

# EVALUATION OF MEDIA FREEDOM REPORTS

National Media and Infocommunications Authority

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## Table of Contents

<b>1. Foreword .....</b>	<b>4</b>
<b>2. Executive summary .....</b>	<b>5</b>
2.1. Media freedom reports and Hungary's rankings and scores after 2010 .....	5
2.2. Methodology and evaluation of media freedom reports .....	8
2.3. Factual errors in media freedom reports .....	16
2.4. Subjective opinions included in the media freedom reports .....	19
<b>3. Media freedom reports and Hungary's rankings and scores after 2010 .....</b>	<b>20</b>
3.1. Overview of media freedom reports .....	20
Freedom House .....	20
Reporters Without Borders .....	21
Media Pluralism Monitor .....	22
UNESCO.....	23
International Research & Exchange Board .....	23
United Nations .....	23
3.2. Hungary's international ranking since 2010.....	23
Freedom House .....	23
Reporters Without Borders .....	29
Media Pluralism Monitor .....	30
<b>4. Methodology and evaluation of media freedom reports .....</b>	<b>32</b>
4.1. Methodology of media freedom reports.....	32
Freedom House – Freedom in the World.....	32
Freedom House – Nations in Transit .....	33
Freedom House – Freedom on the Net .....	34
Freedom House – Freedom of the Press .....	35
Freedom House – Reviving News Media in an Embattled Europe .....	36
Reporters Without Borders .....	36
Media Pluralism Monitor .....	38
4.2. Evaluation of the methodology of media freedom reports.....	40
Freedom House – Freedom in the World.....	40
Freedom House – Nations in Transit .....	41
Freedom House – Freedom on the Net .....	42
Freedom House – Freedom of the Press .....	43
Freedom House – Reviving News Media in an Embattled Europe .....	45
Reporters Without Borders .....	45
Media Pluralism Monitor .....	46
<b>5. Factual errors and other deficiencies in the content of media freedom reports.....</b>	<b>50</b>
5.1. Freedom House rankings.....	50
5.2. Reporters Without Borders .....	57
5.3. Media Pluralism Monitor .....	59
<b>6. Subjective opinions included in the media freedom reports.....</b>	<b>70</b>
6.1. Freedom House .....	70
6.2. Reporters Without Borders .....	71
6.3. Media Pluralism Monitor .....	72
<b>7. Closing words.....</b>	<b>74</b>

## 1. Foreword

- The new Hungarian media legislation adopted in 2010 established the National Media and Infocommunications Authority as a convergent authority representing the convergence of the media and communications sectors. In the nearly thirteen years since then, a number of international media freedom organisations have assessed media relations in Hungary.
- In the following document, we provide an overview of their rankings and reports, presenting the evolution of Hungary's perception, while also evaluating the methodology of the studies, as well as the claims and opinions expressed in them.
- Since the National Media and Infocommunications Authority supports initiatives aimed at professionally assessing the situation of media freedom and media pluralism in Hungary, we consider it our duty to draw attention to concerns related to methodology and content that arise in connection with certain reports, which prevent the production of truly credible and balanced evaluations.
- We hope that our comments on the reports issued by the Freedom House, Reporters Without Borders and the Centre for Media Pluralism and Media Freedom on Hungary will contribute to the future evaluations and will help engender a balanced professional discourse.

## 2. Executive summary

### 2.1. Media freedom reports and Hungary's rankings and scores after 2010

- Freedom House is a non-governmental organisation, established in 1941, which produces **three reports a year** in our field of investigation, i.e. **Freedom in the World, Freedom on the Net and Nations in Transit**. In addition to these reports, **between 1980 and 2017**, the organisation issued the **Freedom of the Press** report as well, **considered one of the most important indices of press freedom**. In 2023 they also issued, for the first time, a new special report covering six countries, under the title **Reviving News Media in an Embattled Europe**. According to their own definition, Freedom House is a supporter of liberal democracy<sup>1</sup> and an outspoken supporter of US leadership in the world.<sup>2</sup> Freedom House receives significant support from the US government,<sup>3</sup> and its supporters include Google, the Open Society Foundation<sup>4</sup> and the National Endowment for Democracy.<sup>5</sup>
  - The methodology of the **Freedom in the World** reports changed several times during the period under review, which makes it very difficult to compare the figures. The biggest change is that, between 2014 and 2017, the situation of media in the countries under review were assessed within the framework of the freedom of expression indicator, with a maximum of 16 points. In contrast, from 2018, media independence was included as a separate indicator in the report, with a maximum score of four. As a general trend, however, the **press freedom aspects of the report** have recurrently **criticised the increasing proportion of media classified as pro-government and the media regulation**. In the latter area, **Freedom House criticised** primarily the **process of electing the President of the Media Council and the National Media and Infocommunications Authority** (hereinafter: NMHH). In the period under review, **freedom of expression was scored as a separate category for the first time in 2014, when Hungary scored 15 out of a maximum of 16 points**. This score **fell to 13 points in 2016**, a figure that remained unchanged in the 2017 report. **In 2018, Hungary received two out of the maximum four points in the area of media freedom**, which was assessed as a separate indicator under the changed methodology. This score **has not been changed since then**.
  - The focus of the **Nations in Transit** report is on the post-Soviet states and former Eastern Bloc countries. The methodology for this report has also changed. After 2019, a score of 7 has been the best possible score, whereas the same score used to be the least favourable before. The reports also evaluate countries in specific areas, such as press freedom. It can be observed that **our country's score in this respect steadily deteriorated between 2010 and 2020**, and then **stagnated between 2020 and 2023**. Reviewing the reports, it can be said that the **main reasons for the ongoing decline** were **identified** mainly as the **media law rules** adopted in 2010 and the **worsening trends of media market concentration**, with special mentions, among others, of the closure of Népszabadság, the change in the ownership structure of Index and other media considered independent.

