

Hungary

	2013	2014		
Internet Freedom Status	Free	Free	Population:	9.9 million
Obstacles to Access (0-25)	5	5	Internet Penetration 2013:	73 percent
Limits on Content (0-35)	8	8	Social Media/ICT Apps Blocked:	No
Violations of User Rights (0-40)	10	11	Political/Social Content Blocked:	No
TOTAL* (0-100)	23	24	Bloggers/ICT Users Arrested:	No
			Press Freedom 2014 Status:	Partly Free

* 0=most free, 100=least free

Key Developments: May 2013 – May 2014

- Revisions to the criminal code, which came into effect in July 2013, require ISPs to block content deemed illegal by a court order. Websites hosting illegal content are placed on a non-public “blacklist” operated by the National Media and Infocommunications Authority (NMHH) (see **Limits on Content**).
- On November 5, 2013, the criminal code was modified to make defamatory video or audio recordings punishable by up to three years in prison (see **Violations of User Rights**).

Introduction

Over the past four years, new laws regulating the media, including online media outlets and news portals, have caused significant concern among civil liberties advocates and the international community.¹ The National Media and Infocommunications Authority (NMHH) and its decision-making body, the Media Council, were established in 2010 to oversee the mass communications industry, with the power to penalize or suspend outlets that violate stipulations of the media regulations. In April 2011, the national assembly adopted a new constitution, the Fundamental Law of Hungary, which includes a provision concerning the supervision of the mass communications industry and the media as a whole. The parliament also created the National Agency for Data Protection, whose independence has been called into question due to the political appointment process of the agency's leadership.

Immediately after the 2010 media laws were passed, Hungary came under fierce criticism from the international community, as the laws were deemed incompatible with the values of the European Union. Despite modifications to the media laws in May 2012 based on the December 2011 ruling of the Hungarian Constitutional Court, members of the Organization for Security and Co-operation in Europe (OSCE) and the Council of Europe have argued that the laws remain unsatisfactory, and that unclear provisions and the significant power given to the NMHH continue to threaten media freedom.² In particular, high fines can be imposed on all types of media outlets by the single-party Media Council based on an obscure content provision.

Over the past year, new modifications to the criminal code have further restricted the environment for internet freedom in the country. Of particular concern is an amendment passed in November 2013 that introduces criminal penalties for publishing defamatory video or audio recordings. The most severe penalties relate to content that is published to a "wide audience," causing concerns that this amendment will have a significant impact on media outlets.

Despite the increase in restrictive laws, over the past decade the availability of broadband connections has increased, and a majority of the population is online. Information and communication technologies (ICTs) are being used not only for social activities and newsgathering, but also increasingly for political activism.

Obstacles to Access

Internet penetration rates for Hungary vary according to the source. In 2012, the Hungarian Central Statistical Office reported that 68 percent of households had broadband internet connection, up from 61 percent in 2011.³ According to the International Telecommunication Union (ITU), internet penetration in Hungary stood at nearly 73 percent in 2013, compared to 61 percent in 2008,⁴ while

1 Act CIV of 2010 on the freedom of the press and the fundamental rules on media content, <http://bit.ly/1hbKJBW>; Act CLXXXV of 2010 on media services and on the mass media, <http://bit.ly/197GmZJ>.

2 Revised Hungarian media legislation continues to severely limit media pluralism, says OSCE media freedom representative," Organization for Security and Cooperation in Europe, May 25, 2012, <http://www.osce.org/fom/90823>.

3 Hungarian Central Statistical Office, ICT usage in households and by individuals (2005–), 2012, http://www.ksh.hu/docs/eng/xstadat/xstadat_annual/i_oni006.html.

4 International Telecommunication Union (ITU), "Percentage of individuals using the Internet, fixed (wired) Internet subscriptions, fixed (wired)-broadband subscriptions," 2008 & 2013, accessed July 25, 2014, <http://bit.ly/6bZQ1>.

the National Media and Infocommunications Authority of Hungary (NMHH) reported in late 2013 that there were almost 2.3 million broadband internet subscriptions in a country of 10 million inhabitants.⁵ Dial-up internet service is not widely used. The NMHH recorded a mobile phone penetration rate of about 117 percent⁶ and nearly 4 million mobile internet subscriptions.⁷ In 2012, only 26 percent of the population had never used the internet, a decrease from 52 percent in 2006.⁸ A 2011 Eurobarometer survey found that Hungarian households that do not have internet subscriptions cite reasons including: monthly subscriptions are too expensive, the cost of buying a computer and modem are too high, or that no one in the household has an interest in using the internet.⁹

There are geographical, socioeconomic, and ethnic differences in Hungary's internet penetration levels, with lower access rates found among low-income families and in rural areas. According to the 2012–2013 data from the Millward Brown research company, internet penetration in Hungary was over 89 percent among those living under the best circumstances, compared to merely 43 percent among those living under the worst circumstances. Internet penetration was over 75 percent among the employed and 46 percent among those who were unemployed. Also, internet penetration differs between those living in the capital and in the countryside.¹⁰ There is no new data on the internet penetration level among the Roma community, the country's largest ethnic minority, though in the past this group has had lower-than-average levels of internet access.¹¹

The National Core Curriculum for 2013 drastically decreased the number of IT classes in primary and secondary schools despite protests from IT teachers,¹² potentially further increasing the digital divide among social groups, as children coming from low-income families may not have access to computers and other digital devices in their homes. A recent survey found that the IT infrastructure in Hungarian public schools is poor compared to the European Union average. Hungary has the lowest rate of students in schools with electronic educational resources, while the majority of schools have a broadband speed under 10 Mbps.¹³

In late 2012, most internet users accessed the internet primarily from home or work, while access at internet cafes and "telecottages" (local community centers) was less common; the use of

5 "Flash report on wireline service," National Media and Infocommunications Authority (NMHH), October 2013, http://english.nmhh.hu/dokumentum/161444/vezetokes_gyorsjelentés_2013_október_eng.pdf.

6 "Flash report on mobile phone," NMHH, November 2013, http://english.nmhh.hu/dokumentum/161714/mobil_gyj_2013_nov_eng.pdf.

7 "Flash report on mobile internet," NMHH, November 2013, http://english.nmhh.hu/dokumentum/161748/mobil_internet_2013_nov_eng.pdf; Hungary's population was 9,909,000 in 2013. See, "Population, vital statistics," Hungarian Central Statistical Office (KSH), http://www.ksh.hu/docs/eng/xstadat/xstadat_long/h_wdsd001a.html.

8 "Individuals who have never used the internet. Percentage of individuals aged 16 to 74," Eurostat, accessed December 27, 2012, <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=tin00093>.

