Hungary

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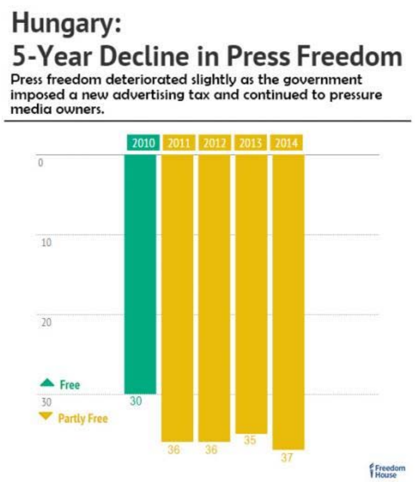

Hungary’s media environment, which has suffered from increased state regulation and other interference since 2010, deteriorated slightly in 2014 as the government continued to exert pressure on private owners to influence coverage, and a new advertising tax disproportionately affected a major private television station.

However, a proposed tax on internet data traffic was withdrawn in October after opponents mounted large demonstrations.

Legal Environment

Hungary’s constitution protects freedom of speech and of the press, but complex and extensive media legislation adopted in 2010 is widely deemed to have undermined 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 created by the 2010 laws. The authority is currently controlled by appointees of the ruling Fidesz party.

Fidesz has used its supermajority in the parliament to amend the constitution at will, at times doing so as a means of enacting legislation that was previously rejected by the Constitutional Court. Changes adopted in this manner in 2013 included a rule that political advertising during campaign periods may only be placed in media outlets free of charge. Critics argued that private outlets would have little incentive to carry such material, further limiting media access for opposition parties in particular.

The Hungarian penal code places a number of restrictions on freedom of speech through provisions that prohibit incitement to hatred, incitement to violence, incitement against a community, and denial of crimes “committed by national socialist or communist systems.” Defamation remains a criminal offense, and both defamation and related charges—for example, breach of good repute and hooliganism—are regularly brought against journalists and other writers. Under a November 2013 amendment to the penal code, anyone who knowingly creates or distributes false or defamatory video or audio recordings can face a prison sentence of one to three years. A civil code provision that took effect in March 2014 imposes penalties on those who take pictures without the permission of everyone in the photograph; previously permission was only required for publication.

Amendments to Hungary’s Freedom of Information Act in 2013 limited the scope of the law by granting state bodies the discretion to reject requests for information on vaguely defined grounds. Despite a presidential veto that prompted lawmakers to pass modifications to the initial set of amendments, the legislation could effectively bar citizen requests that are deemed too large or intrusive.

Hungary's National Authority for Data Protection and Freedom of Information is responsible for reviewing rejected information requests, among other functions. However, in June 2012 the European Commission referred Hungary to the European Court of Justice (ECJ) over the questionable independence of the authority, which was created by the new constitution enacted in 2011 and began operating in January 2012. The commissioner of the previous data protection body was removed before the end of his term, and the leader of the new authority was appointed by the president on the recommendation of the prime minister. The ECJ ruled in April 2014 that the premature termination of the data commissioner's term had been a breach of European Union (EU) law.

The government has made a number of changes to the regulatory system for the media in recent years. The restructuring began in 2010, when Fidesz used its new parliamentary supermajority to pass a series of laws that tightened government control of the broadcast sector and extended regulation to print and online media. It consolidated media regulation under the supervision of a single entity, the National Media and Infocommunications Authority (NMHH), whose leader also chairs a five-person Media Council tasked with content regulation; council members are elected by a two-thirds majority in the parliament. The law gives the head of the Media Council the right to nominate the executive directors of all public media. The structure and broadly defined competencies of the NMHH and Media Council 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 in 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.

Negotiations between Hungarian officials, EU media monitoring bodies, and Hungarian media experts have yielded a number of relatively minor legislative amendments. In 2010–11, the 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, must still register, and can be fined for failing to do so. 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.

Following a December 2011 ruling by the Constitutional Court, the parliament approved revisions to media legislation in 2012 that addressed 11 of 66 recommendations made by the Council of Europe. The changes excluded print and online media from the scope of the content-related sanctioning powers of the NMHH, aside from penal code violations; revoked the media authority's right to demand data from media service providers, publishers, and program distributors outside regulatory procedures; 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 could be enforced by NMHH-issued fines and sanctions. The unamended provisions of the law still allow the Media Council to fine any media outlet for "inciting hatred" against nations, communities, minorities, or even majorities. If found to be in violation of the law, radio and television stations may receive fines proportional to their “market power”—a number that may reach up to 200 million forints ($860,000). These fines, which are collected as taxes by the Hungarian Tax Authority (NAV), can be demanded even before an appeals process is initiated. Such provisions of the law have been used actively against media outlets since coming into effect. The Media Council can also initiate a regulatory procedure in the case of “unbalanced reporting,” and ultimately it can suspend the right to broadcast.

Candidates for the presidency of the NMHH must be appointed by the president following a recommendation from the prime minister and nonbinding consultations with various stakeholders. Lawyer Monika Karas was elected to a nine-year term in August 2013. Left-leaning opposition parties criticized the nomination, calling Karas a Fidesz “puppet” and alleging professional unsuitability.

The laws governing broadcast media content include specific details on what type of programming may be aired and when. Radio broadcasters must devote over one-third of their airtime to Hungarian music, while 50 percent of television programming must be devoted to European productions. As under the previous media regulation authorities, broadcasters with expiring licenses are required to enter a new bid with the NMHH.