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<sup>1</sup> Freedom House: Freedom in the World 2023 – Methodology questions. [\[LINK\]](#)

<sup>2</sup> Freedom House: Promoting U.S. Leadership. [\[LINK\]](#)

<sup>3</sup> Freedom House: Financial Statements 2023. [\[LINK\]](#)

<sup>4</sup> Open Society Foundation: Awarded Grants. [\[LINK\]](#)

<sup>5</sup> Freedom House: Freedom in the World 2023. [\[LINK\]](#)

- **Freedom on the Net** is Freedom House's thematic report on internet freedom, including numerical and textual country ratings, published annually since 2011. In 2023, the situation in seventy countries was analysed, with **Hungary joining the list in 2012**. Freedom House scores countries between 0 and 100. Based on the evaluation, **countries are classified as free, partly free or not free**.<sup>6</sup> Until 2018, 0–30 points indicated that the country under review was free, 31–60 points indicated partially free, while 61–100 points indicated not free. However, **according to the new calculation applied after 2016, 70–100 points indicate that the country under review was free, 40–69 points indicate partly free, while 0–39 points indicate not free**.<sup>7</sup> **Our country was given a free rating for the entire period under review, with the exception of the 2022 and 2023 reports**, which indicated a partly free rating in these years (from 2016, scores ranged between 73 and 69). **Overall, Hungary's score showed a downward trend over the period**, with a stagnation in 2018 and 2023, with a temporary minimal improvement in 2019. If we examine the scores proportionally in the subcategories, the highest score was given to the obstacles to access while the lowest score was given to the violation of user rights in each year between 2016 and 2023.
- The **Freedom of the Press** report scores each state between 0 and 100, with 0 being the most favourable for each state. **Hungary's position** in the report's rankings **has steadily declined** from 2010 to 2017 (when it was last published), with the exception of a short period of stagnation between 2014 and 2015, **falling from 40th to 84th**. The most drastic loss of position was recorded in the **2011 report**, when Hungary **dropped 25 places** in the ranking. The **reason for the significant decline** was **cited as the adoption of new media legislation**, which, according to the organisation, gave the **Hungarian government control over the public media and the regulator**. Furthermore, **in 2012, Hungary was moved to the partly-free classification**, where it still was at the time of the last report issued.
- In 2023, the organisation published for the first time its special report **Reviving News Media in an Embattled Europe**, which assesses six countries, including ours, on the basis of the risks to the news media and the responses of news media actors. The report criticises Hungary for, among other things, the unequal distribution of state subsidies, the concentration of the media market, the high degree of social polarisation and the over-politicisation of public media.
- **Reporters Without Borders** was founded in Montpellier, France in 1985. It has consultative status with the United Nations, UNESCO, the Council of Europe and the International Organisation of La Francophonie. **The World Press Freedom Index has been published every year since 2002, which ranks 180 countries according to how free the media is in each country**, based on the organisation's

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<sup>6</sup> Freedom House: Freedom on the Net. [\[LINK\]](#)

<sup>7</sup> The 2016, 2017 and 2018 reports were, therefore, originally produced according to the old methodology (0–30 points: free, 31–60 points: partly free, 61–100 points: not free), but their results have been recalculated and made available according to the new calculation introduced in 2018 (70–100 points: free, 40–69 points: partly free, 0–39 points: not free). This allows the data to be plotted with the same scoring between 2016 and 2022, as we have done in this analysis. Freedom House: Freedom on the Net. Research Methodology. [\[LINK\]](#).

research.<sup>8</sup> A significant part of their funds comes from the French government,<sup>9</sup> the Ford Foundation,<sup>10</sup> the Open Society Foundation<sup>11</sup> and the MacArthur Foundation<sup>12</sup>.