9 Special Eurobarometer 362, "E-communications household survey" (Eurobarometer, July 2011): 56.

10 Millward Brown TGI Magyarország 2012/3-4 2013/1-2 quarter.

11 Anna Galács, Ithaka Kht, eds., "A digitális jövő térképe. A magyar társadalom és az internet. Jelentés a World Internet projekt 2007. évi magyarországi kutatásának eredményeiről" [The map of the digital future. The Hungarian society and the internet. Report on the results of the 2007 World Internet Project's Hungarian research], (Budapest: 2007): 20.

12 "Esélytelen diákok és 1 Mbit-es internet a magyar iskolákban" [Chanceless students and 1Mbit internet at Hungarian schools], Tamás Papós, Hvg.hu, October 3, 2013, http://hvg.hu/tudomany/20131003_informatika_oktatas_sulinet.

13 "Survey of schools: ICT in education. Country profile: Hungary," November 2012, European Schoolnet and University of Liege, <https://ec.europa.eu/digital-agenda/sites/digital-agenda/files/Hungary%20country%20profile.pdf>.

devices such as smartphones and tablets increased.¹⁴ In early 2013, industry experts estimated that approximately 2.4 million people were using smart phones.¹⁵ An increasing number of widely-used software and websites are available in Hungarian, and there are several Hungarian blog-hosting sites. By late 2013, there were more than 637,000 registered “.hu” domains¹⁶ recorded at some 150 domain name registrars.¹⁷

The government does not restrict bandwidth, routers, or switches,¹⁸ and backbone connections are owned by telecommunications companies rather than the state.¹⁹ Legally, however, internet and other telecommunications services can be paused or limited in instances of unexpected attacks, for preemptive defense, or in states of emergency or national crisis.²⁰ The Budapest Internet eXchange (BIX) is a network system that maintains the Hungarian internet traffic between domestic internet service providers (ISPs), and is overseen by the Council of Hungarian Internet Service Providers (ISZT)²¹ without any governmental interference.²²

Three ISPs control over 50 percent of the total fixed broadband market,²³ and there are three mobile phone service providers, all privately owned by foreign companies.²⁴ The existence of only three mobile phone service providers (in addition to the resellers that use the networks of the three major mobile phone service providers) has created a relatively stagnant market in terms of mobile internet network expansion. A state-owned consortium tried to enter the market in 2012, but after the tender was brought to court, the project was abandoned.²⁵

The government levied two special taxes on the telecommunication industry in 2010, both of which triggered infringement proceedings in the European Union in 2012. Both proceedings were ultimately withdrawn,²⁶ and the government withdrew the special tax levied in 2010. However, another tax was introduced in mid-2012 on mobile phone calls and text messages (a maximum of

14 “Lakossági internethasználat – 2012. Online piacfelmérés” [Domestic internet use – 2012. Online market research], NMHH, November 14, 2013, http://nmhh.hu/dokumentum/161248/internet_2012_vegleges_webre.pdf

15 PWC, “A globális online aggregátorok működésének hatása a hazai tartalomszolgáltatás iparági folyamataira. Zöld könyv” [The effects of global online aggregators to the Hungarian domestic content providers industrial processes. Green book], December 9, 2013. http://mte.hu/dokumentumok/PwC-MTE_TANULMANY_vegso_valtozat_2013.12.09.pdf

16 “The number of domains under the .hu public domains,” Council of Hungarian Internet Providers, December 1, 2013, <http://www.nic.hu/English/statisztika/>.

17 “List of registrars,” Official .hu domain registry, accessed April 27, 2013, <http://www.domain.hu/domain/English/>.

18 Zoltán Kalmár, Council of Hungarian Internet Service Providers, e-mail communication, January 24, 2012.

19 “Magyarország internetes infrastruktúrája” [Hungary’s internet infrastructure], Rentit.hu, January 29, 2010, <http://www.rentit.hu/hu-HU/Cikk/erdekessegek/magyarorszag-internetes-infrastrukturaja.rentit>

20 Act CXIII of 2011 on home defense, Military of Hungary, and the implementable measures under special legal order, Art. 68, par. 5.

21 “BIX Charter,” Budapest Internet Exchange (BIX), April 21, 2009, <http://bix.hu/?lang=en&page=charter>.

22 Zoltán Kalmár, Council of Hungarian Internet Service Providers, email communication, January 24, 2012.

23 These major internet service providers are: Telekom with a 35.6 percent market share, UPC 21.8 percent, and DIGI 13.8 percent. See “Flash report on wireline service,” National Media and Infocommunications Authority (NMHH), October 2013, http://english.nmhh.hu/dokumentum/161444/vezetokes_gyorsjelentés_2013_október_eng.pdf

24 The three mobile phone companies are: T-Mobile with a 46.47 percent market share, Telenor 30.97 percent, and Vodafone 22.55 percent. See “Flash report on mobile phone,” NMHH, November 2013, http://english.nmhh.hu/dokumentum/161714/mobil_gyj_2013_nov_eng.pdf

25 “2013 in review,” Budapesttimes.hu, December 18, 2013, <http://www.budapesttimes.hu/2013/12/18/2013-in-review-2/>.

26 European Commission vs. Hungary, Case C-462/12, November 22, 2013; and EC drops suit over Hungary telecoms tax, Politics.hu, September 27, 2013, <http://www.politics.hu/20130927/ec-drops-suit-over-hungary-telecoms-tax/>.

\$3 monthly for individual subscribers)²⁷ to counterbalance the withdrawal of the special tax of 2010. Almost all mobile service providers have since raised their prices.²⁸

The National Media and Infocommunications Authority of Hungary (NMHH) and the Media Council, established under the 2010 media laws, are responsible for overseeing and regulating the mass communications industry. The Media Council is the NMHH's decision-making body in matters related to media outlets, and its responsibilities include allocating television and radio frequencies and penalizing violators of media regulations. The members of the Media Council are nominated and elected by the governing two-thirds parliamentary majority.²⁹ Based on consultations with industry leaders and the Council of Europe in January 2013, the nomination process was amended, after which the president of the NMHH (and president of the Media Council if elected by the parliamentary majority) is no longer appointed directly by the prime minister but by the president of the republic, based on the proposal of the prime minister, for a non-renewable nine-year term.³⁰

Despite these modifications, some of the decisions of the Media Council have been regarded as politicized. For instance, Mérték Media Monitor revealed in several analyses that during the radio frequency allocation processes, preference was given to a few applicants, who received a large share of the available frequencies.³¹

With the recently adopted Fundamental Law of Hungary, in operation since January 2012, the governing parties prematurely ended the six-year term of the well-functioning Data Protection Commissioner, replacing the former office with the National Agency for Data Protection. The head of the new agency is appointed by the president of the republic based on the suggestion of the prime minister for a nine-year term and can be dismissed by the president based on the suggestion of the prime minister on arbitrary grounds,³² calling into question the independence of the agency.

