

# HUNGARY 2012 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Hungary is a multiparty parliamentary democracy. Legislative authority is vested in the unicameral National Assembly (parliament). Parliament elects the president (the head of state) every five years. The president appoints a prime minister from the majority party or coalition following national elections every four years. Effective January 1, a single round national election system replaced the previous two-round system. The most recent parliamentary elections in April 2010 were assessed as free and fair. The conservative Fidesz-Christian Democrat coalition won a two-thirds parliamentary majority. Fidesz's prime ministerial candidate, Viktor Orban, took office in 2010. Security forces reported to civilian authorities.

Among the most important human rights problems during the year were societal discrimination and exclusion of the Romani population, as well as violent right-wing extremism that included a strong anti-Semitic component. Discrimination against Roma continued to limit significantly their access to education, employment, health care, and social services. Right-wing extremism, including public campaigns by paramilitary groups to intimidate and incite hatred against Roma and other minorities, persisted. The government used its two-thirds parliamentary majority to implement constitutional reform, the speed and extent of which raised concerns that checks and balances were eroding. These concerns were magnified by the enactment of numerous "cardinal laws" that require supermajorities to overturn in the future, by the large number of new laws passed, and by little or no minority consultation in many cases. The new Fundamental Law (constitution), which replaced the 1949 constitution, went into effect on January 1. The government amended laws concerning the judicial system, religious organizations, and media freedom, which all entered into effect. However, concerns remained that provisions contained in the new legislation could undermine judicial independence, equal treatment of religious groups, and media pluralism.

Other human rights problems during the year included police use of excessive force against suspects, particularly Roma; laws that caused concerns over the powers of the media regulatory authority, which could encourage self-censorship; government corruption; societal violence against women and children; sexual harassment of women; anti-Semitic assaults and vandalism; a politically determined process of recognizing churches; and trafficking in persons.

The government generally took steps to prosecute and punish officials who committed abuses, whether in the security services or elsewhere in the government.

## **Section 1 Respect for the Integrity of the Person, Including Freedom from:**

### **a. Arbitrary or Unlawful Deprivation of Life**

There were no reports that the government or its agents committed arbitrary or unlawful killings during the year.

In September 2011 Efraim Zuroff, director of the Jerusalem-based Simon Wiesenthal Center, provided information to Hungarian authorities implicating 97-year-old Laszlo Csatory, a former police commander in Kassa (now Kosice, Slovakia) in war crimes. According to Zuroff, Csatory played a key role in the deportation of 15,700 Jews from Kassa to Auschwitz in 1944. In 1948 the people's tribunal of Kosice (then Czechoslovakia) convicted Csatory of war crimes and sentenced him to death in absentia. In 1948 Csatory fled to Canada under a false identity and remained there until Canadian authorities revoked his citizenship in 1997 after learning of his past. In September 2011 the Budapest Investigative Prosecutor's Office launched an investigation of Csatory. On July 16, journalists from the British newspaper, *The Sun*, located and interviewed Csatory at his Budapest residence. On July 17, detectives detained and questioned Csatory at the behest of the Budapest chief prosecutor, and the Buda Central District Court ordered his house arrest on July 17. The investigation remained pending at year's end.

On February 28, two members of parliament (MPs) from the radical nationalist Jobbik party formally accused Bela Biszku, executive committee member of the Socialist Workers Party in 1956 and interior minister from 1957 to 1971, of crimes against humanity. On February 28, the Budapest Chief Prosecutor's Office ordered an investigation into allegations that Biszku ordered security forces in Budapest and Nyiregyhaza to open fire on crowds in 1956, resulting in multiple civilian deaths. On September 10, the Budapest Investigative Prosecutor's Office detained Biszku. On September 18, the Budapest Metropolitan Tribunal ordered Biszku's house arrest. The investigation remained pending at year's end.

### **b. Disappearance**

There were no reports of politically motivated disappearances.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The constitution and law prohibit such practices. However, the Hungarian Civil Liberties Union (HCLU) continued to report that police often verbally and physically abused suspects of Romani origin in certain areas of the country, most frequently in northeastern Borsod-Abauj-Zemplen County. On August 31, Commissioner for Fundamental Rights (ombudsman) Mate Szabo released a report on the ex officio inquiry into police proceedings conducted in a secondary school in Sajokaza on February 23. The report concluded that police officers violated the human dignity and personal liberty of four 14- to 16-year-old Roma by escorting them to the police station in handcuffs as well as the rights of the students present during the police action. The ombudsman concluded that police disregarded the principle of proportionality and infringed upon fundamental rights.

On November 22, police clashed with a crowd of 20 Roma gathered outside the Hatvan (Borsod-Abauj-Zemplen County) police station after police detained 12 persons on suspicion of drug abuse. Police initiated proceedings against one demonstrator for violence against an official person, and charged another five participants with disorderly conduct. On November 30, the HCLU filed a complaint with the Independent Police Complaint Board on behalf of the arrested demonstrators for violation of basic rights by police through use of excessive force against Roma. Both investigations remained pending at year's end.

On June 4, the Investigative Prosecutor's Office of Szeged (Csongrad county) launched an investigation against three police officers on suspicion of violence committed during official proceedings. On June 2, in Szeged, the officers reportedly harassed two men from the United Arab Emirates and beat one of them severely. On July 3, the prosecutors questioned two police officers as suspects and a third as a witness. The case remained pending.

On March 5, parliament asked the cabinet to provide information on the number of police officers and supervisors still serving in law enforcement who violated the law during the crackdown on the 2006 Budapest demonstrations. On March 12, parliament adopted the 2011 "Balsai report" on crimes committed by police and other government bodies during the 2006 demonstrations, drafted by former Fidesz member of parliament (MP) and current Constitutional Court Justice Istvan Balsai. On April 14, Minister of Interior Sandor Pinter informed the cabinet that 96 police officers were dismissed for misconduct during the demonstrations. Reportedly, proceedings continued against 14 additional police officers, including the former

head of the National Police Headquarters and the former head of the Budapest Police Headquarters at the year's end.

### **Prison and Detention Center Conditions**

Overcrowding and poor conditions remained the main problems in the prison system. The government permitted visits by independent human rights observers.

Physical Conditions: At year's end there were 17,179 inmates in prisons and detention centers, including 1,241 women and 527 juveniles; the official capacity was 12,604. The prison population decreased to 136 percent of capacity, compared with 136.5 percent in 2011.

According to the National Prison Service Headquarters, eight inmates committed suicide during the year. In each case a mandatory investigation cleared prison guards and other prisoners of responsibility for the deaths.

The Hungarian Helsinki Committee (HHC) continued to object that detainees who alleged physical mistreatment were usually examined by internal medical staff only. According to a 2010 order of the national police chief, medical examinations can be conducted in the absence of law enforcement staff only at the request of the detainee or the doctor and only if permitted by the senior guard supervisor.

According to human rights nongovernmental organizations (NGOs), prisoners generally had access to potable water. However, several detainees in the immigration jail in Kiskunhalas reported to the HHC not having access to potable water. On October 2, the HHC sent a letter to the National Police Headquarters urging immediate action. The National Police Headquarters responded by claiming that the difficulties in water supply were only temporary and that detainees received potable water in bottles until the mechanical problems were overcome.

According to the HHC, shortages of bed linens, towels, clothing, and adequate medical care remained problems. Sanitation and toilet facilities were also poor in some instances. In some prisons toilets were not separate from living spaces. Many police holding cells did not have toilets and running water; lighting and ventilation were often inadequate.

Administration: Recordkeeping on prisoners was generally adequate. Authorities used alternatives to sentencing for nonviolent offenders, such as mediation and postponement of the submission of the bill of indictment.

The ombudsman handles prison complaints in general and conducts ex officio inquiries but has no authority to act on behalf of prisoners. During the year the ombudsman released reports on the conditions of four youth detention centers (Tokol, Kecskemet, Szirmabesenyő, and Pecs) and five prisons (Pecs, Szolnok, Marianosztra, Satoraljaujhely, and Győr). The ombudsman assessed the conditions at four prisons for adult detainees as inhumane and humiliating due to the small size of cells and the separation of toilets with curtains instead of walls. The ombudsman also criticized the lack of psychologists and psychiatrists in several facilities.

On April 15, the ombudsman filed a petition at the Constitutional Court seeking annulment of provisions in the new Act on Petty Offense concerning the confinement and detention of offenders over the age of 14. The ombudsman argued that the contested legislation, effective April 15, violates the constitutional protection of children's rights and the Convention on the Rights of the Child. The case remained pending at the Constitutional Court at year's end.

The law provides prisoners with a minimum of one 30-minute visit per month. In practice, prison wardens decide the maximum length of visiting time, which at most facilities is one hour. The HHC asserted that the one-hour monthly limit on visits could not be regarded as reasonable access to visitors, especially in the case of pretrial detainees. The law allows detainees telephone calls in accordance with the technical capacity of the individual institution. The HHC reported that telephone calls were permitted in every institution but their length varied significantly. The ombudsman raised concerns regarding the time constraints and the high cost of telephone usage.

NGOs reported that prisoners and detainees were permitted religious observance.

Authorities generally permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of alleged inhumane conditions.

Monitoring: The government permitted independent monitoring of prison conditions by local and international human rights groups, such as the HHC, and the media. The HHC announced that it conducted two ad hoc visits to prisons and

met with more than 100 prisoners without the presence of prison officials. During the year the HHC submitted three applications to the European Court of Human Rights (ECHR) objecting to the living conditions of detainees in different penitentiary institutions. The Council of Europe's Committee for the Prevention of Torture was also permitted to monitor prison and detention center conditions.

Improvements: The ombudsman reported that some living conditions improved in the past five years. The improvements included the renovation and modernization of buildings and an upgrade in nutritional standards. The head of the National Prison Service Headquarters banned smoking from November 1 for detainees between the ages of 14 and 16.

On April 15, the National Prison Service Headquarters opened a new prison in Nagyfa with a capacity of 60 inmates, although the prison was useable only until October 15 due to the lack of a heating system.