- Starting with the 2013 report, **each state is scored between 0 and 100, with 100 being the most favourable**. The final score is made up of two sub-scores: the number of abuses against journalists and the responses to a questionnaire on the state of press freedom.
- This ranking is also **dominated by Hungary's steady decline**. While Hungary was ranked 23rd in 2010, it had slipped back to 72nd by 2023. The lowest point in the ranking was reached in 2021, when our country ranked 92nd. **The report is highly critical of the media legislation adopted in 2010, in particular the election, powers and functioning of the Media Council**. They also criticised the practice of government politicians of refusing to give statements to the press critical of the government, the campaign against the activities of George Soros and the criminalisation of fake news. In the **2023 list, Hungary has moved up 13 places to the 72nd**, but the organisation has not provided written justification for its decision as of the closure of this review.
- The **Media Pluralism Monitor** is a project developed by the Centre for Media Pluralism and Media Freedom of the European University Institute, with funding from the European Union, to **identify the risks to media pluralism in the Member States of the European Union and candidate countries**. So far, it has been fully implemented on six occasions between 2016 and 2022.<sup>13</sup>
  - The project is of **legal and political importance**, as the **European Commission refers to it as a key source for the annual rule of law reports, which are part of the rule of law mechanism**, and as an instrument influencing the preparation of the legislative proposal on media freedom adopted on 16 September 2022.<sup>14</sup>
  - **They pay particular attention to Hungary, as so far it has been the only country that was subject to a "special" investigation and a thematic country report** (in 2019).
  - The project produces a quantified risk assessment based on the scoring of a standardised questionnaire and a narrative country report to justify it. **For the first time, a country ranking was published for the year 2021** by averaging the values of the areas surveyed. Using this methodology, **the NMHH has established the rankings for the period 2016–2020**, taking into account the Member States of the European Union.
  - **The Media Pluralism Monitor** assesses the **four main areas of media freedom** – fundamental protection, market plurality, political independence and social inclusiveness – **to identify low** (3–33 percent), **medium** (34–66 percent) and **high** (67–97 percent) risks.

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<sup>8</sup> Reporters Without Borders: Who are we? [\[LINK\]](#)

<sup>9</sup> Reporters Without Borders: Financial report 2022. [\[LINK\]](#)

<sup>10</sup> Ford Foundation – Grants Database. [\[LINK\]](#)

<sup>11</sup> Open Society Foundation: Awarded Grants. [\[LINK\]](#)

<sup>12</sup> MacArthur Foundation – Reporters Without Borders. [\[LINK\]](#)

<sup>13</sup> Media Pluralism Monitor. European University Institute Centre for Media Pluralism and Media Freedom. [\[LINK\]](#)

<sup>14</sup> The document referred to as the European Media Freedom Act is the proposal adopted by the European Commission on 16 September 2022, establishing a common framework for the European Parliament and the Council for media services in the internal market (the European Media Freedom Act) and amending Directive 2010/13/EU. [\[LINK\]](#) See also the European Commission's comments on the use of the Media Pluralism Monitor: Monitoring media pluralism in the digital era. European Commission. 14 October 2022. [\[LINK\]](#) Press release from the European Commission. European Media Freedom Act: Commission proposes rules to protect media pluralism and independence in the EU. 16 September 2022. [\[LINK\]](#)

- **Hungary was rated as one of the riskiest EU Member States** in terms of media pluralism over **the entire period under review**. The country's annual average risk score showed a fundamentally worsening trend, from 60.75% for 2016 to 66.25% for 2020, approaching the high risk threshold of 67%. The assessment for 2021 showed only a slight improvement with an average score of 65.5 percent, while the report on 2022, published in June 2023, showed a significant deterioration in Hungary's rating, with the worst risk score ever, at 74.25 percent.
- **Among EU Member States, Hungary received the worst average score for 2016**, while **lower average scores were obtained only by Poland and Bulgaria for 2017, Cyprus, Romania and Bulgaria for 2018-2019, Slovenia and Bulgaria for 2020, and Bulgaria and Poland for 2021**. Finally, **in the Media Pluralism Monitor for 2022, Hungary received the worst average score among EU Member States, nine percentage points behind Romania, which came in just ahead**.
- In the **EU ranking, Hungary has been ranked between 25th and 28th**. **Slovakia** was the best performing of the Visegrad countries, **with a ranking between 9th and 17th** (with a significant drop in 2018), **the Czech Republic between 17th and 19th**, and **Poland almost consistently at the bottom of the table, with a ranking between 21st and 27th**.
- **In terms of political independence, Hungary has received a high risk rating every year, and has always been rated the worst, except for two years, when Malta came last**. The **risk rating for market pluralism deteriorated steadily and sharply between 2016 and 2022**, reaching the lowest point by 2022. Apart from a slightly worse performance in 2016, **fundamental protection has shown little variation for a long time, until it deteriorated significantly in the latest evaluation**. While the **assessment in the area of social inclusiveness showed a downward trend, it remained mostly close to the European average until the last survey**. The **2022 report indicated a 12 percentage point increase in risk and thus a high risk rating**.
- Other organisations, such as the International **Research & Exchange Board (IREX)**, **UNESCO**<sup>15</sup> and the **UN Special Rapporteur for Freedom of Opinion and Expression**<sup>16</sup>, also **produce reports on press freedom**.
  - The **IREX Vibrant Information Barometer**<sup>17</sup> examines information flows in **the post-Soviet states and the Balkans**. Therefore, Hungary is not mentioned in the report.
  - **Every four years, UNESCO publishes a comprehensive report on the state of the media**, which focuses mainly on regional and global trends. As a result, Hungary is rarely mentioned by name, and no special reports analysing Hungary have been published.
  - The **UN Special Rapporteur for Freedom of Opinion and Expression** issues reports on an ad hoc basis. **Published in January 2022, her last report on the media situation in Hungary did not include a ranking or any other quantified assessment**.