Limits on Content

The recently accepted changes to the civil and penal codes somewhat alter the regulatory landscape when it comes to online content, imposing limitations principally in the name of child protection. There is no sign of the government mandating any systematic filtering of websites, blogs, or text messages. Online content is somewhat limited as a result of self-censorship, lack of revenue for independent media outlets online, and the dominance of the state-run media outlet. The government does not place any restrictions on access to social media and communication applications: YouTube, Facebook, Twitter, Tumblr, international blog-hosting services, instant messaging, person-to-person communication, and other applications are freely available.

27 "Hungary phone tax burden may affect Magyar Telekom dividend," Andras Gergely, Bloomberg.com, May 10, 2012, <http://www.bloomberg.com/news/2012-05-10/hungary-tax-may-hit-magyar-telekom-dividend-mattheisen-says-1-.html>.

28 "Telefonadó: A Telenor és a Magyar Telekom is emeli a díjait", [Telephone tax: both Telenor and Magyar Telekom raises prices], Hvg.hu, September 10, 2013, http://hvg.hu/gazdasag/20130910_Vandorlasba_kezdhet_a_mobilpiac.

29 Act CLXXXV of 2010, Art. 124.

30 Act CLXXXV of 2010, Art. 111/A.

31 Krisztina Nagy, "Regnum Marianum. Media Council redraws the radio market," November 2012–July 2013, Mertek Media Monitor, September 18, 2013, http://mertek.eu/sites/default/files/reports/media_council_redraws_the_radio_market.pdf

32 Act CXII of 2011 on data protection and freedom of information, Section 40, par. 1, 3; Section 45, par. 4–5, http://www.naih.hu/files/ActCXIIof2011_mod_2012_05_09.pdf.

By the end of November 2013, the parliamentary majority accepted a modification to a set of laws in the name of child protection that urges ISPs to provide filtering software on their websites for free for subscribers to use in their homes; however, institutions such as public libraries and public schools will be urged to use such filters to protect children and to provide their “mental, physical and intellectual development” – as the explanation of the draft highlights.³³ The modifications became effective as of January 1, 2014.

The new penal code, which took effect in July 1, 2013, includes provisions based on which websites can now be blocked in cases of unlawful online content.³⁴ The law stipulates that if the illegal content is hosted on a server located outside of the country, the Hungarian court will issue a query to the Minister of Justice to make the electronic content inaccessible; the minister then passes the query onto the “foreign state,” and if there is no response from that state for 30 days, the court can order domestic ISPs to make the given content inaccessible.³⁵ The NMHH is the authority designated to manage the list of websites to be blocked based on court orders³⁶ (or the tax authority in case of illegal gambling), while the operation of the system is regulated by a decree of the NMHH, which enables the authority to oblige ISPs to block the unlawful content.³⁷ The list, referred to as KEHTA (Hungarian acronym for “central electronic database of decrees on inaccessibility”), went into effect on January 1, 2014 with the primary aim of fighting against child pornography, crimes against the state, and terrorism. However, the blacklist is not public, as only certain institutions (such as the courts, parliamentary committees, the police, etc.) have access to the list of blocked websites. As of May 2014, there is no evidence that the law has been applied to block any online content.³⁸

Intermediaries are not legally responsible for transmitted content if they did not initiate or select the receiver of the transmission, or select or modify the transmitted information.³⁹ Intermediaries are also not obliged to verify the content they transmit, store, or make available, nor do they need to search for unlawful activity.⁴⁰ Intermediaries are required to make data inaccessible, either temporarily or permanently, once they receive a court order stating that the hosted content is illegal.⁴¹ Nevertheless, the 2010 media laws contain several general content regulation provisions concerning online media outlets, particularly if these outlets provide services for a profit. For example, the media regulation states that print and online media outlets bear editorial responsibility if their aim is to distribute content to the public for “information, entertainment or training purposes,” but that editorial responsibility “does not necessarily imply legal liability in relation to printed press materials.”⁴² The law fails to clarify what editorial responsibility entails and whether it

33 Act C of 2003 on electronic communication, Art. 149/A.

34 Act C of 2012, Art. 77.

35 Act XXXVIII of 1996 on International Assistance in Criminal Matters, Art. 60/H.

36 Act C of 2003 on electronic communication, Art. 159.

37 19/2013. (X.29.) NMHH rendelet az egyszerű adatátvitelt és hozzáférést biztosító elektronikus hírközlési szolgáltatók és a kereső- és gyorsítótár-szolgáltatók központi elektronikus hozzáférhetetlenné tételi határozatok adatbázisához való kapcsolódásának és a Nemzeti Média- és Hírközlési Hatósággal való elektronikus kapcsolattartás szabályairól. 19/2013 (X.29.) NMHH decree.

38 The first instance of blocking based on this new law came in July 2014, when the Media Authority blocked two illegal gambling sites. See: “Hungarian Media Authority blocks offshore gambling websites,” *Budapest Beacon*, July 15, 2014, <http://budapestbeacon.com/economics/hungarian-media-authority-blocked-offshore-gambling-websites/>.

39 Act CVIII of 2001 on Electronic Commerce, Art. 8, par. 1.

40 Act CVIII of 2001, Art. 7. par. 3.

41 Act CVIII of 2001, Art. 12/A, Act XIX of 1998 on criminal proceedings, Art. 158/B-158/D.

42 Act CIV of 2010, Art. 1, par. 6.

would imply legal liability for online publications. A member of the Media Council claimed that this provision could apply to a blog if the blog were produced for a living.⁴³

In June 2012, the Supreme Court condemned the publishers of two blogs for defamation committed in comments posted on their sites, regardless of the fact that the comments had been deleted. The Supreme Court ruled that the plaintiff was harmed in his right to good reputation, and that the defendants needed to pay for the legal expenses incurred.⁴⁴

The legal implications of comments posted online were further substantiated by a judgment of the Constitutional Court in 2014. In May 2014, the Constitutional Court issued a ruling stating that the publisher bears responsibility for comments posted on a given website.⁴⁵ Dunja Mijatovic, the OSCE Representative on Freedom of the Media warned that the judgment may curb freedom of expression.⁴⁶ Similarly, on October 10, 2013, the European Court of Human Rights upheld a decision by the Estonian Supreme Court that ruled that web portals are responsible for all comments posted to their sites. However, the implications of this European decision have yet to be clarified in Hungary.⁴⁷

The 2010 media laws stipulate that media content—both online and offline—may not offend, discriminate or “incite hatred against persons, nations, communities, national, ethnic, linguistic and other minorities or any majority as well as any church or religious groups.”⁴⁸ Further, the law states that constitutional order and human rights must be respected, and that public morals cannot be violated.⁴⁹ However, the law does not define the meaning of “any majority” or “public morals.” If a media outlet does not comply with the law, the Media Council may oblige it to “discontinue its unlawful conduct,” publish a notice of the resolution on its front page, and/or pay a fine of up to HUF 25 million (approximately \$111,000).⁵⁰ If a site repeatedly violates the stipulations of the media regulation, ISPs can be obliged to suspend the site’s given domain, and as a last resort, the media authority can delete the site from the administrative registry.⁵¹ Any such action can be appealed in court, although the 2011 overhaul of the judiciary calls into question the independence of the court system.