Klubrádió, a popular station known for its antigovernment political commentary, finally regained control of its main frequency in March 2013 after a two-year legal battle with the Media Council, which had prevented it from renewing its broadcasting license for five frequencies after the license expired in early 2011. However, in June 2014 the Media Council shut down Lokomotiv Radio, the Klubrádió affiliate in Debrecen, Hungary’s second-largest city. The station had been broadcasting without a license since its previous one expired in September 2012. The closure meant that Klubrádió content could only be heard in Budapest and via the internet.

Other recent regulatory actions have affected Hungary’s privately owned television stations. In 2012, the television station ATV challenged a fine imposed by the NMHH for its description of the ultranationalist Jobbik party as “far-right,” a term the party rejects. Overturning a ruling by a lower court, in June 2014 the Supreme Court ruled against ATV, agreeing with the NMHH that the term was not objective and had been used to create a negative impression. In a separate case on a similar topic, renowned historian László Karsai, who described Jobbik as a neo-Nazi party in an ATV broadcast in late 2011, was initially found to have damaged the party’s reputation with “subjective” commentary, but a higher court reversed the decision in January 2014, dismissing Jobbik’s complaint.

Online media are subject to blocking if they violate legal content restrictions. An amendment to the criminal code that took effect in July 2013 requires internet service providers (ISPs) to block content deemed illegal by a court order. Websites hosting illegal content are placed on a nonpublic “blacklist” operated by the NMHH. The vaguely worded amendment, which was condemned by domestic and international free expression advocates, allows the government to take action if ISPs fail to heed the blocking orders.

In May 2014, the Constitutional Court ruled that internet content providers can be held liable for unlawful user-generated comments, even if they are promptly removed. The decision was widely criticized for encouraging websites to disable user comments.

Political Environment

Editorial bias and political pressure are growing problems at both public and private media outlets. Employees have spoken to international watchdog organizations about growing self-censorship in the face of possible fines or dismissal.

Under the Media Law, the funding and content production for all public media was centralized under one body, the Media Service Support and Asset Management Fund (MTVA), supervised by the Media Council. Following large layoffs at MTVA in 2011 amid government claims of budgetary concerns, public media began to receive significant budget increases, adding to suspicions that the firings were politically motivated. Also in 2011, Dániel Papp, cofounder of Jobbik, was named editor in chief of television news at MTVA. In October 2014, he was placed in charge of all news content on public media.

In June 2014, journalists and media freedom activists took to the streets to protest the reported firing of Gergő Sáling, the editor in chief of Origo, an online news portal that has carried critical reporting on the government and is owned by the Hungarian subsidiary of Deutsche Telekom. The move followed Origo's publication of a story on the alleged misuse of public funds by János Lázár, the head of the Office of the Prime Minister. Most of Origo's staff either resigned in protest or otherwise left the outlet over the following weeks. The company's management denied being under political pressure and maintained that the editor left by mutual agreement.

Violence against journalists is rare in Hungary, and no physical attacks were recorded in 2014.

Economic Environment

Hungary enjoys a broad array of print, broadcast, and online media, although most outlets appear to identify with one or the other side of the political spectrum. The media landscape is dominated by private companies, with high levels of foreign investment in national and local newspapers. Privately held newspapers include 10 national and 24 local dailies. Hungary has seven national public radio stations and two main private stations. Two terrestrial commercial television stations, TV2 and RTL Klub, remain the principal sources of news for most Hungarians, along with a growing number of cable channels. RTL Klub's Luxembourg-based parent company is owned by the German media conglomerate Bertelsmann. TV2 was owned by another German media group, ProSiebenSat1, until December 2013, when the station was sold to its own chief executive and financial director amid speculation about their links to politically conservative Hungarian media groups. The latter have expanded rapidly in recent years, consisting largely of 15 companies controlled by four businessmen with ties to Fidesz.

The state-funded news agency MTI publishes nearly all of its news and photographs online for free, and offers media service providers the ability to download and republish them. Paid-subscription news agencies and smaller media outlets with limited resources cannot compete with MTI, and the incentive to practice “copy-and-paste journalism” is high. The accuracy and objectivity of MTI reporting has come under criticism since the Fidesz government came to power in 2010.

There has been an increase in domestically owned internet-based news outlets in recent years. The internet penetration was nearly 73 percent as of 2013, just below the European average. Data published by the NMHH in 2013 indicated the persistence of a significant gap between usage rates in Budapest (73 percent) and the rest of the country (58 percent).

The government’s tax policies toward the media have generated controversy over the past two years. In May 2013, the government proposed a progressive advertising tax that would draw most of its revenue from the country’s largest broadcasters. After the bill was postponed, some alleged that Fidesz had circulated it to influence the impending sale of TV2 and deter potential foreign buyers. The proposal resurfaced in June 2014 and was promptly adopted by the parliament. Critics noted that TV2’s main competitor, RTL Klub, was the only company that fell into the highest tax bracket. The station filed an official complaint with the European Commission in October, and the government subsequently raised the taxation rate for the top bracket from 40 to 50 percent. RTL Klub estimated that it would supply 90 percent of the revenue generated by the tax, despite its market share of 15 percent.

The government in October withdrew a contentious plan to impose a tax of 150 forints ($0.60) for every gigabyte of data traffic after it led to large protests. Tens of thousands of people gathered in Budapest and at least 10 other cities to denounce the tax, which would have been the first of its kind in the world. Officials had initially responded by promising to set a monthly cap on the tax, but the demonstrations continued until the government officially withdrew the proposal.

State and state-dependent advertisers usually buy space in progovernment media, and many private companies have followed suit, helping to fuel the expansion of the conservative-leaning media groups. In 2014 the World Association of Newspapers and News Publishers—in cooperation with other international media monitors—released a report on “soft censorship” practices in the Hungarian media, alleging that the state’s biased ad spending influences editorial policies.