## 2.2. Methodology and evaluation of media freedom reports

- **Freedom in the World**, considered the flagship report series of **Freedom House**, currently assesses **the state of civil and political liberties in 195 states and 15 other territories, using a total of 25**

<sup>15</sup> UNESCO: Journalism is a public good: World trends in freedom of expression and media development; Global report 2021/2022. [\[LINK\]](#)

<sup>16</sup> UN: Country visit to Hungary – Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan. 10 January 2022. [\[LINK\]](#)

<sup>17</sup> IREX: Vibrant Information Barometer (VIBE). [\[LINK\]](#)



**indicators.** For each indicator, a **maximum of 4 points can be achieved.** In previous reports from 2014 to 2017, the organisation looked at fewer areas, analysing media relations under the indicator freedom of expression, with a maximum of 16 points. Country reports are presumably prepared by individual analysts, who draw on their **field research experience, analyses by local organisations, newspaper articles and reports from their professional contacts.** The final scores are determined in a so-called review meeting between Freedom House staff and a panel of experts. Finally, based on the overall score achieved, the country is classified in **one of the categories – free, partly free or not free.**<sup>18</sup>

- The **reports can be seen as highly subjective,** with little attempt to show that there are different perspectives to the one they represent. Insights, connections and opinions that contradict the selected narrative are almost non-existent. The **subjectivity of the report is also acknowledged in the document presenting the methodology,** calling the presence of certain subjective elements unavoidable. German expert Laura Schneider of the Research Center for Media and Communications at the University of Hamburg also points out that the report is **highly biased in its assessment of, for example, the United States and its allies.**<sup>19</sup>
- **A total of 128 analysts and 40 consultants were involved in preparing the reports** on 195 countries and 15 other territories, meaning that **a significant number of the researchers were assigned to assess more than one country.** As the questionnaire on which the report is based is more than 12 pages long and examines 25 indicators, it is legitimate to **ask whether the analysts have the knowledge and expertise** to answer the questions with sufficient depth for several states.
- The **sources used** to produce the document are listed in the full reports published in book form by the organisation, which **have not been published after 2021,** even though promises to do so exist on their website.<sup>20</sup> Regarding the sources, it is important to note that, although several major newspapers are mentioned, including the New York Times, **the only Hungarian source quoted starting with the 2015 report was Politics.hu.** Prior to this, the Budapest Sun and the Budapest Times were also quoted. In relation to Politics.hu, it is worth noting that – as they stated in an earlier announcement – the site was suspended indefinitely in the beginning of 2018 and restarted operation in 2020.<sup>21</sup>
- The authors include a member of the one-sidedly selected Amnesty International. In this context, it is argued that, **if an analyst less familiar with the local conditions is in charge of the analysis of a particular country, this may leave more room for the possible subjective views of the researcher.**
- Finally, it should be noted that **certain events were included repeatedly in several reports.** One of the best examples of this is the closure of Népszabadság in 2016, which is still mentioned in the 2022 report.
- Also produced by Freedom House, the **Nations in Transit report,** published every year, **assesses each state in seven areas on a scale of 0 to 7.** Since 2019, a **score of 7 has been the most favourable** in

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<sup>18</sup> Freedom House: Freedom in the World – Methodology Questions. [\[LINK\]](#)

<sup>19</sup> Laura Schneider: Media Freedom Indices. DW Akademie, 2014/1, p. 15.

<sup>20</sup> Freedom House: Publication Archives. [\[LINK\]](#)

<sup>21</sup> Web Archive: The website of Politics.hu on 25 January 2019. [\[LINK\]](#)

each area. Before that, a score of 7 indicated the least favourable rating.<sup>22</sup> One of the areas examined is media independence, which focuses on the situation of press freedom, including libel legislation and media market concentration. The report is prepared on the basis of a questionnaire consisting of 60 questions and several sub-questions, to which the country report writer tries to provide answers. The final score is determined in a meeting between the researchers responsible for the country reports, a group of expert advisors and a regional group of expert reviewers.<sup>23</sup>