A series of interviews conducted with journalists in 2012 illustrate the extent of self-censorship in Hungary, which is a result of political and economic pressure on both traditional and online media outlets. According to most of the interviewees, the media laws had not made any difference when it came to self-censorship; instead, as one respondent noted, “the two-third majority push of executive power, the unprecedented leverage of that power, and the rise of the Fidesz party” have had a

43 “Tanácsnokok és bloggerek” [Members and bloggers], Mediatanacs.blog.hu, January 11, 2011, http://mediatanacs.blog.hu/2011/01/11/tanacsnokok_es_bloggerek.

44 Pfv.IV.20.217/2012/5, June 13, 2012.

45 Benjamin Novak, “Constitutional Court limits freedom of expression in Hungary,” June 3, 2014, Budapestbeacon.com, (<http://budapestbeacon.com/featured-articles/constitutional-court-limits-freedom-of-expression-in-hungary/>).

46 OSCE, Ruling of Hungarian Constitutional Court can further curb freedom of expression, warns OSCE media freedom representative, May 29, 2014, (<http://www.osce.org/fom/119216>).

47 Case of Delfi AS v. Estonia, Judgement, accessed April 12, 2014, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-126635#{"itemid":\["001-126635"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-126635#{).

48 Act CIV of 2010, Art. 17.

49 Act CIV of 2010, Art. 16, and Art. 4, par. 3.

50 Act CLXXXV of 2010, Art. 186, par. 1, 187, par. 3. bf.

51 Act CLXXXV of 2010, Art. 187, par. 3. e, 189, par. 4.

greater effect on self-censorship. Another journalist added that “party finance is entangled with media financing. Political and economic influence is exerted through public and private advertising.” A respondent explained that “there was always some other interest at play, political or from the side of business and advertising—or both simultaneously, because these two often go hand in hand.”⁵² A journalist on hunger strike with colleagues protesting the alleged manipulation of news items in the public service media⁵³ held that “if your boss is telling you to falsify reports, it is your professional consciousness that decides whether you will fulfill these orders or not.”⁵⁴ An analysis of the Hungarian public service broadcasters’ news bulletins in 2013 indicated that they “tend to select and to frame the news in a way that is favorable to the incumbent center-right government.”⁵⁵

Soon after the 2010 parliamentary elections, state advertising funds were partially or completely withdrawn from some newspapers, allegedly for political reasons, while others multiplied their revenues from such state sources.⁵⁶ Additionally, private advertisers tend to advertise where state companies do, meaning that some media outlets (those generally critical of the government) are “bleeding out.”⁵⁷ The same phenomenon is seen in the case of other platforms such as radio stations and outdoor advertisements: companies with close ties to the governing party received a large share of state funding for advertisements in 2012.⁵⁸ However, there is currently no coherent data to determine the level of political influence over advertisements in cases of online media. Stop.hu, a website close to the opposition Socialist party, was forced to start making reductions in staff in July 2013 partly due to the fact that, according to the manager, many businesses would not consider advertising on their site because the content is critical of the government.⁵⁹

Despite reports of self-censorship and the challenge of maintaining financial viability, online media outlets have become a tool to scrutinize public officials. For instance, starting in January 2012, Hvg.hu, an online news portal whose content is mostly separate from the printed business weekly *HVG*, published a series of articles on how the then-president of the republic plagiarized his doctoral dissertation. Although he denied any wrongdoing, Pál Schmitt resigned in April 2012.⁶⁰ Some online media outlets, particularly *Atlatszo.hu*, have made repeated requests for public data from public institutions for the purposes of investigative reporting. This independent media outlet has

52 “The Reins on Freedom: Self-Censorship in the Hungarian Press,” Attila Mong, <http://www.mertek.eu/en/reports/self-censorship-in-the-hungarian-press>. The article was originally published in Hungarian in *Élet és Irodalom*, LVI, Nr. 15, April 20, 2012.

53 “How the news get edited on Hungarian state television,” *Thecontrarianhungarian.wordpress.com* (blog), December 14, 2011, <http://thecontrarianhungarian.wordpress.com/2011/12/14/how-the-news-gets-edited-on-hungarian-state-television/>.

54 “Hunger strike speaks of downward spiral in Budapest,” Rosie Scammel, January 24, 2012, http://www.huffingtonpost.co.uk/rosie-scammel/hunger-strike-budapest-hungary-downward-spiral_b_1228566.html.

55 “Censorship and manipulation within Hungarian public service broadcasters’ news bulletins,” Peter Bajomi-Lazar and Borbala Toth, *Cij.hu*, December 4, 2013, <http://www.cij.hu/en/censorship-and-manipulation-within-hungarian-public-service-broadcasters%E2%80%99-news-bulletins/>.

56 Annamária Ferenczi, “Kormányzati intézmények és állami cégek médiaköltései Magyarországon, 2003–2011. Leíró statisztikák és megfigyelések” [Government Advertising Incomes in the Hungarian Media, 2003–2011. Descriptive statistics and observations.], BCE Corruption Research Center, 2012, http://www.crc.uni-corvinus.hu/download/media_ah_2012_raport1_130430.pdf.

57 Kim Lane Scheppelle, “Hungary’s free media,” March 14, 2012, <http://nyti.ms/zdrDTE>.

58 Ildikó D Kovács and Attila Bátorfy, “Az állam a médiapiacra 2012-ben,” [The state on the media market in 2012], *Kreativ.hu*, December 19, 2012, http://www.kreativ.hu/media/cikk/az_allam_teljesen_ratelepedett_a_mediacra.

59 “Leépítés a Stop.hu-nál” [Redundancies at Stop.hu], *Index.hu*, July 4, 2013, http://index.hu/kultur/media/2013/07/04/leepites_a_stop_hu_nal/.

60 Palko Karasz, “Hungarian president resigns amid plagiarism scandal,” *NYTimes.com*, April 2, 2012, <http://www.nytimes.com/2012/04/03/world/europe/hungarian-president-pal-schmitt-resigns-amid-plagiarism-scandal.html>.

continuously published lists of public fund misuse by politicians, though such efforts have resulted in few consequences given the publication's limited reach.