#### **d. Arbitrary Arrest or Detention**

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

#### **Role of the Police and Security Apparatus**

The National Police Headquarters, which operates under the direction of the Ministry of Interior, is responsible for maintaining order nationwide. Nineteen county police departments and the Budapest police headquarters are directly subordinate to the National Police Headquarters; city police are subordinate to the county police and have local jurisdiction. Two hierarchically equal units are directly subordinate to the minister of interior: the Counterterrorism Center (TEK) and the National Protective Service. TEK is responsible for protecting the prime minister and the president and for preventing and investigating terrorist acts, including kidnappings and hijackings. The National Protective Service, created in 2011, is responsible for preventing and detecting internal corruption in law enforcement agencies, administrative government agencies, and civilian secret services. Penalties for police officers found guilty of wrongdoing include reprimand, dismissal, and criminal prosecution. The Hungarian Defense Force is subordinate to the Ministry of Defense and is responsible for external security as well as aspects of domestic security and disaster response.

Organized citizen groups, such as neighborhood and town watches, played an important role in helping police prevent crime and maintain public security. The law requires neighborhood watch groups to complete a written cooperation agreement with relevant police stations and imposes fines for any failure of cooperation. The law penalizes the organization of unauthorized law enforcement activity with up to two years in prison. The prosecutor's office maintained legal control over the operation of the neighborhood watch groups and could initiate legal proceedings in court if a group lacked a written cooperation agreement with police. However, far-right extremists continued to form vigilante groups and conduct patrols in smaller towns in eastern Hungary, apparently to intimidate the local Romani population.

In August 2011 the Bekes County Chief Prosecutor's Office launched a civil procedure against the For a Better Future Neighborhood Watch Association. The procedure initiated the association's dissolution for violating the rights and freedom of others by activities carried out in Gyongyospata and Hajduhadhaz in 2011. The prosecutor's office asserted that the association organized patrols in these towns with the clear intention to intimidate the local Romani community. On July 25, the trial court of Gyula rejected the lawsuit for failing to prove that the activity of the association endangered the rights of minorities and violated public security. The Chief Appellate Prosecutor's Office of Szeged appealed the verdict and the case remained pending at the Szeged Regional Court of Appeal at the end of the year.

Civilian authorities maintained effective control over police, the National Protective Service, and the armed forces, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of security forces acting with impunity.

In May the National Protective Service revealed a major corruption case involving senior police officers who for years allegedly prevented police oversight of 40 Budapest nightclubs operated by Laszlo Vizoviczki in exchange for bribes. In June the Central Investigative Prosecutor's Office detained four senior police officers on suspicion of corruption and bribery, including the incumbent head of the National Bureau of Investigation's organized crime unit. The investigation remained pending.

During the year Minister of Interior Sandor Pinter introduced major structural and personnel changes in law enforcement but denied any connection between the reorganization and the corruption scandal. Changes included the replacement of

the director of the National Bureau of Investigation (NBI) on August 9; shuttering the antiorganized-crime units of the NBI and the Budapest police, as well as NBI's white-collar crime department on August 10; and integrating the formerly independent NBI into the riot police from September 1. In addition Pinter dismissed five county police chiefs and the director of the International Criminal Cooperation Center on August 31.

In the first eight months of the year, the Ministry of Interior found 2,816 police officers responsible for breaches of discipline, 115 guilty of petty offenses, 88 guilty of criminal offenses, and 13 unfit for duty. During the same period courts sentenced two police officers to prison terms, gave suspended sentences to 24, fined 289, and dismissed 13. During the same period courts convicted 36 officers of corruption and placed 28 officers on probation.

Victims of lesser police abuses may complain to either the alleged violator's unit or the Independent Police Complaints Board, which investigate violations and omissions by police that affect fundamental rights. The five-member body, appointed by parliament, functions independently of police authorities. As of year's end the board received 433 reports from the public. It reviewed 364 complaints (including some cases filed in 2011) and found serious legal violations in 81 and minor legal violations in 102. The board forwarded 81 cases to the national police chief, who agreed with the findings in four cases, partially accepted the findings in 23, and rejected the findings in 26. The rest remained pending. The Independent Police Complaints Board's authority is limited to making recommendations to the National Police Headquarters and reporting its findings to parliament.

### **Arrest Procedures and Treatment While in Detention**

Police may take individuals into "short-term arrest" if they are caught committing a crime, suspected of having committed a crime, subject to an arrest warrant, or unable or unwilling to identify themselves. Individuals who cannot prove their identity with identification documents may be charged with a petty offense. Short-term arrests generally last up to eight hours, but may last up to 12 hours in exceptional cases. Police may detain for 24 hours suspects whom they consider security threats. Police and the prosecutor's office may order the 72-hour detention of suspects if there is a well founded suspicion of an offense punishable with imprisonment or if the subsequent pretrial detention of the defendant appears likely. If the "investigation judge" at court rejects the prosecutor's motion and

does not order pretrial detention within 72 hours, police must release the detainee. The defendant may appeal a pretrial detention order.

Under certain conditions (such as risk of escape or hindrance of an investigation), a prosecutor can file a motion with the local court where the accused is taken into custody to request pretrial detention. Pretrial detention ordered by the court lasts until the issuance of a trial court ruling. The defendant may appeal pretrial detention. Detention ordered by an appeals court lasts until the delivery of the final binding decision but no longer than the length of imprisonment imposed by the trial court's sentence. The HHC continued to criticize the practice of pretrial detention.

Police must inform suspects of the charges against them at the beginning of their first interrogation, which must be within 24 hours of detention. Authorities generally respected this right.

There is a functioning bail system. However, bail is restricted in cases when there is a flight risk. According to the HHC, bail and other alternatives to pretrial detention were underused. The HHC claimed that the lack of a monitoring system and devices was generally the reason that alternatives to pretrial detention, such as house arrest or travel restrictions, were underutilized.

According to the law police must inform suspects of their right to counsel before questioning them. Representation by defense counsel is mandatory in the investigation phase when suspects face a charge punishable by more than five years' imprisonment; are detained; are deaf, blind, unable to speak, or suffering from a mental disorder; are unfamiliar with the Hungarian language or the language of the procedure; are unable to defend themselves in person for any reason; are juveniles; or are indigent and request the appointment of a defense counsel. In the judicial phase defense counsel is also mandatory at the hearing if it takes place at the county court acting as the trial court; a supplementary private prosecutor presses charges; the hearing is expedited (fast-track simplified procedure for minor offenses); the hearing is carried out in absentia; the defendant so requests; or ex officio legal representation is necessary in the interest of the defendant.

When defense counsel is required, suspects have three days to hire an attorney; otherwise, police or the prosecutor appoint one. If suspects make clear their unwillingness to retain counsel, police or the prosecutor are required to appoint counsel immediately by choosing a lawyer from a list kept by the competent bar

association. However, neither police nor the prosecutor is obligated to wait for counsel to arrive before interrogating the suspect. According to human rights NGOs, police routinely proceeded with interrogation immediately after notifying suspects of their right to counsel.

The law permits short-term detainees to notify relatives or others of their detention within eight hours unless the notification would jeopardize the investigation. The investigative authorities must notify relatives of a detainee who is under “72 hour detention” of the detention and the detainee’s location within 24 hours. NGOs reported that in practice police did not fully comply with this requirement.

Human rights NGOs continued to criticize the law on petty offenses which permits the incarceration of juveniles (defined as individuals from 14 to 18 years of age) in cases when the juvenile has no income or property and thus cannot be fined as a way of punishment. Alternative sanctions, such as community service or mediation, do not apply in such cases. Human rights NGOs expressed concern that the law left no alternative to incarceration of juveniles convicted of minor offenses.

Arbitrary Arrest: According to the Prosecutor General’s Office, until October, there were 68 official complaints of arbitrary detention. The Office of the Prosecutor General rejected 28 complaints, closed the investigation without pressing charges in 39 cases, and initiated indictments in one case.

Pretrial Detention: The HHC continued to report concerns regarding the high number of pretrial detainees, an increased number of pretrial detentions lasting for longer than a year, and arbitrary court decisions ordering pretrial detention. According to the HHC, some court decisions ordering pretrial detention were not adequately substantiated by facts, and courts approved prosecution requests for pretrial detention without taking into consideration objections by the defense.

According to the National Prison Service Headquarters, at year’s end 4,888 persons were held in pretrial detention. Of these, 1,276 were incarcerated for six months to a year, and 1,230 were held for more than a year. The law provides that persons held in pretrial detention and later acquitted may receive monetary compensation.

Research conducted in 2008 by the HHC with data from police and the National Police College indicated that Roma were three times more likely to be stopped for identification checks than non-Roma, although Roma were no more likely to be involved in unlawful activities than non-Roma.

Detention of Rejected Asylum Seekers or Stateless Persons: The law permits the detention of asylum seekers during the entire refugee status determination process for a maximum length of one year for individuals and up to 30 days for families with children. The HHC continued to criticize the government's practice of keeping asylum seekers in immigration detention facilities.

Amnesty: Collectively, former president Pal Schmitt and President Janos Ader issued eight official pardons during the year, totaling 1.4 percent of all requests.

### **e. Denial of Fair Public Trial**

The new constitution and other laws provide for a fair public trial within a reasonable period. However, the Venice Commission and human rights NGOs expressed concern about the lack of specific provisions stipulating judicial independence.

On January 1, new laws on the organization and administration of courts and on the status and remuneration of judges entered into effect. The new law assigns court management to the president of the National Judiciary Office (OBH) while leaving oversight of the uniform administration of justice with the president of the Curia, which replaced the Supreme Court. The OBH president's authority includes budgetary and financial management of courts; staffing, appointment, and distribution of caseload; and the ability to transfer cases to different courts. The new law also establishes the National Judicial Council (OBT), a consultative body of 15 judges. In an opinion published on March 19, the Council of Europe's Venice Commission expressed "serious doubts about the reform model chosen, which concentrates... very large competences in the hand of one individual person, the president of OBH," and concluded, "the reform as a whole threatens the independence of the judiciary." On July 2, parliament amended the laws on the judiciary effective July 17, stipulating judicial review of the OBH president's decisions, including changes of venue; prohibiting the extension of the OBH president's mandate beyond its expiration; and protecting judges from dismissal if they refuse transfer to another court. The amendment also transferred some of the power of the president of OBH to the OBT, providing veto rights regarding judicial recommendations and court leadership appointments under certain conditions.

On October 15, the Venice Commission issued an opinion acknowledging that the amended judiciary law addressed some of its recommendations, but not all, and urged further legislative changes since "the powers of the president of OBH remain

very extensive to be withheld by a single person and their effective supervision remains difficult.”