- **The sources of the reports are largely one-sided, tending to rely only on articles from specific newspapers, such as Telex.hu, Hvg.hu and Mérték Media Monitor, which means that the report reflects, to a great extent, the one-sided views of the sources and does not present a sufficiently impartial picture of the real situation in Hungary.**
- **Reports are typically prepared by one or sometimes two people, a practice that raises questions in several respects. Looking at the authors, it can be said that, on the one hand, many of them are politically motivated in their public activities, and on the other hand, it may be doubtful whether one or two persons can have a deep enough knowledge, beyond their general professional expertise, to carry out such a comprehensive analysis that covers seven different fields.**
- In addition to legislation or government intentions, the reports also analyse **the practical impact** of state and non-state actors on the rights and freedoms of individuals, **which are assessed in an explicitly subjective manner.**
- **In the framework of the Freedom on the Net project, scoring and text-based country assessments are also provided.** The scoring is based on a standardised questionnaire **that covers three main areas: obstacles to access** (maximum 25 points), **limits on content** (maximum 35 points) and **the violation of user rights** (maximum 40 points). The textual assessment is an attempt to explain the scoring.<sup>24</sup>
  - **Both the scoring and the draft text of the report are prepared by a single** (sometimes two) **experts** commissioned by Freedom House. However, these can be changed at the so-called regional expert meetings and by the core staff of Freedom House.
  - Divided into three main areas, the questionnaire contains a total of 21 questions, each with a maximum score. **The final results are obtained by simply adding up the scores of the questions between 0 and 100 points, as indicated earlier. Countries are classified into three categories:** until 2018, 0–30 points indicated a free rating, 31–60 points a partly free rating and 61–100 points a not free rating. However, **according to the new calculation applied since 2016, 70–100 points indicate a free rating, 40–69 points a partly free rating and 0–39 points a not free rating.**<sup>25</sup>

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<sup>22</sup> Originally, the report was prepared using the old methodology until 2019, when a score of 7 was the most favourable for states, but the reports on the Freedom House website covering Hungary have been listed using the new methodology since 2015, as the organisation has presumably recalculated the previous scores to reflect the new methodology.

<sup>23</sup> Freedom House: Nations in Transit Methodology. [\[LINK\]](#)

<sup>24</sup> Freedom House: Freedom on the Net Research Methodology. [\[LINK\]](#)

<sup>25</sup> The 2016, 2017 and 2018 reports were, therefore, originally produced according to the old methodology (0–30 points: free, 31–60 points: partly free, 61–100 points: not free), but their results have been recalculated and made available according to the new calculation introduced in 2018 (70–100 points: free, 40–69 points: partly free, 0–39 points: not free). This allows the data to be plotted with the same scoring between 2016 and 2022, as we have done in this analysis. Freedom House: Freedom on the Net. Research Methodology. [\[LINK\]](#).

- The project also provides a ranking of countries by score, which has very limited relevance and information value, as a low number of countries (70 in 2022) are ranked compared to a global survey, and no selection principle has been published for the countries.
- The methodological note on the questionnaire states succinctly that it was compiled in consultation with international experts and is based on Article 19 of the Universal Declaration of Human Rights, which enshrines freedom of expression.
- A fundamental shortcoming of the project is that the selection procedure for the expert who will also provide the scoring and the text report lacks substantive regulation and transparency. **The validity and impartiality of the reports is made uncertain by the fact that they are based on the opinions of only one, sometimes two, experts. For example, Hungary's scoring and textual assessment over the past years was done by a single member of the staff of the Hungarian Civil Liberties Union, known for its criticism of domestic conditions.**
- It is **also not transparent in which framework and to what extent** the regional expert meetings and then the **Freedom House staff can change the assessment proposed by the local expert** and whether they play a professional balancing role, **especially with regard to the textual reports.**
- The project **does not make any substantive claims** about the **selection and use of sources** for scoring and textual assessment in the methodology, indicating only that the Freedom House staff will fact-check reports before publication. The risk of this is shown by the fact that, **in many cases, the reports refer to methodologically questionable research.** Freedom on the Net repeatedly cites, for example, the 2019 analysis of the Mérték Media Monitor, claiming that 41.3 percent of the Hungarian online media market is under pro-government control, while the calculation only took into account the annual revenue of four leading sites, including origo.hu.<sup>26</sup>
- While the report tries to present its findings, which are not necessarily supported by facts, not as its own assessment, but as the opinions of those it cites, the **selection of these opinions is usually one-sided.**
- **The text of the reports has stayed largely unchanged for several years, even though the authors are, in each case, formally undertaking an investigation of a particular year.** For example, every year from 2012 to 2021, the Media Council's sanctioning powers are criticised by referring to the same document, signed by an organisation called Article 19.<sup>27</sup>
- While Freedom on the Net is, as its name suggests, an investigation of internet freedom, the reports **also cover a number of phenomena and events outside the scope of the research**, such as the Media Council's practice of radio tendering and renewal of broadcasting licences, the case of Klubrádió and the regulation of foreign funding for NGOs.<sup>28</sup>

<sup>26</sup> Ágnes Urbán (2019): Mérték Media Monitor. Soft censorship 2018. Mérték Füzetek 18. [\[LINK\]](#) pp. 51–57. Freedom House: Freedom on the Net 2019 – Hungary. [\[LINK\]](#) Question B6, 2020. [\[LINK\]](#) Question B5, 2021. [\[LINK\]](#) Question B5, 2022. [\[LINK\]](#) Question B5, 2023. [\[LINK\]](#) Question B5.