Since 2011, the state-owned Hungarian News Agency (MTI) has had a virtual monopoly on the news market, as media outlets that have been impacted by the economic crisis tend to republish MTI news items, most of which are available to other news outlets free of charge. During its overhaul, MTI became integrated into the system of public service broadcasting, led by the media authority. The media laws oblige MTI to produce news bulletins for public service broadcasters and edit their joint news portal.⁶¹

Although MTI has a major effect on traditional and online content, the online content landscape is relatively diverse. The two main news portals are Origo.hu and Index.hu.⁶² Most civil society organizations have websites, and an increasing number of them have a presence on Facebook. There are some media outlets, including online portals, for the minority Roma community;⁶³ the LGBTI community and religious groups have online resources and forums as well. Nevertheless, many news sources, although independent, often reflect the politically-divided nature of Hungarian society, and partisan journalism is widespread.

Blogs are generally considered an opinion genre and do not typically express independent or balanced news. There are also blogs analyzing governmental policies, the activities of public figures, and corruption.⁶⁴ Trolling is usually moderated where it is possible to comment on articles, typically to prevent negative discussions. It was reported that politicians have used pseudonyms to participate in online forum discussions, and parties and ministries have implemented a monitoring system to be able to participate in discussions related to their work.⁶⁵ A survey conducted in 2011 among those netizens who knew what "commenting" meant indicated that 87 percent of the respondents encountered trolling on websites, but an overwhelming majority of the respondents considered commenting as a form of freedom of expression.⁶⁶

Facebook, which had almost 4.8 million users in Hungary as of December 2013,⁶⁷ has grown increasingly popular as a tool for advocacy, especially after the 2010 parliamentary elections.⁶⁸ Since then, many Facebook groups have been created, and several large demonstrations were organized and disseminated through Facebook, mobilizing tens of thousands of people both

61 Act CLXXXV of 2010, Art. 101, par. 4.

62 "Total daily average for November 2013," Medián webaudit, accessed December 28, 2013, <http://webaudit.hu/>.

63 Borbala Toth, "Minorities in the Hungarian media. Campaigns, projects and programmes for integration" (Center for Independent Journalism: Budapest, 2011): 19.

64 To name a few: Atlatzso.hu, K-monitor.hu, Mandiner.hu, Szuveren.hu, Velemenyevezer.blog.hu, and the sites of Human Civil Liberties Union (Tasz.hu), Eötvös Károly Institute (Ekint.org) and Fizettem.hu.

65 László Bodolai, "Olvasói levelezés," [Readers' correspondence], in *Élet és Irodalom*, LV, Nr. 29, July 22, 2011.

66 "Kommentek megítélése. Elemzés" [Judgement of comments. Analysis], MTE, Origo, Ipsos, 2012, p. 3 and 81, http://www.mte.hu/dokumentumok/mte_komment_kutatas.pdf.

67 "Social Daily Analytics," Hungary, December 27, 2013, accessed December 28, 2013, <http://analytics.socialdaily.com/hu/facebook/countries/hu/>.

68 Walter Mayr, "Facebook generation fights Hungarian media law," Spiegel.de, January 4, 2011, <http://www.spiegel.de/international/europe/0,1518,737455,00.html>.

for⁶⁹ and against the government.⁷⁰ In 2013, protests organized online⁷¹ and other civil initiatives⁷² continued for various social and political issues. Protests are frequently broadcast online using Ustream, and pictures and videos are distributed instantly via Facebook.⁷³ Milla (One Million for Press Freedom), one of the organizations creating Together 2014, a group aiming at defeating the Orbán administration in the 2014 parliamentary elections,⁷⁴ is a grassroots movement founded on Facebook in response to the 2010 media laws that has since grown to be one of the largest opposition movements, organizing numerous demonstrations.⁷⁵

Violations of User Rights

On November 5, 2013, the criminal code was modified to include prison sentences for defamatory video or audio content. Anyone creating such a video can be punished by up to one year in prison, while anyone publishing such a recording can be punished by up to two years. If the video is published on a platform with a wide audience or in some way causes significant harm, the sentence can increase to up to three years in prison.⁷⁶ The amendment was condemned both by domestic⁷⁷ and international actors⁷⁸ for threatening freedom of expression and for targeting the media, given that the longest sentence applies to materials that are widely published.

The Fundamental Law of Hungary acknowledges the right to freedom of expression and defends “freedom and diversity of the press,”⁷⁹ although there are no laws that specifically protect online modes of expression. In 2012, the European Commission launched several infringement proceedings against Hungary, partly regarding the independence of the National Agency for Data Protection and the judiciary.⁸⁰ The Court of Justice of the European Union referred the case of the data protection authority to the European Data Protection Supervisor.⁸¹ The European Commission expressed concerns over Hungary’s decision to lower the mandatory retirement age from 70 years to 62 years

69 “Pro-government rally in Hungary, Jan. 21, 2012, Thecontrarianhungarian.wordpress.com, January 23, 2012, <http://thecontrarianhungarian.wordpress.com/2012/01/23/pro-government-rally-in-hungary-jan-21-2012/>

70 “Hungarians protest against new Fidesz constitution,” BBC, January 3, 2012, <http://bbc.in/tyltNa>.

71 “Hungarian constitution is ‘not a toy,’” Marietta Le, March 7, 2013, <http://globalvoicesonline.org/2013/03/07/hungarian-constitution-is-not-a-toy/>

72 “Trying to get through: Hungarians send video messages to prime minister,” Marietta Le, March 31, 2013, <http://globalvoicesonline.org/2013/03/31/trying-to-get-through-hungarians-send-video-messages-to-prime-minister/>.

73 Hajnalka Fülöp, “Így harcolnak a diákok a hálón,” [This is how students fight on the web], Nol.hu, December 27, 2012, [http://nol.hu/tud-tech/20121227-igy_harcolnak_a_halon](http://nol.hu/tud-tech/20121227-igy_harcolnak_a_diakok_a_halon).

74 Agnes Lovasz, “Hungary’s Together 2014 to Struggle to Oust Orban, Eurasia Says,” *Bloomberg*, December 11, 2012, <http://www.bloomberg.com/news/2012-12-11/hungary-s-together-2014-to-struggle-to-oust-orban-eurasia-says.html>.

75 Erin Marie Saltman, “‘Together 2014’ movement emerges in Hungary,” Policy-network.net, November 23, 2012, <http://bit.ly/1bj3o1g>.

76 Act C of 2012, Articles 226/A and 226/B.

77 “Tightening of the criminal code is unconstitutional,” Human Civil Liberties Union, November 14, 2013, <http://tasz.hu/en/political-freedoms/tightening-criminal-code-unconstitutional>.

78 “Higher prison sentences for defamation may restrict media freedom in Hungary, warns OSCE representative,” November 6, 2013, Osce.org, <http://www.osce.org/fom/107908> and “New law further restricts freedom of speech and freedom of the press in Hungary”, Dalma Dojcsák, November 18, 2013, http://www.ifex.org/hungary/2013/11/18/new_law/.