On January 1, the transitional provisions of the new constitution also entered into effect and included provisions that empowered the president of the OBH to “designate a court other than the court of general competence until a balanced distribution of caseload between courts has been realized.” This authority raised concerns that case transfers could subject the court system to political interference and violate the right to a fair trial. The same law gives the prosecutor general a similar power. The July 2 legislative amendment to the law on court administration introduced limitations to the discretion of the OBH president to reassign court cases by requiring the president to take into account the criteria established by the OBT. The legislative amendment also stated that parties affected by case transfer may appeal the decisions to the Curia. The October 15 Venice Commission report stated its “strong disagreement with the system of transferring cases because it is not in compliance with the principle of the lawful judge, which is an essential component of the rule of law.” The Venice Commission also reiterated its recommendation to remove the competence of the prosecutor general to instruct that charges be brought before a specific court other than the court of general competence. On December 28, upon the petition of the ombudsman, the Constitutional Court ruled that parliament erred when it sought to include several “nontransitory” provisions (provisions that did not simply bridge the old and new constitutions but established new, enduring laws or regimes) in the transitional provisions of the new constitution. Due to procedural errors committed by parliament, the Constitutional Court retroactively struck down several provisions of the legislation, including the OBH president’s right to transfer cases and the right of the prosecutor general to instruct that charges be brought before a specific court. (Note: The act on the organization and administration of the courts still includes the OBH president’s authority to transfer cases.)

As of December 31, the OBH president transferred from one court to another 43 cases (31 commercial law cases, 10 criminal law cases, and two civil law cases), some of them high-profile corruption cases. In four cases the defendants appealed the decision on the transfer, but the Curia upheld the transfer in all the cases. During the year the prosecutor general did not exercise his authority to instruct that charges be brought at a specific court.

The transitional provisions to the new constitution and the Act on the Legal Status and Remuneration of Judges lowered the mandatory retirement age of judges and

prosecutors effective January 1. The laws require that judges who turned 62 (general retirement age) prior to January 1 retire by June 30, and that judges who turned 62 between January 1 and December 31 retire by December 31.

On January 17, the European Commission launched accelerated infringement proceedings against Hungary over legislation that lowered the mandatory retirement age for judges. The European Commission contended that the law applied to one group of people and not others, and thus violated EU rules that prohibit discrimination in the workplace based on age. On April 25, the European Commission referred the case to the European Court of Justice. Nonetheless, on March 29, President Pal Schmitt signed orders mandating 228 judges to retire by June 30, and on July 6, President Janos Ader signed an order mandating the retirement of another 46 judges by December 31.

On July 16, the Constitutional Court annulled provisions of the Act on the Legal Status and Remuneration of Judges that lowered the mandatory retirement age of judges. The court stated that the provisions violated the constitutional requirement of judicial independence by failing to ensure that judges cannot be removed from office. However, the court decision did not reinstate the retired judges into their former positions. On November 6, the European Court of Justice ruled that the law on the early retirement of judges constituted age discrimination. During the year approximately 160 retired judges filed individual cases at Hungarian labor courts for unlawful dismissal, and approximately 150 judges turned to the ECHR. On December 28, the Constitutional Court retroactively annulled the provision on the mandatory early retirement of judges stipulated by the transitional provisions. By the end of the year, the government did not adopt new legislation on the retirement of judges, nor did it implement a general remedy to reinstate judges dismissed under the annulled laws.

The new constitution retained limitations to the Constitutional Court's competences relative to legislation on the central government budget, taxes, and pension and health care contributions until government debt falls below 50 percent of the gross domestic product (GDP), unless the law violates the right to life and human dignity; the right to the protection of personal data; freedom of thought, conscience, and religion; or rights related to Hungarian citizenship. The transitional provisions to the new constitution further limited the Constitutional Court's competence to include laws adopted during the period when government debt exceeded half of the GDP even when the government debt no longer exceeds half of the GDP. However, the Constitutional Court annulled this provision of the transitional provisions in its December 28 ruling.

Since January 1, citizens and human rights groups no longer have the right to petition the Constitutional Court to review the constitutionality of legal norms. Under the new constitution only the government, one-quarter of the members of parliament, and the ombudsman have the right to initiate such proceedings. NGOs repeatedly warned that the new rules regarding the Constitutional Court weakened the system of checks and balances and constitutional protection.

On May 15, Deputy Prime Minister and Public Administration and Justice Minister Tibor Navracsics requested that Curia president Peter Darak review court verdicts to see if they were sufficiently rigorous and met societal expectations, such as in the case of killed handball player Marian Cozma. During the year an appeals court reduced the sentences of the three main defendants in the Cozma trial. According to media reports, Darak replied on May 17 that it was not appropriate for a cabinet member to contact the chief judge about the leniency of a sentence and that Navracsics' request created the false impression that the Curia can interfere with lower court ruling.

### **Trial Procedures**

The constitution and laws provide for the right to a fair trial within a reasonable amount of time, and an independent judiciary generally enforced this right.

Defendants are presumed innocent until proven guilty. Suspects have the right to be informed promptly of the nature of charges against them and of the applicable legal regulations at the start of questioning. Any changes to the charges shall also be communicated to the suspect as the investigation develops. Trial procedures are public as a rule; however, the judge may minimize public attendance and can order closed procedures under certain conditions.

There is no jury system; verdicts are rendered by judges or judicial councils, which consist of judges and civil assessors.

Immediately after defendants are informed of the charges against them, they must be advised of their right to choose a defense counsel or to request the appointment of one. If the participation of the defense counsel is mandatory in the procedure, defendants must be informed that unless they retain a defense counsel within 72 hours, the prosecutor or the investigating authority appoints counsel for them. If a defendant declares that he or she does not wish to retain counsel, the prosecutor or the investigating authority will appoint counsel immediately.

The law stipulates that the investigating authority shall schedule the time of the interrogation in a way that enables the defendant to exercise his or her right to defense. In the trial phase the summons for the court hearing must be delivered at least five days prior to the hearing. The law states that no one may be compelled to provide self-incriminating testimony or produce self-incriminating evidence.

During trial defendants and their defense counsel have complete access to government-held evidence relevant to their cases. Defendants may challenge or question witnesses and present witnesses and evidence on their own behalf.

Defendants have the right of appeal.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

There is an independent and impartial judiciary in civil matters. Under the law persons may seek damages for human rights violations. Individuals who have exhausted domestic remedies may submit applications to the ECHR, claiming that the government violated the European Convention on Human Rights.

### **Regional Human Rights Court Decisions**

During the year the ECHR delivered 187 judgments and 49 decisions in the cases lodged by citizens against the government. The government paid compensation imposed by the ECHR by the set deadline, with the exception of delayed payment in the Red Star case (see section 2.a.).

### **Property Restitution**

The Constantinople Patriarchy Hungarian Exarchy (the Hungarian branch of the Greek Orthodox Church) continued to demand the restitution of property that the Russian Orthodox community has occupied since the 1950s. When the country's courts dismissed the exarchy's claim to the property, the church filed a complaint with the ECHR. Updates on the case were not available at the end of the year.

### **f. Arbitrary Interference with Privacy, Family, Home, or Correspondence**

The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice.

On June 25, the HCLU filed a second criminal report against three local government officials of Gyongyospata with the Prosecutor's Office of Gyongyos for illegally entering private homes of Romani families in October 2011. The affected Romani families filed the first complaint in the same month, but the prosecutor's office rejected the claim. Consequently on January 16, the HCLU submitted a petition to the Heves County Government Bureau, which agreed with the HCLU's assessment that the inspection of private houses by the local mayor, a municipal clerk, the mayor's chief of staff, two social workers, and two police officers had no legal grounds. The second criminal report remained pending at year's end.

As of January 1, the new law on national security services empowers TEK to collect information secretly. On August 23, the fundamental rights ombudsman issued a report on TEK in which he criticized the lack of sufficient legal remedy provided for citizens to gain insight into information collected and stored about them by intelligence services, including TEK.

On April 16, parliament adopted legislation to create its own security force, which, in addition to providing security for parliament, has extensive powers to maintain order in parliament. These powers include the ability to enter and act in private homes if so warranted by a duly authorized person (i.e., a judge or other judicial authority) or in case of an emergency. The Parliamentary Security Force is not entitled to conduct intelligence gathering or covert policing. The law empowers the speaker of the house to instruct the Parliamentary Security Force to take coercive measures against members of parliament acting disruptively during sessions, including removal from the assembly room and arrest.

In February police officers asked for the consent of residents of Sajokaza to review personal data related to religious belief, recorded during the 2011 census. The law stipulates that providing data on a person's religious belief is voluntary during the census procedure and the data can only be used for statistical purposes. On February 21, the National Authority for Data Protection and Freedom of Information (NAIH) issued a report on the case based on the initiative of the president of the Central Statistical Office. The report established that the police's data processing procedure was unlawful. A local resident, assisted by the HCLU,

also submitted a complaint to the NAIH and received a similar response from the authority on June 28.

On April 1, new legal provisions entered into force that penalized “residing in public spaces,” punishable with a fine of 60,000 forints (\$270) or up to 60 days in prison after two offenses within a six month period. The ombudsman and NGOs criticized the new law and local governments for demolishing informal settlements (tents and shelters) of homeless persons and confiscating their belongings without due process. On November 14, the Constitutional Court struck down the public spaces law as unconstitutional. By the end of the year, six homeless persons, with the help of the Legal Defense Bureau for National and Ethnic Minorities and The City is for All organization, launched lawsuits against local governments for compensation for personal property. Their cases remained pending at year’s end.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

The media reflects diverse opinions, and the right to free speech and freedom of the press are provided for by law. However, some observers believed that concerns over the broad powers of the media regulatory authority could create a climate conducive to self-censorship and political influence. The HCLU continued to report a bias in news reporting by the public media.

Freedom of Speech: While individuals generally could criticize the government in public or private without reprisal, individuals could be held liable for their published statements or for publicizing libelous statements made by others. Journalists reporting on an event could be judged criminally responsible for making or reporting false statements. Officials continued to use the libel laws to claim compensation for perceived injuries to their character.

In September the Hungarian News Agency (MTI) filed a lawsuit against journalist Gyorgy Balavany for comments he posted in a blog claiming that public-service media used taxpayer money to misinform the public. The MTI sought 10 million forints (\$45,000) for damages to its reputation and commercial interest. The Organization for Security and Cooperation in Europe (OSCE) representative on freedom of the media noted that the lawsuit could constrain media pluralism on the Internet and have a chilling effect on media.

