguments again rejected Háttér’s submission. (Decision no. RRF/819/3.) It failed to reflect on the fact that the chosen organization received only 11 points in the evaluation process, in contrast with Háttér’s 17 points (apart from the fact that Háttér was founded much earlier). The decision argued that the selected organization has a much broader scope of operation in the field of health care than Háttér, although the selection criteria allowed for no such consideration, thus it could not have been evaluated as long as both organizations do operate in the given field. On October 27, 2023 Háttér Society submitted another complaint, which was rejected by the Prime Minister’s Office on November 21, 2023. [Decision no. RRF/819/9. (2023)] The controversy has been communicated to the European Commission, Háttér has not taken further action.

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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

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

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

*5000 character(s) maximum*

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

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

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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

## C. Repressive measures

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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

Other - please specify

*5000 character(s) maximum*

### III. Media pluralism and media freedom

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

*5000 character(s) maximum*

#### A. Media authorities and bodies

*(Cf. Article 30 of Directive 2018/1808)*

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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

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

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

*5000 character(s) maximum*

Safeguards against state / political interference, in particular:

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

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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

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

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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

Other - please specify

*5000 character(s) maximum*

Sections 1, 3, 9, 10, 11 of Act LXXIX of 2021 on stricter actions against pedophile offenders, and the amendment of certain laws for the protection of children (the Anti-LGBTQI law) amended a number of

sectoral laws, including Act CLXXXV of 2010 on media services and mass communication. The Anti-LGBTQI law restricts access of minors to "content that is pornographic or that depicts sexuality as having a purpose in itself or that depicts or propagates divergence from self-identity corresponding to sex at birth, sex change or homosexuality." The Media Council of the National Media and Infocommunications Authority (Nemzeti Média és Hírközlési Hatóság) accordingly updated its "recommendation on classification (ratings)" on September 15, 2021.

Until mid-June, 2023 the Hungarian media authority received 136 reports alleging non compliance with Section 9 (6) of the Media Act outlawing content depicting or promoting homosexuality, divergence from the sex at birth or gender reassignment for minors.

-- 22 reports concerned content aired by a service provider registered in Hungary (thus within the jurisdiction of the Media Council): no procedure was initiated against such service providers, and hence no sanction was imposed.

-- 58 reports were submitted against foreign service providers: 36 related to content aired in linear media services, while 22 targeted streaming services registered outside Hungary.

The Media Council reached out to its foreign counterparts with requests to proceed against service providers registered in another EU member state in 24 instances. The case files Háttér has access to indicate that the media authority only selectively refers explicitly to the anti-LGBTQI law, but it follows the spirit of the law and seeks to sanction LGBTQI content not rated – in its view – adequately. While the foreign media authorities have so far refrained from imposing sanctions upon the request of the Media Council, these proceedings contribute to the chilling effect of the law. The Media Council's reasoning in these cases is inconsistent: at times they take action against content touching upon sexual orientation and gender identity, yet they do not refer to the specific provisions introduced by the anti-LGBTQI law. It is, thus, unforeseeable what content will trigger the application of the law and will result in an 18+ rating.

Cases from 2023: Following a complaint, the Media Council investigated the children's film *Strange World*, available on the Disney+ streaming service, which was labeled "6+" by the service provider. The protagonist of the movie is an out-gay character who develops a crush on a same-sex character and comes out to his father. The Media Council's investigation focused on whether the age rating was appropriate and found that, under national legislation, the program falls into the category of "not recommended for children under 12" because of its message, its violent and threatening scenes, its visual and sound effects. In addition to the incorrect age rating, Disney+ did not prominently display the age rating of media content, which also constitutes an infringement. On March 6, 2023 the Dutch Media Authority was notified. In an email sent on April 13, 2023 it informed the Media Council that in their assessment.

In June, 2023 Rtl Klub requested the a priori classification of "The official campaign film of the 28th Pride Festival" from the Media Council. Prior to the adoption of the anti-LGBTQI law, the promotional video of the yearly Pride festival was aired as a social service advertisement by the service provider. In 2022, they refrained from it, however, no Media Council assessment was requested.