<sup>27</sup> Article 19: Hungarian media laws Q&A. August 2011. [\[LINK\]](#) pp. 5-6. Freedom House: Freedom on the Net, full report, 2015 [\[LINK\]](#) p. 372, 2014. [\[LINK\]](#) p. 368, 2013. [\[LINK\]](#) p. 329, 2012. [\[LINK\]](#) p. 224, Freedom on the Net 2016 – Hungary. [\[LINK\]](#) Question Group A. 2017. [\[LINK\]](#) Question Group A. 2018. [\[LINK\]](#) Question group A. 2019. [\[LINK\]](#) Question B6. 2020. [\[LINK\]](#) Question B6, 2021. [\[LINK\]](#) Question B6.

<sup>28</sup> Freedom House: Freedom on the Net 2021 – Hungary. [\[LINK\]](#) Question A5, Freedom House: Freedom on the Net 2018 – Hungary. [\[LINK\]](#) Question Group C.

- The **Freedom of the Press** reports published by Freedom House **score and rank countries** between **0** and **100**, where the **lower score indicates the more favourable value**. The results are compiled from a questionnaire consisting of 23 questions and a number of sub-questions. The questions focus on the legal, political and economic fields. The scores are evaluated by a group of experts and researchers, and the final score is used **to classify each state** as a **free, partly free and not free**.<sup>29</sup>
  - The **sources used for the preparation of the reports are not publicly available** and are only described in general terms in the methodology document, which **reduces the transparency of the report**.
  - A major anomaly is that the report classifies nearly 200 states into only three groups. In the **latest report, published in 2017, Hungary and Afghanistan were both given a partly free classification**, in spite of the fact that, in the latter state, 11 media workers were killed in 2016.
  - As regards the content of the reports, it should be stressed that **they often make allegations that are not sufficiently substantiated or lack objective justification**. These include, for example, the statement in the 2017 report that *"the government in Hungary, led by the conservative Fidesz party, has been gradually consolidating its control over the media"*.<sup>30</sup> This practice significantly reduces the robustness of the index claims.
  - The last report, published in 2017, involved 90 researchers who assessed 200 countries, meaning that a single researcher was assigned the assessment of at least two countries. The questions and sub-questions deal in detail with the legal, political and economic situation of a state. **It is questionable whether a single researcher has sufficient knowledge in all areas**, beyond his or her general expertise, **possibly even across several states**, to produce a well-grounded report.
  - According to Laura Schneider,<sup>31</sup> who contributed to the 2013 report, **only one researcher produces the reports on each country**, which adds to their subjective nature.<sup>32</sup> **As in case of the Freedom in the World report**, the latter **was acknowledged by Freedom House** in a document presenting the methodology. Although a list of the authors of the document as a whole is available, **it is not known which researchers produce the reports for which country**. However, looking at the authors of the report, over the years they have included the head of the Mérték Media Monitor, listed as *an "Europe analyst"*<sup>33</sup> and a former Amnesty International staff member<sup>34</sup>.
- The special report entitled **Reviving News Media in an Embattled Europe** **assesses six countries**, Estonia, France, Germany, **Hungary**, Italy and Poland, on the basis of the factors that pose a risk to the media and the responses of media actors to these risks. The **report is not ranked or scored**, but Freedom House staff conducted nearly 40 interviews with media experts and media professionals. The transcripts of the interviews were analysed and commented on by the organisation's staff, and the country-level findings were reviewed with expert consultants in March 2023.<sup>35</sup>
  - As part of a critical approach to the report's methodology, it should be noted that the **organisation did not seek to be sufficiently pluralistic in its choice of interviewees and sources cited in the report**. Among the interviewees quoted, there are typically media and NGO staff members who

<sup>29</sup> Freedom House: Freedom of the Press Research Methodology. [\[LINK\]](#)

<sup>30</sup> Freedom House: Freedom of the Press 2017. [\[LINK\]](#) p. 6.

<sup>31</sup> Freedom House: Freedom of the Press 2013. [\[LINK\]](#) p. 9.

<sup>32</sup> Laura Schneider: Media Freedom Indices. DW Akademie, 2014/1, pp. 14-15.

<sup>33</sup> Freedom House: Freedom of the Press 2017 Acknowledgements. [\[LINK\]](#)

<sup>34</sup> Freedom House: Freedom of the Press 2015 Acknowledgements. [\[LINK\]](#)

<sup>35</sup> Freedom House: Reviving News Media in an Embattled Europe. [\[LINK\]](#)

examine domestic media relations from a particular point of view, and the sources used primarily include documents and analyses by these organisations. Due to the one-sided selection of sources, the report may present an unbalanced picture of the domestic media landscape.