The criminal code includes provisions against incitement of hatred and violence against a member of certain groups. Any person who publicly incites hatred against any national, ethnic, racial, or religious group, or certain other groups of the population, is guilty of a felony punishable by imprisonment for up to three years. In addition any person who physically assaults someone because of his membership in a national, ethnic, racial, or religious group is guilty of a felony punishable by imprisonment for up to five years. NGOs continued to criticize courts for failing to convict persons for inciting hatred unless the crime was accompanied by a physical assault.

The law prohibits public denial of, doubt about, or minimization of the Holocaust, genocide, and other crimes of the National Socialist and Communist regimes, and punishes such acts by a maximum sentence of three years in prison. In 2010 the HCLU filed a petition in the Constitutional Court to overturn the law, arguing that it imposes serious restrictions on freedom of speech. At the end of 2011 the Constitutional Court dropped the HCLU's petition due to the elimination of the ability of citizens to bring matters before the Constitutional Court (*actio popularis*).

The law prohibits the public display of certain symbols, including the swastika, SS-badge, the hammer and sickle, and the arrow cross, a symbol associated with the country's fascist World War II-era government. The law prohibiting the public display of the five-pointed red star remained in effect despite ECHR rulings in 2008 and 2011 that declared the law a violation of the right to freedom of expression. The 2011 ECHR ruling ordered the government to pay a total of 6,400 euros (\$8,448) in compensation and expenses to Janos Fratanolo (applicant in the Red Star case) by June 8. On July 2, parliament passed a resolution submitted by the minister of public administration and justice stating that it disagrees with the ECHR ruling and reaffirms penalizing the use of emblems of totalitarian regimes. In addition the resolution stipulated that parliamentary parties, rather than the central state budget, have to pay compensation if the country is ever admonished by the ECHR for prohibiting the use of symbols of totalitarian regimes. On July 17, the government paid the judgment to Fratanolo, which the cabinet deducted from the government's subsidies to parties.

Freedom of Press: The law stipulates that the National Media and Infocommunications Authority (NMHH), subordinate to parliament, is the central government administrative body for media problems. The authority of NMHH includes overseeing the operation of broadcast and media markets as well as "contributing to the execution of the government's policy in the areas of frequency

management and telecommunications.” The prime minister appoints the NMHH’s president for a nine-year term with no limit on reappointment. When confirmed by a two-thirds parliamentary majority, the NMHH president also serves as the chairperson of the five-member Media Council, which supervises electronic (television, radio), online, and print media content and spectrum usage. During the year the governing parties nominated all Media Council members. The public service broadcasting system merges the supervisory boards of all government-owned public service broadcasting entities (including the MTI) into the Public Service Foundation and places their finances and assets under the control of the new Media Service Support and Asset Management Fund.

On May 1, Freedom House published a report that assessed freedom of the press in the country as “partly free,” a downgrade from the previous year’s assessment as “free.” The report cited as reasons for the decline, “the establishment of the National Agency for Data Protection (NAIH), a politically motivated licensing procedure affecting opposition station Klubradio, increased reports of censorship and self-censorship, and worsening economic conditions for independent media entrepreneurship.”

Violence and Harassment: In 2010 a member of the far-right Jobbik faction in parliament, Gyula Gyorgy Zagyva, harassed and threatened two journalists of the weekly newspaper *Hetek* during the Magyar Sziget music festival in Veroco. According to reports, Zagyva, carrying a whip, told the journalists, “you should be glad that you were not beaten up.” He reportedly also stated that it was a sign of “Jewish arrogance” that the journalists turned on their tape recorder and that he wanted to “stamp out their guts.” Zagyva denied the reports. The Central Investigative Chief Prosecutor’s Office opened an investigation on the basis of harassment accompanied by the threat of physical violence. On June 29, parliament waived the parliamentary immunity of Zagyva, and the prosecutor’s office pressed charges against him on September 6. On November 19, the Vac Municipal Court found Zagyva guilty of harassment and placed him on probation for one year. Both the defendant and the prosecutor appealed the verdict, and the case remained pending.

Censorship or Content Restrictions: The law provides content regulations and standards for journalistic rights, ethics, and norms applicable to all media, including news portals and online publications. It prohibits inciting hatred against nations, communities, ethnic, linguistic or other minorities, majority groups, churches, or religious groups. The law also provides “source protection” for

maintaining the confidentiality of information with respect to criminal proceedings.

The Media Council has the authority to impose fines for certain violations of content regulation, including media services that violate prohibitions on inciting hatred or violating human dignity or regulations governing the protection of minors. The council may impose fines for violations up to 200 million forints (\$900,000), depending on the type of media service and audience size. It may fine individual editors up to two million forints (\$9,000) and can also suspend the right to broadcast for up to a week. Decisions of the Media Council may be challenged in court by lodging a petition against the council, but the complaint does not delay the Media Council's sanction. Separate petitions can be filed with the court to request to delay the implementation of the Media Council decision until the court case is complete. Until the end of November, the Media Council issued 109 resolutions imposing fines totaling 80 million forints (\$360,000) on 66 media outlets. Fourteen resolutions were challenged in court.

During the year national and international human rights organizations continued to criticize the media laws. Critics particularly emphasized the broad scope of regulatory control of a nonindependent administrative body that covers not only broadcasting media but also print, on-demand, and Internet media providers. Domestic civil-society groups held demonstrations to protest numerous government policies and to support media freedom, including for the second year in a row a demonstration in Budapest on March 15 that attracted tens of thousands of persons.

In December 2011 the Constitutional Court issued a ruling striking down elements of the two media laws, including provisions on content regulation, protection of journalists' sources, the obligation to provide data to the Media Authority, and the institution of the media and broadcasting commissioner. The court also annulled the effect of the 2010 Act on the Freedom of the Press and the Fundamental Rules of Media Content related to print and the Internet media outlets as of May 31.

On May 9, the ombudsman requested the Constitutional Court review provisions of the media laws to determine whether regulations guaranteeing the independence of the Media Council are sufficient. The ombudsman's office stated that it had received more than 200 individual complaints that media regulations do not exclude political influence on the Media Council and by extension on the press, and thus restrict freedom of expression unconstitutionally. The ombudsman referred to some regulations of the media law concerning the mandate of the

president of the Media Council as “meaningless and inapplicable.” At year’s end the case remained pending in the Constitutional Court.

On May 11, the Council of Europe published an opinion on two acts related to the media. Among its findings the council criticized the law for vague content regulations and the potential politicization of media regulatory bodies, and called for the abolition of the position of media and communications commissioner.

On May 24, parliament amended media-related acts to comply with the 2011 Constitutional Court ruling. The revised laws provide stronger provisions for the protection of sources, ease content restrictions for print media, soften the Media Council’s authority to oversee content regulation compliance, and reduce the authority of the media and communications commissioner. The HCLU acknowledged increased guarantees for source protection but stated that the laws did not go far enough to improve content restrictions for print and online media or to prevent the Media Council from making arbitrary decisions about frequency awards. Human Rights Watch stated that the new amendments fell short of complying with both the domestic court judgment and the Council of Europe’s recommendations.

On November 26, European Commission Vice President Nellie Kroes “welcomed the changes” in the media legislation but stated that “these changes do not address all the outstanding substantial concerns.” She urged “immediate action ensuring the real independence of the Media Council, measures to reduce the excessive concentration of power in the hand of the Media Council, and better measures to ensure the effective independent functioning of publicly-funded media.” On December 4, Council of Europe General Secretary Thorbjorn Jagland stated that further steps were required from the government in media regulation, arguing that the system for nominating and appointing the head of the media authority and members of the Media Council should be changed to emphasize proficiency and independence.

Domestic and international media and civil society groups continued to criticize the Media Council’s failure to sign a contract with Klubradio, a self-identified opposition talk radio. In December 2011 the Media Council issued its decision upon a public tender to award the Budapest 95.3 MHz frequency used by Klubradio to Autoradio, a new company with no previous experience in broadcasting. Klubradio appealed the decision to the Budapest Metropolitan Appellate Court. On March 14, the court returned a nonappealable verdict that invalidated Autoradio’s bid due to technical deficiencies and required the Media

Council to declare another winner. On July 5, the Media Council issued an order annulling all bids for the frequency, including Klubradio's, because they failed to meet technical requirements. Klubradio challenged the decision and, on July 18, the Budapest Metropolitan Appellate Court threw out the Media Council's order. On August 15, the Media Council issued a resolution to invalidate Klubradio's bid, but the station appealed and, on September 26, the Budapest Metropolitan Appellate Court annulled the Media Council's decision. On November 8, the Media Council announced that it turned to the prosecutor's office to resolve contradictions between the court ruling and the law. On November 26, Kroes wrote in a blog entry that "when the Media Council questions the consistency of the ruling of the court, it is questioning the rule of law." On December 20, the Media Council, on the advice of the Prosecutor General's Office, revoked the original 95.3 MHz frequency tender, leaving neither Klubradio nor Autoradio the winner. The Media Council stated there were contradictions between various court rulings and the media law.

### **Internet Freedom**

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mails or Internet chat rooms without appropriate legal authority. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics, approximately 59 percent of the population used the Internet in 2011.

On September 24, Freedom House published a report that rated the country's Internet and digital media freedom as "free."

### **Academic Freedom and Cultural Events**

On July 1, parliament amended the Act on National Archives to stipulate that all documents of the Hungarian Labor Party and its legal predecessors, the Hungarian Socialist Workers Party and its civil and youth organizations, as well as the National Council of Trade Unions and trade unions, are government-owned documents. The nationalized documents produced between 1944 and 1989 were the private property of the Institute of Political History and, in part, the property of trade unions stored at the institute. The Institute of Political History managed the collection in accordance with rules governing public archives and allowed free access to the public. On December 2, the ombudsman submitted a petition to the Constitutional Court seeking the elimination of the provision since it "provides

general expropriation without compensation and makes research of documents more difficult.” The ombudsman argued that the legal provision constitutes the “restriction of the freedom of scientific research since it is not clear what were the motives and legal aims of the nationalization of these documents, which previously were in the property of a private archive open to the public.” The case remained pending at the Constitutional Court at year’s end.

## **b. Freedom of Peaceful Assembly and Association**

The constitution and law provide for freedom of assembly and association, and the government usually respected these rights in practice.

### **Freedom of Assembly**

The constitution provides for freedom of peaceful assembly, and the government generally respected this right in practice. Under the law demonstrations do not require a police permit, but event organizers must inform police of a planned assembly in a public place at least three days in advance. The law authorizes police to prohibit any gathering if it seriously endangers the peaceful operation of representative bodies or courts or if it is not possible to ensure alternate routes for traffic. However, police are not required to disband a spontaneous, unauthorized assembly that remains peaceful. A police decision to prohibit a public demonstration is open for judicial review.

