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FREEDOM OF THE PRESS

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Hungary

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Hungary's constitution protects freedom of speech and of the press, but complex and extensive media legislation adopted in 2010 is widely seen as undermining these guarantees. A ruling by the Constitutional Court in December 2011 and amendments adopted during 2011 and 2012 to meet objections from the European Commission did little to limit the power of a new media regulation authority, which is currently controlled by the ruling Fidesz party.

In 2010, Prime Minister Viktor Orbán's Fidesz party used its parliamentary supermajority to pass numerous mutually reinforcing legislative changes, tightening government control of the broadcast sector and extending regulation to print and online media. In July of that year, it amended the constitution, removing a passage on the government's obligation to prevent media monopolies. It then consolidated media regulation under the supervision of a single entity, the National Media and Infocommunications Authority (NMHH), whose members are elected by a two-thirds majority in the parliament and whose leader also chairs a five-person Media Council tasked with content regulation. The law gives the head of the NMHH the right to nominate the executive directors of all public media. The first president of the NMHH, Annamária Szalai, a former Fidesz politician, was appointed by Orbán for a nine-year term, initially without limits on reelection. The structure and broadly defined competencies of the new regulatory bodies were outlined in subsequent legislation, including the Press and Media Act of November 2010 and the so-called Hungarian Media Law, which was adopted in December 2010 and came into effect on January 1, 2011. Though they share a leader and consist entirely of Fidesz nominees, the NMHH and Media Council are theoretically autonomous, both from the government and from each other.

The composition of the two bodies raised significant concerns among Hungarian media employees, opposition parties, and civil society activists. The expansion of regulatory oversight from broadcast to print and internet-based media also drew a wave of criticism from the international community, including the Council of Europe, the European Parliament, the media representative of the Organization for Security and Cooperation in Europe (OSCE), the UN special rapporteur on freedom of expression, and various press freedom and human rights organizations.

By late February 2011, negotiations between Hungarian government officials, European Union (EU) media monitoring bodies, and Hungarian media experts had yielded amendments to a number of provisions identified by the European Commission as violations of EU law. Rules on registration and authorization of media service providers were amended to comply with the EU's Audiovisual Media Services (AVMS) Directive, allowing print, ancillary, and on-demand media to register with the NMHH within 60 days of launching their services, rather than prior to doing so. However, all media outlets, including online services, still must register. An additional amendment protects audiovisual media service providers based in other EU member states from being fined for breaching certain provisions of the Hungarian Media Law, such as a ban on incitement of hatred. In general, the amendments resulted in a few improvements, but also yielded a new restriction: Media service providers can be fined for failing to register with the NMHH.

On December 19, 2011, Hungary's Constitutional Court annulled several pieces of legislation from 2010 and 2011, including provisions of the Press and Media Act and some sections of the Media Law. The ruling excluded print and online media from the scope of the sanctioning powers of the NMHH; revoked the media authority's right to demand data from media service providers, publishers, and program distributors; deleted a provision limiting the confidentiality of journalists' sources to stories serving the public interest; and eliminated the position of media commissioner, an appointee of the NMHH president with the authority to initiate proceedings that do not involve violations of the law and whose decisions can be enforced by NMHH-issued fines and sanctions. The revisions were approved by the parliament in May 2012. However, in an interview published on June 7 in the Budapest weekly *Figyelő*, Neelie Kroes, the EU commissioner for the digital agenda and vice president of the European Commission, said the recent changes "failed to address the concerns of the EU and of the Council of Europe." Kroes called the Media Law "embarrassing," noting that the revisions addressed just 11 of 66 recommendations made by the Council of Europe.

2013 SCORES

PRESS STATUS
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PRESS FREEDOM SCORE
36

LEGAL ENVIRONMENT
12

POLITICAL ENVIRONMENT
13

ECONOMIC ENVIRONMENT
11