79 The Fundamental Law of Hungary (25 April 2011) Art. VIII., 1–2.

80 “European Commission launches accelerated infringement proceedings against Hungary over the independence of its central bank and data protection authorities as well as over measures affecting the judiciary” European Commission, January 17, 2012, http://europa.eu/rapid/press-release_IP-12-24_en.htm.

81 Case C-288/12, Commission v Hungary, October 12, 2013.

for judges and prosecutors, effectively sending 274 judges, including some on the Supreme Court, into early retirement.⁸² In November 2012, the Court of Justice of the European Union ruled that the early retirement of judges, prosecutors, and notaries was discriminatory.⁸³ Prior to that, in July 2012, the Hungarian Constitutional Court ruled that the early retirement provision was unconstitutional.⁸⁴ In March 2013, the parliament accepted a law that gradually decreases the retirement age of judges, prosecutors, and pensioners from 70 to 65 over the next 10 years.⁸⁵

Another debated issue is related to a provision in the new civil code, which stipulates that a photographer must obtain permission from the subjects in the picture when taking press photos (except at public events).⁸⁶ Industry experts argue that the law is too vague and obstructs the profession of photojournalism, while the code's proponents claim that this stipulation merely confirms the courts' practice.⁸⁷ The ministry explains consent might happen with "implicit behavior," such as someone not objecting with waiving his or her hands. It is unclear how the judiciary will interpret and apply this new provision, which could impact online and citizen journalists' ability to document newsworthy events; many judges themselves have stated that they do not know how to rule on such cases.⁸⁸

In May 2013, the parliamentary majority modified the freedom of information act⁸⁹ within the span of two days to restrict the accessibility of public data, claiming that some of the requests were "excessive."⁹⁰ The president vetoed the bill, after which the draft was amended partly based on the suggestions of the head of the Hungarian National Authority for Data Protection and Freedom of Information. The amended law was passed and came into effect on June 21, 2013; however, the law remained ambiguous and left the potential for requests for information to be denied arbitrarily. According to the law, the data holders themselves can decide to reject requests that are "overarching," "invoice-based," or "itemized." The law does not define what these terms mean, leaving it up to the data holder authority to make this determination.⁹¹

The new civil code (Act V of 2013), which came into effect on March 15, 2014, enables any member of a national, ethnic, racial or religious group to enforce their personal rights.⁹² Some experts claim that this will cause a landslide of court cases, as anyone can file a civil proceeding claiming that he or she belongs to a certain group. Anyone harmed in his or her personal rights can ask the court to

82 "European Commission launches accelerated infringement proceedings against Hungary over the independence of its central bank and data protection authorities as well as over measures affecting the judiciary" European Commission.

83 Judgment of the Court (First Chamber), Case C-286/12, November 6, 2012, <http://bit.ly/14TuyXJ>.

84 "Elkaszálták a bírói nyugdíjszabályt" [The retirement rule for judges was annulled], Index.hu, July 16, 2013, http://index.hu/belfold/2012/07/16/elkaszaltak_a_biroi_nyugdijszabalyt/.

85 "Megszavazták a bírák lassú nyugdíjba küldését" [The law on the slow retirement of judges was accepted], Hvg.hu, March 11, 2013, http://hvg.hu/itthon/20130311_Megszavaztak_a_birak_lassu_nyugdijba_kuld.

86 Act V of 2013 on the civil code, Art. 2:48.

87 "Az új Polgári Törvénykönyv és a sajtófotó," [The new civil code and the press photo], Cij.hu, June 18, 2013, <http://www.cij.hu/hu/az-uj-polgari-torvenykonvy-es-a-sajtofoto>.

88 Daniel Nolan, 'Hungary law requires photographers to ask permission to take pictures,' Theguardian.com, March 14, 2014, <http://www.theguardian.com/world/2014/mar/14/hungary-law-photography-permission-take-pictures>.

89 Act CXII of 2001 on informational self-determination and freedom of information.

90 Marietta Le, "Hungary: Government limits FOIA transparency law," Global Voices, May 8, 2013, <http://advocacy.globalvoicesonline.org/2013/05/08/hungary-government-limits-foia-transparency-law/>.

91 "Transparency international turns to higher authorities," Transparency International, July 3, 2013, http://www.transparency.hu/Transparency_International_turns_to_higher_authorities?bind_info=index&bind_id=0.

92 Act V of 2013, Art. 2:54, par. 5.

declare that he or she was harmed, to place a ban on the unlawful activity, to claim a damnification fee for the non-pecuniary damages caused, or to claim compensation.⁹³

Critics of the 2010 media laws contend that the Media Council operates with unclear provisions and imposes high fines and sanctions on media outlets,⁹⁴ which might give rise to uncertainty and fear, lead to self-censorship, and have a chilling effect on journalism as a whole. As of December 2013, no online media outlet had been penalized for violating the new stipulations introduced by the 2010 media laws, and in December 2011, the Constitutional Court struck down several provisions applicable to print and online outlets “but without touching on the organizational frames and system of supervision.”⁹⁵ In May 2012, the parliament modified the media regulation, ostensibly in order to comply with the ruling of the Constitutional Court,⁹⁶ but left the provisions regarding high fines and the problematic nominating process for members of the Media Council. OSCE Representative on Freedom of the Media Dunja Mijatovic warned that the amendments “only add to the existing concerns over the curbing of critical or differing views in the country.”⁹⁷

Hungarian law does not distinguish between traditional and online media outlets in libel or defamation cases, and the criminal code stipulates that if slander is committed “before the public at large,” it shall be punished by imprisonment of up to one year.⁹⁸ The criminal code bans defamation, slander, the humiliation of national symbols (the anthem, flag, and coat of arms), the dissemination of totalitarian symbols (the swastika and red pentagram), the denial of the sins of national socialism or communism, and public scare-mongering through the media.⁹⁹ However, in February 2013, the Constitutional Court ruled the ban on using totalitarian symbols unconstitutional,¹⁰⁰ though the parliamentary majority decided to include it again in revisions to the penal code in April 2013.

The new civil code, which took effect in March 2014, recognizes civil rights (including protection against defamation) and bans the insulting of an individual’s honor.¹⁰¹ The new civil code introduced a damnification fee for non-pecuniary damages caused by violating civil rights.¹⁰² Libel cases demonstrate that the courts generally protect freedom of expression, except when there is a conflict with another basic right. Defamation cases have decreased since a 1994 Constitutional Court decision, which asserted that a public figure’s tolerance of criticism should be higher than an ordinary citizen’s.¹⁰³ However, the new civil code includes a provision that may limit the free

93 Act V of 2013, Art. 2:51–53.

94 “Hungarian media laws Q&A,” Article 19, August 2011, <http://www.article19.org/data/files/medialibrary/2714/11-09-01-REPORT-hungary.pdf>.