- **Reporters Without Borders scores** each country under review **between 0 and 100** according to the degree of media freedom, where the higher score indicates the greater degree of press freedom. The final score is the result of a qualitative and a quantitative research – **the final score is determined on the basis of the questionnaire filled in by the researcher's local professional contacts on the one hand, and the number and type of abuses against journalists on the other hand.** The reports always assess the events of the previous year in a particular country.<sup>36</sup>
  - In line with the view of German expert Laura Schneider from the University of Hamburg, cited earlier, we believe that a **thorough completion of the long questionnaire of 117 questions requires in-depth knowledge of a number of areas.** Few people are likely to have this breadth of knowledge, which includes knowledge of economic conditions, many areas of law and public policy issues.<sup>37</sup>
  - The problem is that **Reporters Without Borders does not make the identity of the authors of the report and the respondents to the questionnaire publicly available, nor the number of respondents after 2012.** Agreeing with Schneider, in the absence of this information, it cannot be excluded that the questionnaire is mostly filled in by people who are known to Reporters Without Borders staff, and therefore the plurality of participants is not guaranteed.<sup>38</sup>
  - The transparency of the textual reports is further reduced by the fact that **the sources on which they are based are not always known.** Although the organisation occasionally refers to its own articles as sources in the text, this practice raises questions about the pluralistic use of sources in the report.
  - The scientific value of the reports is also diminished by the organisation's practice of **using pretentious wording and phrases,** as mentioned below.
  - In **terms of methodology, the reports are not consistent, with three changes in reporting methodology** during the period under review.
- As indicated above, **the Media Pluralism Monitor sets a percentage risk score in four main areas** (fundamental protection, market plurality, political independence and social inclusiveness), which are **rated as low** between **0 and 33%**, **medium** between **34 and 66%** and **high** above **67%**. The **risk assessment is based on the scoring of the questionnaire** developed by the Centre for Media Pluralism and Media Freedom. The questionnaire is filled in by a *country team* commissioned by the Centre on the basis of their own data collection, who also prepare the textual country report, which is used for justifying the score. The key players in the project are therefore **members of the country team,** whose **selection is simply recorded as being of recognised competence.**<sup>39</sup> The members of the so-called

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<sup>36</sup> Reporters Without Borders: Methodology used for compiling the World Press Freedom Index. [\[LINK\]](#)

<sup>37</sup> Laura Schneider: Media Freedom Indices. DW Akademie, 2014/1, p. 22.

<sup>38</sup> For more on the risk reported by respondents from the same circle of acquaintances, see: Laura Schneider: Media Freedom Indices. DW Akademie, 2014/1, p. 22.

<sup>39</sup> Centre for Media Pluralism and Media Freedom: full report of the Media Pluralism Monitor, on 2021. [\[LINK\]](#) p. 172, on 2022 [\[LINK\]](#) p. 176. In the full report on 2014, they note that they approached local institutions consider by them to be independent and neutral, and country team members are invited by the designated "*national team leader*". Media Pluralism Monitor, full report on 2014. [\[LINK\]](#) pp. 24-25.

external group of experts are representatives or experts of the media sector in the country concerned. They do not take part in filling in the questionnaire or in writing the report, since their role is limited to helping the country team with their opinions on specific issues.<sup>40</sup>

- The **200 questions of the questionnaire** are **divided between indicators and sub-indicators** in the **main areas** (fundamental protection, market plurality, political independence and social inclusiveness). All questions are scored on a scale of 0 to 1.<sup>41</sup>
- For questions that do not apply to a particular country, the option "*not applicable*" may be marked, and will be disregarded when scoring. Conversely, in **some cases, the answer "no data"** is assigned a risk significance and **may be taken into account as a risk-increasing factor**.
- The final result is obtained by averaging over the four domains, at the level of questions, sub-indicators and indicators. The average of these gives a country's risk score as a percentage between 3 and 97.
- Recommendations and instructions are given to the country team for filling in the questionnaire. In certain cases, suggested primary sources (legislation, databases) are indicated. However, the **use of sources in the textual report is not regulated in any meaningful way with the expectation of ensuring balance and the presentation of different opinions**.<sup>42</sup> The report evaluating 2022 states that "*views expressed in this publication reflect the opinion of individual authors and not those of the European University Institute*".<sup>43</sup>
- The strict expectations regarding the methodology of the Media Pluralism Monitor are particularly justified, as the European Commission also treats the project documents as a priority in its pre-legislative and rule of law procedures. Therefore, the project's **reports may have an indirect impact on Member States' access to EU funds through the rule of law reports**.<sup>44</sup>
- **The results of the studies are largely based on the opinions of a local team of a few people, which adds weight to the critical comments made about them.** Based on the reports and the methodological descriptions, the **selection of country team members is unregulated and non-transparent**, with no substantive provisions on the number and plural composition of the team. **For example, the evaluations for 2016 and 2017 were prepared by the staff of a single institute of the Central European University (CEU), the evaluation for 2021 was prepared by Hungarian experts who were all staff members or publicists of the Átlátszó portal, and the evaluation for 2020 was prepared by a single university faculty member and student.** The number of members of the country team varied almost every year, with only one expert participating in the study each year, except in 2014 and 2022. The variation in the number and

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<sup>40</sup> Centre for Media Pluralism and Media Freedom: full report of the Media Pluralism Monitor, on 2021. [\[LINK\]](#) pp. 172–182, on 2022. [\[LINK\]](#) pp. 174-190. For more on its role in the preparation of this report, see also Media Pluralism Monitor's report on Hungary, on 2022. [\[LINK\]](#) p. 5.

<sup>41</sup> The yes-no type of multiple-choice questions are scored on a scale of 0 to 1, the low-medium-high risk questions can have scores of 0, 0.5 or 1, and the numerical answers to the open-ended questions are scored according to the Centre's classification.