During the year police prohibited 12 demonstrations, which represented 0.18 percent of total announced demonstrations. Organizers requested judicial review in six demonstration requests rejected by police, and courts ultimately permitted the demonstration in five cases. During student protests against the new higher education strategy of the government in December, three students were informed that they were “abusing the right to assemble” and detained for a few hours. On December 20, the HCLU criticized the legality of the police measures for failing to call on the demonstrators to leave the area before picking out those with megaphones and taking them to the police station for questioning.

During the year the HHC and other human rights organizations continued to emphasize the need to modify the law on assembly to clarify when police may prevent a public gathering. According to the HHC, the law does not permit police to prevent a demonstration based on an unverified assumption that the demonstrators are highly likely to commit a criminal offense, such as incitement against a community. According to NGOs, the shortcomings of the law often

resulted in inconsistent police practices and court decisions. The HHC expressed concern about police inaction in the face of far-right demonstrations, whose participants engaged in activities that qualified as hate crime and hate speech, instead of dispersing the crowd and charging perpetrators with hate crimes.

On March 19, a private individual notified Budapest police of a planned August 25 march to commemorate the fifth anniversary of the foundation of the extremist group Magyar Garda, an organization banned in 2009. The plan called for approximately 2,000 participants to march in formation and in uniform. On March 27, the Budapest Police Headquarters prohibited the demonstration based on the lack of alternate traffic routes. The organizers requested judicial review of the police decision, and the Budapest Metropolitan Tribunal overturned the ban. On August 24, the Office of the Prime Minister issued a statement declaring respect for the court decision but “utterly rejecting the ideology which was represented by the Magyar Garda and by all those who align themselves with discrimination, hate, and violence.” The statement asserted that “the government will take all steps necessary to prevent any illegal or dangerous activity connected with the event.” The August 25 demonstration concluded without major incident.

### **Freedom of Association**

The constitution provides for freedom of association, and the government generally respected this right in practice.

#### **c. Freedom of Religion**

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

#### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

### **Protection of Refugees**

Access to Asylum: The law provides for the granting of refugee status or subsidiary protection, and the government has established a system for providing protection to refugees. The country is part of the Dublin II regulation that seeks to return asylum seekers to the first EU member state they entered for processing.

While asylum procedures were generally accessible, the HHC continued to report incidents of police failing to identify asylum seekers at borders where refugees travelled alongside other migrants (especially at the Serbian-Hungarian border) and of forced return without proper assessment of persons in need of international protection. The Office of Immigration and Nationality stated that it did not receive any official complaints.

On February 16, the HHC published a report criticizing the country's asylum practices for hindering the access of asylum seekers returned under the Dublin II Regulation to an in-merit determination of their protection needs, and to adequate reception conditions. The report also criticized the excessive use of immigration detention in such cases.

Safe Country of Origin/Transit: The law includes definitions of the principles of "safe country of origin" and "safe third country" (i.e., safe country of transit) including adequate provisions for individual consideration in exceptional cases. In practice, authorities decided on a case-by-case basis whether the country of origin may be regarded as a safe country of origin for the applicant.

On October 10, the UNCHR issued a report criticizing the country for "the continued policy and practice of considering Serbia a safe third country and returning asylum-seekers to that country without an in-merit examination of their case (during which the detailed examination of the asylum case takes place)." The report also recommended that "Dublin participating states refrain from transferring asylum-seekers under the Dublin II Regulation to Hungary, in cases where those asylum-seekers have or may have been in Serbia prior to entering Hungary." On October 11, the Ministry of Interior responded to the UNHCR report, stating that asylum and alien policing provisions guarantee the necessary safeguards for asylum seekers and that procedures are subject to judicial review, which in some cases entails suspension of return proceedings.

During the year several EU countries (Austria, Italy, the Netherlands, Belgium and Germany) suspended the transfer of individual asylum seekers to Hungary (Dublin II system) based on ECHR rulings or national court decisions due to concerns that

that rights provided under the European Convention on Human Rights and the EU Charter of Fundamental Rights could be violated.

Refoulement: The government generally provided protection against the expulsion or the return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion; however, the HHC continued to report that the return of asylum seekers to Serbia by the Office of Immigration and Nationality contradicted the UNHCR's recommendations, which did not consider Serbia a safe country of transit for asylum seekers.

Refugee Abuse: On September 13, the ombudsman issued a report on the Nyirbator detention facility, which detains irregular migrants, among many awaiting adjudication of asylum claims. The ombudsman called the facility "worse than prison," citing poor sanitary conditions, abuse of detainees, and poor access to communications. The report called on the prosecutor general, the national police chief, and the Ministry of Interior to intervene and improve conditions at the detention center. In response to the ombudsman's report, the national police chief ordered an investigation, which resulted in steps to install public telephones in all sectors and free access by detainees to toilets without the assistance of the guards.

On April 24, the UNHCR published a report that detailed areas in which the country's asylum system was not in full compliance with international and European standards. The report criticized that the law permits "administrative detention" of asylum seekers while their cases are pending in the in-merit procedure; increases the maximum length of detention from six to 12 months; and permits the detention of families with children up to 30 days. The report cited numerous complaints about violent behavior by guards, including verbal and physical harassment. The UNHCR also criticized the housing of asylum seekers together with irregular migrants, often in prison-like environments; the generally poor physical and unhygienic conditions; insufficient medical services; and the lack of standard operating procedures for assessing the age of unaccompanied minors. On October 11, the Ministry of Interior stated that immigration detention is ordered only for those aliens who were transferred under the Dublin II procedure, whose application for asylum in the country was already rejected in a final decision, and whose expulsion the immigration authorities ordered.

Temporary Protection: The law provides for the granting of "subsidiary protection." Under the law subsidiary protection is defined as protection provided

to foreigners who do not satisfy the criteria of recognition as a refugee if there is a risk that, in the event of their return to their country of origin, they would be exposed to serious harm. The law also provides that the office may authorize persons to stay in the country by granting them “tolerated status” consistent with the country’s nonrefoulement obligations under international law.

During the year the Office of Immigration and Nationality received 2,157 refugee claims and granted 68 persons refugee status, 240 persons subsidiary protection status, and 42 persons tolerated status.

### **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

#### **Elections and Political Participation**

Recent Elections: The OSCE election observation mission reported that parliamentary elections held in 2010 were conducted in a manner consistent with international standards and commitments for democratic elections.

Participation of Women and Minorities: The 386-seat parliament elected in 2010 included 34 women, 20 percent fewer than its predecessor. Minister of National Development Zsuzsanna Nemeth was the only woman in Prime Minister Orbán’s 10-member cabinet. Women were represented at the subcabinet level. Due to privacy laws regarding ethnic data, no statistics were available on the number of minorities in parliament or the cabinet.

### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials. However, NGOs contended that the government did not implement the law effectively and that officials often engaged in corrupt practices with impunity. Corruption in the executive and legislative branches as well as within police agencies remained a problem. According to the World Bank’s Worldwide Governance Indicators, government corruption was a problem.

The law requires MPs, the president of the republic, high-level government officials, mayors, and local government representatives to publish asset declarations on a regular basis. MPs and members of the cabinet must also publish spousal asset declarations. In addition the vast majority of public sector employees, including law enforcement and army officials, judges, prosecutors, civil servants, and public servants, are obliged to prepare asset declarations but are not required to make them accessible for the public. NGOs contended that the regulation was not adequate because there was no effective method to detect and sanction violators.

Several government offices were responsible for combating corruption. The State Audit Office (SAO) supervised public funds, managed national assets, audited the public sector, and received reports on campaign spending of political parties but did not assess the accuracy of these reports. During the year the SAO issued 14 public reports. The law provides the SAO the authority to review the finances of private companies if public funds are used, regardless of the amount, and any company employee who refuses to cooperate with the SAO can be subject to imprisonment for up to three years. Prosecutors, police, and, in certain cases, customs officials were responsible for investigating corruption and uncovering the illicit use of public funds. Special agencies, such as the competition authority and the supervisory body of financial institutions, were responsible for ensuring fair and transparent market conditions.

On January 1, a new public procurement law entered into force that excludes “off-shore businesses” with unclear proprietary structure from public procurement tenders. From January 1, the Anticorruption Division of the Central Investigative Chief Prosecutor’s Office increased the number of prosecutors specializing in high-profile corruption cases from eight to 35.

On March 8, Transparency International Hungary (TIH), in its 2011 *National Integrity Study of Hungary*, asserted that private interests captured the government and criticized the lack of independent and well established anticorruption agencies. The study emphasized that the main actors responsible for combating official corruption are directly subordinate to the government, the public has only limited access to and control over their activities, and no effective whistleblower protection system is in place. The study also noted that political parties remained the most at risk for corruption because party and campaign financing regulations fail to ensure transparency and accountability. On June 6, responding to the study, the government criticized TIH for failing to acknowledge a series of government

anticorruption measures, such as the law on protecting national assets that entered into force in December 2011.

On April 6, the government adopted the Preventive Anticorruption Program, a two-year effort to prevent corruption in public administration and public services. However, TIH criticized the government for failing to implement fully its antigraft program and urged the cabinet to make up for the delay as soon as possible.

On August 31, the mandate of Government Accountability Commissioner Gyula Budai expired. Since 2010 Budai examined 1,442 cases of suspected corruption covering the period of 2002-10 (which did not include the term of the current government), prepared 107 public reports, and filed criminal reports in 61 cases. Of the 61 cases, the prosecutor's office opened an investigation in 30 cases and pressed charges in seven cases against 39 persons.

The most high profile corruption case during the year involved senior police officers as suspects in corruption connected to entrepreneur Laszlo Vizoviczki, who allegedly bribed police to ignore drug-dealing and other illegal activity at his nightclubs (see section 1.d.).

On May 10, the European Antifraud Office opened an investigation into the Hungarian construction company Kozgep. In May the company revealed that the office had contacted it and other parties that were involved in a city center rehabilitation project partly financed by the EU. The project in Keszthely (western Hungary) was awarded to a consortium of Kozgep and another company. Kozgep is owned by former Fidesz treasurer Lajos Simicska and, together with other companies in various consortia, won public tenders worth \$895 million since 2010. From 2009 to 2011, Kozgep's net income increased from 39 billion forints (\$176 million) to 57 billion (\$257 million). In September parliament voted down proposed investigative committees to examine the legalities of government contracts with Kozgep and other companies connected to Simicska.