In Decision No 496/2023 (VII. 4.) the Media Council found that the impugned content is not in line with the requirements set for social service advertisement, and it may be aired only between 10 p.m. and 5 a.m. After establishing the Pride Festival "that is known to be one of the major events and celebration of people with orientations other than heterosexual", the Media Council immediately invoked the provision inserted by the anti-LGBTQI law into the Media Law (the ban on content depicting and promoting homosexuality and gender diversity) and concluded that it belongs into class V (not recommended below the age of 18). After recalling the above-mentioned Guidelines, it concluded: "the Programme is capable of adversely influencing the appropriate physical, mental and moral development of children, and therefore may not be published by the Media Service Provider as social service advertisement pursuant to Section 32 (4a) of the Media Act."

Both RTL Klub and Budapest Pride (represented by Háttér Society) sought judicial review of the Media Council's decision. Budapest Pride's petition was rejected for alleged lack of standing in the case, an appeal was submitted against the judgment. Both procedures are pending.

## IV. Other institutional issues related to checks and balances

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

*5000 character(s) maximum*

### A. The process for preparing and enacting laws

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

[1] This includes also the consultation of social partners

*5000 character(s) maximum*

The legislative procedure – as evidenced, for instance, by the adoption of the Anti-LGBTQI law or the Regime Defense Act discussed below – in the majority of the cases no room is offered for civil society organizations to formally intervene, submit opinions, or in any way influence the decision-making procedure. Public consultation on bills is only mandatory if the bill is tabled by a member of the Parliament, this is easily circumvented by submitting legislative proposals by individual members of Parliament. According to Act no. CXXXI of 2010 on public participation in the preparation of laws on the hand, limits the scope of the obligation to consult non-state actors to bills tabled by the members of the Parliament, on the other hand, special situations – e.g. some sort of extraordinary (emergency) regime – further allows to bypass consultation procedures. And since currently there is a 'state preventive defense' in Hungary in line with Article 51 of the Fundamental Law, ignoring the obligation to consult civil society organizations may be lawfully ignored.

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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

Regime for constitutional review of laws

*5000 character(s) maximum*

## B. Independent authorities

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

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

5000 character(s) maximum

In 2020 the former Equal Treatment Authority was subordinated to the Commissioner for Fundamental Rights (CFR). The ombudsman is known to be inactive in the field of LGBTQI rights, he has not responded to any call for action in this field. In 2022, the Commissioner for Fundamental Rights (CFR) was downgraded by GANHRI from an A to a B status as Hungary's national human rights institution, since it failed to effectively carry out its mandate in relation to vulnerable groups such as ethnic minorities, LGBTQI people, human rights defenders, refugees and migrants, or human rights issues such as media pluralism and civic space; all evidencing a lack of independence. In addition, the CFR's selection and appointment process was considered as not being sufficiently broad and transparent. The operation of the Equal Treatment Directorate (ETD) – whose predecessor was an active and progressive defender of LGBTQI rights – has been subject of serious criticism. In 2022, out of the 37 cases published on their website only one concerned discrimination based on sexual orientation and none gender identity. The only case on sexual orientation ended with an amicable agreement between the parties. In 2023, the ETD published so far published information on 17 cases, out of which 15 concerned discrimination based on disability, one on motherhood and one on belonging to an ethnic minority. Háttér Society represented a client who alleged having been discriminated against based on sexual orientation at the workplace; his petition was rejected. This case does not appear on the list. Additionally, the decisions of the ETD may be appealed before courts, and in the experience of the litigating lawyers – contrary to its former practice – the ETD seeks to enforce higher legal fees in case of a judgment in its favor is rendered. The Equal Treatment Directorate to date still does not have an appointed director.

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

5000 character(s) maximum

## C. Accessibility and judicial review of administrative decisions

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

5000 character(s) maximum

Judicial review of administrative decisions:

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

## D. The enabling framework for civil society

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

5000 character(s) maximum

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

5000 character(s) maximum

Regime Defense Law: On December 12, 2023 the Hungarian Parliament passed the Act no. LXXXVIII of 2023 on the protection of national sovereignty (Regime Defense Law). According to the governmental narrative the law is meant to protect against foreign interference into domestic affairs and ultimately to protect national sovereignty, yet in effect it serves to conserve their power based on arbitrariness and scapegoating. Apart from taking actions against candidates running for a political office for accepting foreign funding, the law contains deliberately vague and undefined rules on who and how can endanger Hungary's sovereignty. The law creates the Office for the Defense of Sovereignty with overbroad and arbitrary powers to investigate any person or organization they deem to be serving a foreign interest carrying the risk of jeopardizing Hungary's sovereignty. According to Section 3, "(i) in the context of its investigative function, the Office

a) detects and investigates the following activities carried out in the interests of another State or, regardless of its legal status, of a foreign body or organization or natural person:

(aa) advocacy activities, excluding activities carried out by diplomatic missions, consular posts and professional representative organizations,

(ab) information manipulation and disinformation activities,

(ac) activities aimed at influencing democratic debate and the decision-making processes of the State and

society, including activities influencing the decision-making process of persons exercising public authority, if they could harm or threaten the sovereignty of Hungary;

b) identifies and investigates organizations whose activities using foreign funding may influence the outcome of elections;

c) identifies and investigates organizations that use foreign funding to influence the will of voters, or support such activities."

It will have wide investigative powers allowing it to "have access to all data in the possession of the organization under investigation" (Section 8). There is no remedy against the report published. Apart from the sweeping powers the Office will have, investigations are stigmatizing and capable of hindering the daily operation of the affected organizations.

Smear campaigns targeting civil society organizations and activists: On July 25, 2023 Sixty-Four Counties Youth Movement (SFCYM) published a document titled 'Proposals to curb the harmful activities of foreign-funded LGBTQP lobbying organisations'. SFCYM not only declared that LGBTQI organizations – Háltér Society being the oldest and biggest among these – constitute "national security threats", but it explicitly calls for establishing a "special monitoring body" to scrutinize LGBTQI civil society actors' work, funding, network and their attempts to influence, presumably, state actors. Háltér Society learned from an article published in July, 2023 that the 2021 petition to dissolve the organization addressed to the prosecution service by SFCYM and other extreme-right actors had been rejected by the Chief Prosecution Service, however, no further information was provided; Háltér had not been notified either of the petition, or the rejection. Not only civil society organizations working for the rights of sexual and gender minorities but also individuals were also accused of defending pedophiles: the investigation started following the report to the police by a human rights defender working for the Hungarian Helsinki Committee (HHC) is still pending. Most recently, Budapest Pride organizers were harassed and insulted by SFCYM members in July 2023. The investigation into their harassment and insult was closed due to lack of evidence on December 11, 2023, the data protection case is still pending. Right-wing media's condemnation is triggered by any LGBTQI event – be that a Hungarian Bar Association-accredited training for attorneys, a rainbow colored bench. Some of these attacks remained at the level of an accusatory article, while other reactions necessitated reporting to the police, as a result of which criminal investigations were started.

In response to the continuous criticism from the EU in relation to the Anti-LGBTQI law, the question of child protection has appeared in the government's latest 'national consultation' launched on November 17, 2023. The national consultation revolves around issues where the government disagrees with Brussels as the EU is labeled, revoking the Anti-LGBTQI law is one of these points of disagreement. (Question 10 of the national consultation, available at: <https://abouthungary.hu/blog/the-12th-national-consultation-has-launched-here-are-the-eleven-questions>) Although the response rate to national consultations is always low, the subsequent governmental communication focuses on the high proportion of responses that are in line with the political majority's agenda making it extremely difficult to refute the unsubstantiated results.

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

*5000 character(s) maximum*

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

5000 character(s) maximum

Civil society organizations – in particular those that have been critical of the human rights record of the Government – are not provided with a forum to discuss or propose policy decisions and measures, and are formally involved in the adoption of such instruments. The Human Rights Working Group theoretically operating within the auspices of the Ministry of Justice has not been convened in 2023 (and in previous years either). On June 21, 2023 Háttér Society did receive an invitation to the meeting of the Family Affairs Civil Working Groups meeting that forms part of the Legal Equality Working Group (which supposedly took over the role of the Human Rights Working Group). Háttér proposed the following agenda items in response to the invitation: recognition of same-sex marriages concluded abroad, the situation of LGBTQI persons in the adoption procedures, and expanding family support schemes to rainbow families. The State Secretary of the Ministry of Justice proposed that given the time constraints of the meeting, these agenda points will be discussed in the next session of the Legal Equality Working Group. No such meeting has been convened since then.

## E. Initiatives to foster a rule of law culture

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

5000 character(s) maximum

Other - please specify

5000 character(s) maximum

## Contact

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