95 “Ruling No. 165/2011. (XII. 20.) AB of the Constitutional Court—Summary,” Mertek, <http://bit.ly/15BXMg1>. See also Judit Bayer, “Hungarian Constitutional Court repeals parts of Media Constitution and Media Law,” Media Laws, December 29, 2011, <http://www.medialaws.eu/hungarian-constitutional-court-repeals-parts-of-media-constitution-and-media-law/>.

96 “New laws curb media freedom,” Human Rights Watch, May 29, 2012, <http://bit.ly/MC3Oji>.

97 “Revised Hungarian media legislation continues to severely limit media pluralism, says OSCE media freedom representative,” Organization for Security and Cooperation in Europe, May 25, 2012, <http://www.osce.org/fom/90823>.

98 Act C of 2012, Art. 227.

99 Act C of 2012, Art. 226, 227, 332–335.

100 “Constitutional Court voids ban on «symbols of tyranny»; red star, swastika to become legal on April 30”, Politics.hu, February 21, 2013, <http://bit.ly/18eRI0o>.

101 Bill Nr. T/7971 on the Civil Code, Art. 2:45.

102 Bill Nr. T/7971, Art. 2:52–53.

103 Péter Bajomi-Lázár and Krisztina Kertész, “Media Self-Regulation Practices and Decriminalization of Defamation in Hungary,” in *Freedom of Speech in South East Europe: Media Independence and Self-Regulation*, ed. Kashumov, Alexander (Sofia: Media Development Center, 2007): 177–183.

discussion of public affairs in cases where the human dignity of a public figure is violated.¹⁰⁴ Some fear that the provisions of the new civil code could result in a slew of slander and libel cases initiated by anyone, including public figures, who can claim that their dignity has been harmed.

Prior to 2008, the penal code was rarely used in cases of defamation or slander.¹⁰⁵ More recently, criminal investigations of online activities have become a growing phenomenon. In November 2012, the police launched an investigation based on comments that appeared on Nepszava.hu¹⁰⁶ and the news site Hir24.hu¹⁰⁷ that criticized Ferenc Papcsák, a former Fidesz member of parliament and mayor of a district in Budapest. The police ordered the release of the personal data connected to these comments, including the users' internet protocol (IP) and email addresses, although in the case of the latter site, commenters log-in via Facebook rather than providing a username or email address. In another case involving online libel, an article was published in October 2012 on Delmagyar.hu—the online version of the regional daily *Délmagyarország*—about a lethal car accident involving János Lázár, a Fidesz MP. Lázár claimed that some of the comments left on the online article were an affront to his human dignity. Though the editorial board removed the comments in question, the MP launched a libel case based on the penal code as well as a civil proceeding against the publisher to claim compensation for the non-pecuniary damages caused.¹⁰⁸ In July 2013, the publisher was ordered to pay HUF 500,000 (approximately US\$2,220) as compensation to Mr. Lázár based on an out-of-court settlement.¹⁰⁹ The penal proceeding is still pending.

In January 2013, a blogger named Tamás Polgár, alias “Tomcat,” was condemned for incitement and received a suspended prison sentence of one year and two months based on the penal code¹¹⁰ for a 2009 blog post in which he called upon readers to “beat up Gypsies,” during a time when six Roma people had been killed in a case of serial murders.¹¹¹ This was the first case since the democratic transition in which someone has been prosecuted under the penal code for material they posted online. The sentence was suspended for five years, and in June 2013, a judge modified the penalty to 50 days of community service.¹¹²

Generally, users who wish to comment on a web article need to register with the website by providing an email address and username, or they need to use a Facebook login. The operator of a website may be asked to provide the authorities with a commenter's IP address, email address,

104 Bill Nr. T/7971, Art. 2:44.

105 Bajomi-Lázár and Kertész 2007: 179.

106 “Latest Papcsák case may infringe on freedom of the press”, Civilmedia.net, November 13, 2012, <http://bit.ly/16AgLbS>.

107 “Feljelentették a Nepszava és a Hir24 kommentelőit”, [Comments of Nepszava and Hir24 denounced] Gepnarancs.hu, November 10, 2012, <http://gepnarancs.hu/2012/11/feljelentettek-a-nepszava-kommenteloit/>.

108 “Kommentelőket gyanúsít az ügyészség Lázár János feljelentése nyomán,” [The prosecutor condemns commenters based on the announcement of János Lázár], Delmagyar.hu, April 10, 2013, http://www.delmagyar.hu/szeged_hirek/kommenteloket-gyanusit-az-ugyeszseg-lazar-janos-feljelentese-nyoman/2328189/.

109 “Publisher fined over reader comments,” Budapesttimes.hu, July 27, 2013, <http://www.budapesttimes.hu/2013/07/27/publisher-fined-over-reader-comments/>.

110 Act IV of 1978, Article 269 says: “A person who incites to hatred before the general public against a) the Hungarian nation, b) any national, ethnic, racial group or certain groups of the population, shall be punishable for a felony offense with imprisonment up to three years.”

111 “Court slaps far-right activist Tomcat with suspended jail term”, Politics.hu, January 11, 2013, <http://bit.ly/17dkzxc>.

112 Tasz.hu, “Az uszítást jogerősen megállapította, a büntetést viszont jelentősen enyhítette a bíróság,” [Incitement identified, but the penalty was considerably alleviated], July 2, 2013, (<http://tasz.hu/szolasszabadsag/az-uszitast-jogerosen-megallapította-buntetest-viszont-jelentosen-enyhítette-birosag>).

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or other data in case of an investigation.¹¹³ Additionally, to sign a contract with a mobile phone company, users must provide personal data upon purchase of a SIM card.¹¹⁴ Encryption software is freely available without government interference; Pretty Good Privacy (PGP), a data encryption program, is often used by investigative journalists.¹¹⁵

National security services can “gather information from telecommunications systems and other data storage devices” without a warrant.¹¹⁶ The authorities have allegedly installed black boxes on ISP networks.¹¹⁷ Secret services can access and record communication transmitted via ICTs, though a warrant is required.¹¹⁸ There is no data on the extent to which, or how regularly, the authorities monitor ICTs. In June 2012, colleagues of the Eötvös Károly Institute (EKINT) issued a complaint to the Constitutional Court requesting the annulment of the provision that allows the justice minister overseeing the work of the Counter Terrorism Center to approve the secret surveillance of individuals.¹¹⁹ They argued against the constitutionality of the provision and that such surveillance should be tied to the approval of a judge rather than a minister.¹²⁰ The Constitutional Court rejected the complaint, and EKINT has since stated that it plans to address the complaint to the European Court of Human Rights.¹²¹ Meanwhile, Hvg.hu filed a data request to the Ministry of Justice asking how many times the minister has provided permission for the Counter Terrorism Center to gather data secretly.¹²²

Privacy International found that Hungarian law enforcement agencies are connected with at least one surveillance technology company,¹²³ and that several government agencies attended the ISS World surveillance trade shows over the years.¹²⁴ Citizen Lab also reported finding a FinFisher Command & Control server in Hungary,¹²⁵ though it is not clear whether the server is operated by the government or other actors.¹²⁶

113 Act XIX of 1998 on criminal proceedings, Art. 178/A, par. 1.

114 Act C of 2003 on Electronic Communications, Art. 129, <http://www.ictregulationtoolkit.org/en/Publication.2347.html>.