The constitution and law provide both citizens and foreigners the right to access information held by public bodies through freedom of information requests submitted in oral or written form. However, the bodies controlling such information may restrict access in order to protect what they determine to be legitimate public interests, as defined by law. Public bodies are required to disclose information within 15 days upon receiving a request or provide the requestor detailed reasons for any denial within eight days. The list of exceptions set by the law includes information on national security; prevention and

prosecution of crimes; protecting the nature and environment; central financial reason; foreign affairs; ongoing legal procedure; and intellectual property. Requestors may appeal denials in court within 30 days or initiate the procedure of the newly established NAIH.

The law punishes the offense of illicit use of public information with imprisonment for up to three years.

From January 1, the NAIH replaced the former Office of the Data Protection and Freedom of Information Parliamentary Commissioner. The head of the new authority, Attila Peterfalvi, was appointed to a nine-year term. On January 17, the European Commission launched an infringement procedure against the country, citing the lack of independence of the NAIH from the executive branch. The commission criticized the termination of the data protection commissioner's term before the end of his mandate in 2014 and the potential for the president and prime minister to dismiss the NAIH president on vague grounds. On April 3, parliament amended the law to stipulate that the prime minister may only initiate the removal of the NAIH president due to conflict of interest or the violation of rules on financial disclosure statements, and that his motion is open for judicial review. On April 24, the European Commission referred the case to the Court of Justice of the European Union for failure to correct the early termination of the former data commissioner's term. The case remained pending at year's end.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials cooperated with the Venice Commission, the Council of Europe, the European Courts of Justice and Human Rights, and other international bodies to address some concerns about legislation, although a number of substantive recommendations remain unaddressed. Additionally, myriad international organizations and human rights groups maintained concerns about controversial legislation at year's end.

Government Human Rights Bodies: From January 1, the unified Office of the Commissioner for Fundamental Rights replaced the former system of four independent parliamentary commissioners (ombudsmen) responsible for civil rights, national and ethnic minority rights, data protection and freedom of information, and future generations. Former civil rights ombudsman Mate Szabo

became head of the new structure; the formerly independent ombudsman for minority affairs, Erno Kallai, and the ombudsman for future generations, Sandor Fulop, became Szabo's deputies, while the office of the ombudsman for data protection was replaced with the NAIH. The commissioner for fundamental rights (ombudsman) reports annually to parliament. On August 29, Fulop announced his resignation, citing diminished legal and financial authority. On October 8, parliament elected Marcel Szabo to succeed Fulop as the new deputy ombudsman responsible for youth and environmental affairs for a six-year term.

The new law provides the ombudsman with enhanced authority, including the right to initiate proceedings to defend the rights of large groups of citizens from violations committed by government-run institutions, banks, businesses, and social organizations. The new constitution ends the ability of citizens to bring matters before the Constitutional Court (*actio popularis*) and empowers the ombudsman, the government, the president, and one-fourth of the members of parliament to refer any law to the court. The new constitution provides that citizens may submit constitutional complaints about laws passed by parliament to the ombudsman, who may request a review by the Constitutional Court. During the year the ombudsman received approximately 600 petitions from citizens requesting that he refer laws to the Constitutional Court, filed 20 petitions with the Constitutional Court upon citizen initiative, and initiated three petitions ex officio.

Parliament's Committee for Human Rights and Minority, Civil, and Religious Affairs has 21 members selected in proportion to the parties' seats in parliament. The committee debates and reports on human rights-related bills and supervises the human rights-related activities of the ministers.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

While the constitution and law prohibit discrimination based on race, gender, disability, language, or social status, the government failed to enforce these rights fully in practice.

### **Women**

Rape and Domestic Violence: Rape, including spousal rape, is illegal, but human rights observers generally considered the problem underreported. Under the law a sexual assault is considered rape only if it involves the use of force or aggravated threats. Penalties for rape range from two to eight years in prison and can be as long as 15 years in aggravated cases. According to the Office of the Prosecutor

General, during the first 11 months of the year, prosecutors pressed rape charges in 98 cases.

The law does not specifically prohibit domestic violence or spousal abuse. The charge of assault and battery, which carries a maximum prison term of eight years, was used primarily to prosecute domestic violence cases. Under the law police called to the scene in domestic violence cases may issue an emergency restraining order valid for three days in lieu of immediately filing charges, while courts may issue 30-day restraining orders in civil law cases and a maximum of 60-day orders in criminal procedures. Women's rights NGOs have long criticized the law for failing to provide appropriate protection for victims and for not placing sufficient emphasis on the accountability of perpetrators.

During the first 10 months of the year, the Hungarian National Police Headquarters recorded 10,927 cases of violence against women and 3,581 cases of domestic violence against women.

The Ministry of Human Resources continued to operate a 24-hour hotline for victims of abuse. During the year the ministry operated the Regional Crises Management Network at 14 different locations around the country for victims of domestic violence, providing immediate accommodation and complex care for abused individuals and families. The ministry continued to operate four halfway houses around the country, providing long-term housing opportunities (maximum five years) and professional assistance for families graduated from the crises centers. In addition the government sponsored a secret shelter for severely abused women whose lives were in danger. According to women's rights NGOs, services for victims of violence against women either operated with limited capacity or did not meet international standards of good practice.

Sexual Harassment: The law establishes the right to a secure workplace and makes sexual harassment a criminal offense. However, according to NGOs, sexual harassment remained widespread. NGOs contended that the law did not clearly define sexual harassment, leaving victims with a lack of legal awareness or incentive to file a complaint.

In the first 11 months of the year, the Equal Treatment Authority (ETA), an independent authority set up by the government to monitor enforcement of antidiscrimination laws, received several reports of harassment, including sexual harassment. The ETA found legal violations in 16 of the cases but did not impose penalties, only ordering the offenders to refrain from further violations.

Reproductive Rights: Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. There was relatively easy access to contraception and skilled attendance during childbirth, and national family planning services focused on providing prenatal and postnatal care and counseling.

The European Roma Rights Center criticized legal provisions on sterilization, claiming that they fail to comply with international standards. It advocated the removal of any distinction between sterilization for medical reasons and sterilization for family planning reasons, as well as for the introduction of legal guarantees for fully informing patients of the permanent nature of sterilization procedures.

Discrimination: Under the constitution and the law, men and women have equal rights. The ETA is responsible for monitoring the implementation of the law and reports annually to parliament.

There was economic discrimination against women in the workplace, particularly against job seekers older than 50 and those who were pregnant or had returned from maternity leave.

In April the government appointed Piroska Szalai to a six-month term as ministerial commissioner responsible for improving the situation of women in the labor market.

In his “Dignity of Labor” report on December 10, the ombudsman called the employment of parents with small children uncertain due to inflexible jobs and the lack of atypical forms of employment. The ombudsman stated that the employment rate of mothers with small children was significantly behind the EU’s average.

During the first 11 months of the year, the ETA received 821 complaints, issued 196 decisions, and found 14 complaints of illegal discrimination in the field of employment to be justified. In the “justified” cases, the ETA ordered employers to stop their illegal activities, refrain from further violations, and/or to publish the decision of ETA on the employer’s Web site. In two instances, the ETA ordered employers to pay penalties of 100,000 forints (\$450) and one million forints (\$4,500).

## Children

Birth Registration: Citizenship is acquired by birth from a parent who is a citizen and birth registrations are administered immediately.

Education: The law provides for free compulsory education for children from the age of five until the age of 18. Effective September 1, a new law on education reduced the maximum age for compulsory education from 18 to 16.

On July 12, parliament adopted provisions effective from 2013 to allow law enforcement to intervene with children under 14 who miss school without permission. On October 28, the ombudsman challenged the new provision in the Constitutional Court, citing unnecessary and disproportionate restriction of the right to self-determination. The ombudsman argued that being taken to school by a police officer can be a traumatic and humiliating experience and thus violates a child's right to dignity. The case remained pending at the Constitutional Court at the year's end.

Segregation of Romani schoolchildren remained a problem. NGOs and government officials estimated that one-third of Romani children were educated in segregated classes and that 20 percent were placed without justification in remedial classes for children with mental disabilities, effectively segregating them from other students. Schools with a majority of Romani students employed simplified teaching curricula, were generally less well equipped, and were in significantly worse physical condition than those with non-Romani majorities.

On December 6, the Court of Eger ruled against the municipality of Gyongyospata in a case submitted by the Chance for Children Foundation (CFCF), stating that Romani students were unlawfully segregated in the local elementary school since 2004 and that the quality of education was lower for Roma than for non-Roma. During the year the CFCF initiated one new lawsuit against segregated education of Romani students in a Nyiregyhaza elementary school operated by the Greek Catholic Diocese. During the year two other individual school cases opened in previous years by the CFCF against the municipalities of Jaszladany and Szod remained pending. The 2009 CFCF lawsuit against the government for failing to enforce antisegregation legislation also remained pending at year's end.

Child Abuse: During the year the National Police Headquarters registered 7,727 cases of crimes against children (under the age of 14). On May 23, an expert of the

National Child Health Institute stated that more than 200,000 children (10 percent of the total) were beaten or assaulted. The commentary also noted significant regional disparities, with higher rates of child abuse occurring in eastern and northern Hungary.

Child Marriage: The legal minimum age of marriage is 18. The Social and Guardianship Office can authorize marriages of persons between the ages of 16 and 18.

Sexual Exploitation of Children: Buying sexual services from a child younger than 18 is a crime punishable by up to three years in prison. The minimum age for consensual sex is 14. According to the law, statutory rape is a felony punishable by imprisonment for two to eight years or five to 10 years if the victim is under 12 years of age. The law prohibits child pornography, which is punishable by up to eight years in prison. Some girls under the age of 18 engaged in prostitution.

Institutionalized Children: On June 11, the ombudsman issued a report on the operation of the Special Children's Home of Karolyi Istvan Children's Center at Fot, which housed boys with severe psychological problems. The report concluded that the home restricted the liberty of the children in their care and that the facility resembled a juvenile correctional or law enforcement facility (for example, rooms were locked, the walls of the building were surrounded with barbed wire, and children under disciplinary punishment could not receive visitors).

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

### **Anti-Semitism**

The Jewish population was estimated to be between 80,000 and 100,000. From May through July, a spate of anti-Semitic incidents occurred that included vandalism of Jewish memorials and cemeteries and the accosting of Jewish public figures on the streets. Anti-Semitic remarks in public discourse also increased in stridency and included both a repetition of "blood libel" accusations and a call for the creation of a list of Jewish government officials and members of parliament on the floor of parliament.

During the first 10 months of the year, there were 149 reported instances of vandalism of Jewish and Christian properties, five in houses of worship, and 144 in cemeteries. On May 22, vandals hung pigs' feet on a Budapest statue of Raoul

Wallenberg, the Swedish diplomat who was instrumental in saving tens of thousands of Jews during World War II. The media reported a rash of anti-Semitic vandalism in the following months, including vandalism of the Holocaust and the Zionist Resistance Movement monuments in Budapest on May 25; desecration of a Jewish cemetery in Szekesfehervar on June 3; and desecration of 57 graves in the city of Kaposvar on July 22. Leading government officials, including the prime minister and the president, condemned these incidents.

Physical and verbal assaults against Jewish persons also occurred. On June 5, an individual verbally accosted retired chief rabbi Jozsef Schwietzer near his home in Budapest. President Janos Ader visited Rabbi Schweitzer at his home the next day and condemned the incident in a public letter addressed to all Hungarian citizens. Other leading government officials and heads of the “historic churches” also condemned the incident and expressed their solidarity with the rabbi.

On October 5, two men physically assaulted Jewish community leader Andras Kerenyi, president of the South Pest region of the Budapest Jewish Religious Community, as he exited a synagogue. One of the men reportedly kicked Kerenyi in the abdomen and struck him in the head, and said, “Filthy Jews, you will all die!” Police arrested the perpetrators the same day, and authorities prosecuted Kerenyi’s assailant in an accelerated procedure for committing an act of violence against a member of a religious community; he was sentenced to two years in prison on October 15.

The weekly radical magazine *Magyar Forum* and the official weekly publication of the Jobbik party, *Barikad*, continued to publish anti-Semitic articles during the year.

Numerous far-right Web sites were available in the country; many were openly anti-Semitic and some were hosted on foreign Internet servers, including in the United States. NGOs reported that the government monitored the content of these sites to enforce the prohibition against public display of the swastika, the hammer and sickle, the five-pointed red star, and the arrow cross.

During the year leaders of the extremist party Jobbik and other far-right groups continued to make anti-Semitic statements. On April 3, Zsolt Barath, an MP from Jobbik, gave a speech in parliament recounting a 19th century “blood libel” case involving the disappearance of a girl in the village of Tiszaeszlar, in which members of the local Jewish community were accused of ritual killing. Barath said that the defendants in the case were acquitted due to pressure “from circles who

already dominated the economy of the world and our homeland at that time.” The session was presided over by Deputy Speaker Zoltan Balczó, a Jobbik MP, who did not interrupt Barath. Other MPs and the government quickly condemned the speech. On April 12, Prime Minister Orbán condemned Barath’s statement and emphasized that the government guaranteed the safety of every minority group living in the country. On April 16, parliament adopted the Parliament Act, which automatically suspends the immunity of MPs who incite hatred against communities, denigrate national symbols, or publicly deny the crimes of Communist or National Socialist regimes.

In May the press widely reported that an anonymous Jobbik party representative underwent genetic testing in 2010 to attempt to prove that he had no Jewish or Roma ancestry. On June 26, Csánad Szegedi, one of three Jobbik members of the European Parliament, publicly stated his Jewish ancestry after learning of the pending release of an audio recording of him allegedly attempting to bribe a person to keep it secret. Jobbik leaders subsequently called on Szegedi to resign his seat, ostensibly due to the attempted bribe; Szegedi gave up his party positions but kept his seat in the European Parliament. On November 26, Jobbik party leader Marton Gyöngyösi on the floor of parliament questioned Hungarian Jews’ patriotism, suggested Jews in the government could constitute a “national security risk,” and recommended drawing up a list of Jewish government officials and members of parliament. The government, civil society groups, and the public at large denounced his remarks.

During the year some local and central government officials engaged in efforts to rehabilitate the reputations of several World War II era figures associated with anti-Semitism. A number of localities erected statues or memorial plaques to former regent Miklós Horthy, leader of the country between 1920 and 1944, who presided over an alliance with Nazi Germany and the deportation of hundreds of thousands of Jewish citizens to concentration camps. On May 27, László Kovács, speaker of parliament, Géza Szócs, state secretary for culture, and Gábor Vona, Jobbik party chairman, attended a ceremony in Romania honoring Hungarian writer József Nyíró, an MP during the fascist Arrow Cross regime from 1944 to 1945.

György Dorner, general director of Budapest’s Új Színház theater, cancelled production of *The Sixth Coffin*, a play with anti-Semitic elements written by artistic director István Csurka (since deceased) after public criticism by István Tarlós, mayor of Budapest, and leaders of Jewish groups. In 2011 Tarlós appointed

Dorner and Csurka to their positions over the opposition of Jewish groups, who objected to their associations with far right groups.

During the year the president, the prime minister, cabinet members, and opposition politicians routinely criticized extremist movements, condemned anti-Semitic incidents, and attended events commemorating the Holocaust. Some observers, such as the president of the World Jewish Congress and the national director of the Anti-Defamation League, called on the government to fire officials who espouse anti-Semitism and on the parliament to strengthen enforcement of ethics rules. The government continued to enhance dialogue and expand coordination with the domestic and international Jewish communities.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **Persons with Disabilities**

The new constitution provides for the fundamental rights for all without discrimination including for persons with disabilities and vows to protect them with special measures. The law prohibits discrimination against persons with physical, sensory, and intellectual disabilities in employment, education, air travel and other transportation, access to health care, or the provision of other government services. However, persons with disabilities frequently faced discrimination and prejudice, and the government failed to enforce antidiscrimination laws effectively. According to the 2001 census, 577,000 persons with disabilities lived in the country, while disability organizations estimated the number to be significantly higher.

The international NGO Mental Disability Advocacy Center (MDAC) continued to criticize the government for failing to protect the rights of persons with disabilities who were under the legal guardianship of others, particularly their right to access employment, education, and health care. According to the MDAC, one of the key problems was the lack of alternatives to guardianship for persons with disabilities who needed support in making certain decisions. According to the MDAC, nearly 60,000 adults were under guardianship. On October 22, the UN Committee on the Rights of Persons with Disabilities released the *Concluding Observations on the Initial Periodic Report of Hungary*, which recommended "immediate steps to derogate guardianship in order to move from substitute decision-making to

supported decision-making, which respects the person's autonomy, will and preferences.”

A government decree requires all companies with more than 25 employees to reserve 5 percent of their work positions for persons with physical or mental disabilities and levies fines for noncompliance. Employers typically paid the fines rather than employ persons with disabilities. On July 3, a report published by the fundamental rights commissioner found that the right to human dignity and to free choice of employment for persons with disabilities was routinely violated. The report noted that the tendering system aimed at improving the employment of persons with disabilities was “unpredictable and chaotic in its present form,” and employment procedures were excessively complicated and served as disincentives for employers.

Both the central government and municipalities continued to renovate public buildings to make them accessible to persons with disabilities. The law originally set 2010 as the deadline by which the central government had to make buildings accessible, while municipalities have until 2013. There was no data available on the percentage of government buildings that complied with the law, but NGOs contended many public buildings remained inaccessible. NGOs claimed that the right to public schooling was not honored for children with severe and multiple disabilities because public elementary schools are not obliged to enroll children with disabilities.

NGOs continued to complain about the lack of independent oversight of government-run long-term care institutions for persons with mental disabilities. According to the MDAC, 25,000 persons with disabilities were living in long-term care psychiatric and social care institutions. On October 15, the ombudsman released a report on the accommodation and care of psychiatric patients in the Forensic Psychiatric Mental Institute (FPMI). The FPMI is the only institute where forced medical treatment ordered by a court can be carried out and where detainees with psychiatric or neurological problems are transferred from penitentiary institutions. The ombudsman's report concluded that the present circumstances constituted a violation of patients' rights to human dignity and to health.

According to the constitution, a court can deprive persons with disabilities who are under guardianship of their right to vote due to limited mental capacity. The MDAC harshly criticized the “mental ability” provision calling it an “unsophisticated disguise for disability-based discrimination” because it could

apply to persons with intellectual disabilities and persons with psychosocial disabilities. NGOs noted that polling places were generally not accessible to persons with disabilities and that election materials were not available in an easy-to-read format.

The lead agency for protecting the rights of persons with disabilities is the Ministry of Human Resources.

### **National/Racial/Ethnic Minorities**

The Romani community remained the largest ethnic minority. According to the Central Statistics Office, in 2001 Roma accounted for 2 percent of the population, or approximately 200,000 individuals. However, unofficial estimates varied widely and suggested the actual figure was much higher, ranging between 500,000 and 800,000 persons. Human rights NGOs continued to report that Roma were discriminated against in almost all fields of life, particularly in employment, education, housing, penal institutions, and access to public places, such as restaurants and bars.

During the year far-right extremist groups continued to incite hatred and violence against Roma and held marches around the country aimed at intimidating local Romani communities. NGOs continued to assert that the government failed to protect the local Roma minority against racist provocation.

The Jobbik party continued to use derogatory rhetoric about “gypsy crime” and held several demonstrations in Romani neighborhoods and villages that required a heavy police presence to maintain order. On August 5, Jobbik and other extremist groups held a demonstration in Devecser, allegedly in response to a brawl between a Romani and a non-Romani family. Demonstrators marched through streets inhabited by the local Romani population, gave speeches inciting hatred against the Romani community, and threw stones and bottles at Romani houses. Several human rights NGOs criticized police for failing to break up the demonstration or initiate legal proceedings against the perpetrators. Following the event, two Romani individuals contacted the HHC to report that they were assaulted by extremist demonstrators and suffered light injuries. The HHC represented the victims in the criminal proceedings launched by the Veszprem County Police Headquarters on August 10. The government opened a criminal proceeding against unknown perpetrators on suspicion of committing violence against members of a community, and the case remained pending at year’s end.

On August 25, Jobbik organized a march in Heroes' Square in central Budapest to commemorate the fifth anniversary of the founding of the banned Hungarian Guard (see section 2.b.).

The trial of four persons charged in connection with the 2008-09 serial killings of six Roma, including a father and child who were shot fleeing their burning home in Tatárszentgyörgy, continued during the year at the Budapest Vicinity Tribunal. Three of the defendants were charged in 2011 with multiple homicides, and the fourth was charged as an accomplice in the killings. The case remained pending.