115 Borbala Toth, “Mapping Digital Media: Hungary,” Open Society Foundations, February 2012, p. 50, <http://www.opensocietyfoundations.org/reports/mapping-digital-media-hungary>.

116 Act CXXV of 1995 on the National Security Services, Art. 54, <http://bit.ly/1bhE9cm>.

117 “Hungary – Privacy Profile,” Privacy International, January 22, 2011, <https://www.privacyinternational.org/reports/hungary>.

118 Act CXXV of 1995, Art. 56.

119 Act CXXV of 1995, Art. 58, par. 2. states that in some instances – basically including the tasks of the Counter Terrorism Center – the minister for justice can grant the warrant.

120 The complaint can be downloaded at: http://ekint.org/ekint_files/File/constitutionalcomplaint_tek.pdf

121 “Constitutional Court: Covert surveillance based on ministerial permission des not violate the right to privacy,” Eötvös Károly Institute, December 3, 2013, http://ekint.org/ekint/ekint_angol.news.page?nodeid=635.

122 “Szűr, kutat, lehallgat – korlátlanul figyel a TEK” [Filters, searches, wires – TEK surveilling without limits] Áron Kovács, Hvg.hu, November 26, 2013, http://hvg.hu/itthon/20131126_TEK_titkos_informacio_alkotmanybirosag.

123 Surveillance Industry Index, Privacy International, <https://www.privacyinternational.org/sii/>.

124 “Surveillance Who’s who,” Privacy International, <https://www.privacyinternational.org/sww/Hungary/>.

125 “Nem csak az USA szeme lát mindent: kormányzati kémprogram Magyarországon,” [Not only USA can see everything: governmental surveillance software in Hungary], Atlatzo.hu, September 16, 2013, <http://atlatzo.hu/2013/09/16/nem-csak-az-usa-szeme-lat-mindent-kormanyzati-kemprogram-magyarorszagon/>.

126 For their eyes only: The commercialization of digital spying,” Citizenlab.org, September 16, 2013, <https://citizenlab.org/2013/04/for-their-eyes-only-2/>.

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According to the Electronic Communications Act, electronic communications service providers¹²⁷ are obligated to “cooperate with organizations authorized to perform intelligence information gathering and covert acquisition of data.”¹²⁸ Additionally, the act states that “the service provider shall, upon the written request from the National Security Special Service, agree with the National Security Special Service about the conditions of the use of tools and methods for the covert acquisition of information and covert acquisition of data.”¹²⁹

In accordance with the EU Directive 2006/24/EC on data retention, ISPs and mobile phone companies in Hungary must retain user data for up to one year, including personal data, location, caller phone numbers, the duration of phone conversations, IP addresses, and user IDs for investigative authorities and security services.¹³⁰ There is no data on the extent of these activities, even though there is a legal obligation to provide the European Commission with statistics of the queries for data made by the investigating authorities.¹³¹ However, in April 2014, the European Court of Justice declared the EU Data Retention Directive invalid, causing a number of countries within the EU to rethink their data retention legislation.

Bloggers, ordinary ICT users, websites, or users’ property are not generally subject to extralegal intimidation or physical violence by state authorities or any other actors. In October 2012, there was one physical attack against a journalist of Index.hu, whose nose was broken by an extreme-right protester at an anti-government rally.¹³²

Technical attacks are common in Hungary, perpetrated primarily by non-state actors against government websites, though no major attacks were reported during the coverage period. In response to Hungary’s 2010 media laws, the international hacker group Anonymous posted a video on YouTube threatening the Hungarian government with a cyberattack in August 2011.¹³³ Since then, the group rewrote the new Hungarian constitution on the website of the Constitutional Court,¹³⁴ and several government sites, including that of the National Board Against Counterfeiting and the personal website of the Minister of State for Education, were disrupted via distributed denial-of-service (DDoS) attacks in early 2012.¹³⁵ Additionally, the website of Közgép, a construction company that frequently wins public procurements, was attacked on September 5, 2012.¹³⁶ Three

127 Electronic service providers provide electronic communications service, which means a “service normally provided against remuneration, which consists wholly or mainly in the conveyance, and if applicable routing of signals on electronic communications networks, but exclude services providing or exercising editorial control over the content transmitted using electronic communications network; it does not include information society services, defined under separate legislation, which do not consist primarily in the conveyance of signals on electronic communications networks,” Act C of 2003, Art. 188, par. 13.

128 Act C of 2003, Art. 92, par. 1.

129 Act C of 2003, Art. 92, par. 2.

130 Act C of 2003, Art. 159/A; “Hungary – Privacy Profile,” Privacy International, January 22, 2011.

131 Act C of 2003, Art. 159/A, par. 7.

132 “Halál rátok, zsidók!” [“Death on you, Jews!”], Index.hu video, 23 October 2012, <http://bit.ly/X95KpO>.

133 “The Anonymous message to Hungarian government,” YouTube, accessed January 30, 2012, <http://www.youtube.com/watch?v=SStDZ5De1Og>.

134 “Anonymous geek-topia: Hackers change Hungarian constitution,” Rt.com, March 5, 2012, <http://rt.com/news/anonymous-hungary-court-constitution-881/>.

135 Máté Nyusztay, “A rendszert támadjuk – Magyarország is az Anonymous célkeresztjében” [“We attack the system’ – Hungary is among the targets of Anonymous], Nol.hu, February 15, 2012, http://nol.hu/belfold/a_rendszert_tamadjuk_-_magyarorszag_is_az_anonymus_celkeresztjeben.

136 “Közgép ‘oligarchy’ hit by hackers,” Budapesttimes.hu, September 5, 2012, <http://www.budapesttimes.hu/2012/09/05/kozgep-oligarchy-hit-by-hackers/>.

days later, several Hungarian members of Anonymous were arrested,¹³⁷ although the accused were discharged to prepare for the defense. In January 2013, the websites of Prime Minister Viktor Orbán (Miniszterelnok.hu, Orbanviktork.hu) were also hacked by Anonymous.¹³⁸

137 "Elfogták a magyar Anonymous tagjait" [Hungarian members of Anonymous were captured], Index.hu, September 8, 2012, http://index.hu/belfold/2012/09/08/elfogtak_a_magyar_anonymus_tagjait/.

138 "Feltörték Orbán honlapját" [Orbán's site got hacked], Index.hu, January 23, 2013, http://index.hu/tech/2013/01/23/feltortek_orban_honlapjat/.