During the year NGOs complained that courts continued to use the provision of the criminal code on racism regarding "violence against a member of a community" to convict Roma, whereas the law was designed to protect members of groups facing severe societal prejudice. On July 3, the court handed down a total of 34 years in prison to a group of 11 Roma for what it called a "racist crime against Hungarians" committed in 2009, three weeks after the Tatárszentgyörgy killings. The group attacked a vehicle and caused mild injuries to the occupants and \$520 worth of damage to the car. The verdict cited a baton, inscribed with "Death to Hungarians" and carried by the defendants, as proof of a hate crime. The HCLU, representing the accused, appealed the verdict, and the case remained pending.

According to the HCLU, members of the Romani community were regularly sentenced for minor offenses that were usually ignored when committed by non-Roma, such as collecting firewood or minor traffic infractions. The HCLU asserted that police and municipalities selectively applied laws against Roma to keep them segregated and restrict their freedom of movement. In July 2011 the notary of Rimóc (northeast Hungary) notified the ETA that petty offense fines for lack of mandatory bicycle accessories (i.e., a bell, headlights, and reflectors) are almost exclusively imposed on Roma in the area, although the bicycles used by non-Roma reportedly were not better equipped. The HHC intervened in the case, which ended in a mutual settlement on April 16 between the NGO and the Nograd County police chief. In the settlement police acknowledged that the practice may have disproportionately affected the Romani community but emphasized that they had no means to address it because they were not allowed to collect the ethnic affiliation data of the individuals fined. The HHC emphasized that this was the first case in which the police practice of ethnic profiling was partially acknowledged.

According to the government, approximately 85 percent of working-age Roma were unemployed, and in many underdeveloped regions of the country the rate

exceeded 90 percent. During the year the government provided public employment opportunities lasting from two to 11 months for 270,000 registered unemployed persons, approximately 27 percent of whom were Roma. The government's Public Work Program expended 132 billion forints (\$595 million) for locally administered projects typically involving the cleaning of public spaces or work on agricultural or water projects. Beginning March 1, the government expanded the program to include an education component for those participants engaged in agricultural work aimed at providing training on cultivation, animal husbandry, and food conservation. Through the end of the year, 10,000 public workers participated in the educational component of the program. On October 3 and December 27, the ombudsman released two reports addressing the Public Work Program in which he declared that the program's participants were in an extremely vulnerable position. The ombudsman detailed problems related to the payment of wages to public workers, the consequences of not participating in the public work program, and the inadequacy of the training component of the program.

According to a national survey published in June 2011 by the National Family and Social Policy Institute, 70 percent of Roma had eight years of education or less while 26 percent earned some kind of vocational qualification. Only 5 percent of Romani students completed secondary school, and only 1 percent held a college or university degree. There were five Romani special colleges in five cities across the country operated by Christian denominations. The special colleges provided housing and tutoring for Romani students enrolled in higher educational institutions. During the year 103 Romani students participated in the network of special colleges supported by the government with 119 million forints (\$536,000) and the EU with 1.1 billion forints (\$4,960,000). The public education system continued to provide inadequate instruction for minorities in their own languages. Romani language schoolbooks and qualified teachers were in short supply.

Inadequate housing continued to be a problem for Roma, whose overall living conditions remained significantly worse than those of the general population. According to Romani interest groups, municipalities used a variety of techniques to prevent Roma from living in more desirable urban neighborhoods. To apply for EU and government funds for urban rehabilitation and public education projects, municipal authorities must attach to their proposal a desegregation plan outlining planned actions to eradicate segregation in housing and public education. According to a 2010 survey by the Ministry of National Resources, approximately 100,000 seriously disadvantaged persons, mainly Roma, lived in approximately 500 settlements that lacked basic infrastructure and were often located on the

outskirts of cities. The government continued the settlement rehabilitation program worth 410 million forints (\$1,847,000) to improve the living conditions of the residents living in segregated settlements. The government program involved eight settlements, accommodating approximately 6,000 persons.

On May 13, former state secretary for social integration Zoltan Balog became minister for human resources (formerly known as Ministry for National Resources). Balog announced that Roma integration was elevated to the cabinet level. During the year the government worked closely with the National Roma Self-Government in implementing the three-year action plan (2012-14) of the National Social Inclusion Strategy adopted in December 2011. The Roma Coordination Council, which included representatives of the Romani minority self-government, NGOs, municipalities, churches, and the fundamental rights commissioner, held two sessions during the year to discuss implementation and the expansion of the government's social inclusion strategy.

On January 1, the new law on nationalities entered into force. The law establishes cultural autonomy for nationalities (replacing the term "minorities") and recognizes the right to foster and enrich historic traditions, language, culture, and educational rights as well as to establish and operate institutions and maintain international contacts. The law stipulates that any municipality with 30 residents belonging to a registered ethnic group can form a nationality self-government to organize activities and manage cultural, educational, and linguistic affairs. The president of each nationality self-government has the right to attend and speak at local government assemblies.

### **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

The Act on Equal Opportunity explicitly prohibits discrimination based on sexual preference. In addition provisions of the criminal code on "inciting against a community" and "violence against a member of a community" prohibit certain forms of hate speech and prescribe increased punishment for violence against members of the lesbian, gay, bisexual, and transgender (LGBT) community, albeit without explicit reference to these groups. On June 25, parliament adopted a new criminal code, effective July 1, 2013, that added explicit reference to sexual orientation and gender identity to the provision on inciting and violence against the member of a community. Despite legal protections, right-wing extremists continued to abuse members of the LGBT community. Law enforcement and other

authorities often disregarded the hate element of these crimes, and no protocol or regular training on the subject existed.

On April 6, the Budapest police, citing traffic disruption, refused to issue a permit for the annual Budapest Pride march for the second year in a row. Organizers, assisted by the HCLU and the HHC, challenged the ban, and a Budapest court overruled the police decision and permitted the march. On July 5, a spokesperson for the Budapest Police Headquarters called on the participants of Budapest Pride to refrain from unlawful actions and from “provocative behavior.” Although far-right extremist groups attempted to disrupt the gay pride march held on July 7, the event proceeded without incident. In a report issued on August 2, the ombudsman found that that police protection of the right of assembly had significantly improved over the past few years. The ombudsman reminded police that statements calling for “officially expected behavior” at a demonstration violated the freedom of speech and the freedom of assembly.

On September 17, the Curia ruled that the dismissal of a vocational secondary school teacher in 2006 violated the Equal Treatment Act because the employer failed to prove that the sexual orientation of the teacher was not the cause for dismissal. In connection with the compensation claim of the plaintiff, the Curia ordered the labor court to repeat the proceeding, which remained pending at the end of the year.

### **Other Societal Violence or Discrimination**

There were no reports of societal violence or discrimination against persons with HIV/AIDS.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law, including related regulations and statutory instruments, protects the right of workers to form and join independent unions without previous authorization or excessive requirements, conduct their activities without interference, and bargain collectively. With the exception of law enforcement, military personnel, prison guards, border guards, and firefighters, workers have the right to strike. The law permits military and police unions to seek resolution of grievances in court. The law prohibits antiunion discrimination and provides for reinstatement of workers fired for union activity.

While employers are not allowed to hire temporary workers during a strike, temporary workers hired beforehand are allowed to continue working. Workers at companies performing activities fundamental to the population, such as public transport, telecommunications, water, power, gas, and other energy sector firms, may not strike unless an agreement has been reached on minimum services during a strike. The courts determine the definition of minimum services. National trade unions opposed the law on the basis that the courts lacked the expertise to decide on necessary minimum services and that the term “abusing the right to strike” was too vague.

The law requires trade unions to represent 10 percent of either all workers employed by the same employer or the number of workers covered by collective agreement in order to engage in collective bargaining. Labor unions of law enforcement professionals are not entitled to rights of collective bargaining.

Freedom of association and the right to collective bargaining were generally respected. However, there was anecdotal evidence of unilateral termination of collective agreements. While worker organizations were independent of government and political party interference, unions reported a continued attempt by the government to influence their independent operation. Workers exercised the right to strike and bargain collectively, mainly at the company level.

The International Trade Union Confederation expressed concern that judges and prosecutors have the legal authority to interfere with internal trade union matters and that trade union registration practices were long and cumbersome.

While the law provides for reinstatement of workers fired for union activity, court proceedings on unfair dismissal cases sometimes took more than a year to complete, and court decisions were not always properly enforced. Trade unions reported cases of employers intimidating trade union members, transferring, relocating, or dismissing trade union officers, and hindering union officials from entering the workplace.

A 32-member advisory board, the National Economy and Social Council, held seven sessions and addressed problems such as the impact of the newly introduced labor code or the minimum wage for 2013. The consultative council was composed of representatives of unions, NGOs, churches, domestic and international business chambers, and scientific groups, with the government present only as an observer.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor. Labor trafficking was a problem, and International Organization for Migration Budapest reported that it was not aware of any specialized governmental action to address it specifically.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits children younger than 16 from working. Children between the ages of 16 and 18 may work under certain circumstances as temporary workers during school vacations. Children may not work night shifts or overtime or perform hard physical labor.

Child labor occurred. The National Labor Office (NLO) reported that two companies employed two children under the age of 15. No data was available on the amount of the fine imposed on the company. Individuals who identify child victims of labor exploitation are required to report them to the Guardianship Authority. There was no information available about the adequacy and effectiveness of child labor law enforcement.

### **d. Acceptable Conditions of Work**

The national minimum monthly wage for full time employment was 93,000 forints (\$419). A special minimum monthly wage for jobs requiring the completion of secondary education was 108,000 forints (\$487). The 2011 poverty level for a family of two adults and two children was 60,158 forints (\$271) per individual. The law requires equal pay for equal work.

The law sets the official workday at eight hours, although it may vary depending on the industry. A 48-hour rest period is required during any seven-day period. The regular workweek is 40 hours with premium pay for overtime and two days of rest. The new labor code increased the maximum limit of overtime from 200 to 250 hours per year and provides for paid annual national holidays. The government set occupational safety and health standards. Labor laws also apply to foreign workers with work permits.

The NLO and the labor inspectorate units of regional government offices monitored and enforced occupational safety and health standards and labor code regulations, but enforcement was not always effective. During the year the regional government offices employed 163 occupation safety and health inspectors and 262 labor law inspectors.

During the year 17,025 accidents occurred in places of work, mostly in the mechanical industry. The NLO registered 62 workplace fatalities most of which occurred in construction work.