<sup>42</sup> Centre for Media Pluralism and Media Freedom: Media Pluralism Monitor, questionnaire, 2023. [\[LINK\]](#)

<sup>43</sup> Centre for Media Pluralism and Media Freedom: Media Pluralism Monitor, report on Hungary, on 2022. [\[LINK\]](#) p. 3.

<sup>44</sup> The document referred to as the European Media Freedom Act is the proposal adopted by the European Commission on 16 September 2022, establishing a common framework for the European Parliament and the Council for media services in the internal market (the European Media Freedom Act) and amending Directive 2010/13/EU. [\[LINK\]](#) See also the European Commission's comments on the use of the Media Pluralism Monitor: Monitoring media pluralism in the digital era. European Commission. [\[LINK\]](#) Press release from the European Commission. European Media Freedom Act: Commission proposes rules to protect media pluralism and independence in the EU. 16 September 2022. [\[LINK\]](#)

composition of the team is unfortunate in terms of the comparability and continuity of the individual reports.

- Based on the reports and the methodological descriptions, the **selection of the external group of experts' members is also questionable. Although in the first years of study the intention to create expert teams that ensure pluralism was expressed in the reports, specifying the number of teams and the professional fields to be represented, it can be concluded that the expectations described were not fully met in any of the years.**<sup>45</sup> For example, the expert team for the 2018-2019 Hungarian country evaluation consisted of only three members instead of the seven previously reported, only one professional organisation was represented and there was no participation from the regulator.<sup>46</sup> As a consequence, people who could provide opposing views were not always part of the expert group. Furthermore, it is also **questionable how much influence the external expert group can have** on the evaluation if its members have different or opposing opinions, as they are not responsible for scoring or **writing the report**, and **their possible dissent can be ignored by the country team.**<sup>47</sup> The Hungarian version of the country report covering the year 2022 also highlights that *"the final results reflect the expertise and findings of the team that collected the data and wrote the report"*.<sup>48</sup> On this basis, **it is, therefore, questionable whether the external team of experts has any meaningful influence on the balancing of the evaluation**, even though the process is suitable for giving the impression of such influence to the public.
- **A recurring weakness of the country reports is the unbalanced use of resources. A significant part of the secondary sources comes from the organisations and media that were unilaterally selected or, in many cases, from a single actor** (such as Mérték Media Monitor or Átlátszó, which also work together). **Opposing opinions** containing critical comments are seldom represented. In the latest report, covering the year 2022, it is also explicitly stated that part of the legal assessment is based on the work of a single author published in the context of the Mérték Media Monitor.<sup>49</sup> For certain issues, the same source has been cited for several different years.<sup>50</sup>
- A related problem is **the emergence of subjective political opinions** (e.g. the Hungarian government promotes authoritarian, even totalitarian principles)<sup>51</sup> **and factual statements**, as well as the **lack of substantiation by sources and its replacement by vague references** (e.g. *"it is widely believed that people can easily lose their livelihood by voicing opinions that are critical of the government..."*).<sup>52</sup>

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<sup>45</sup> Centre for Media Pluralism and Media Freedom: full report of the Media Pluralism Monitor, on 2014. [\[LINK\]](#) pp. 28-30, on 2016. [\[LINK\]](#) pp. 75-76, on 2017. [\[LINK\]](#) pp. 78-79.

<sup>46</sup> Centre for Media Pluralism and Media Freedom: Media Pluralism Monitor report on Hungary, on 2018-2019. [\[LINK\]](#) p. 23.

<sup>47</sup> According to the methodology of previous reports, in such cases the country team had to provide a justification, which in itself unfortunately does not guarantee that conflicting expert views will be reflected in the evaluations, especially in the case of text reports. See: Media Pluralism Monitor, full report, on 2016. [\[LINK\]](#) p. 76. In the full report on 2022, it is stated that the country team is free to confirm or modify its original position based on the evaluation of the members of the expert group. Media Pluralism Monitor, full report, on 2022. [\[LINK\]](#) p. 177.

<sup>48</sup> Media Pluralism Monitor, report on Hungary, on 2022. [\[LINK\]](#) p. 56.

<sup>49</sup> Media Pluralism Monitor, report on Hungary, on 2022. [\[LINK\]](#) p. 8.

<sup>50</sup> For example, the Media Pluralism Monitor report on Hungary on 2016, 2017 and 2018-2019: A médiaszabályozás leghátsó oldala. Mértékblog. 14 August 2015. [\[LINK\]](#)

<sup>51</sup> Media Pluralism Monitor report on Hungary, on 2018-2019. [\[LINK\]](#) p. 20.

<sup>52</sup> Media Pluralism Monitor, report on Hungary, on 2021. [\[LINK\]](#) p. 11. See also: *'...Tilos Radio could continue broadcasting, but the threat of losing a licence contributes to the widespread perception that community media's independence of the state is at least fragile in Hungary.'* Media Pluralism Monitor, report on Hungary, on 2022. [\[LINK\]](#) p. 37.

- The reports, as will be illustrated by examples in the relevant chapter, **contain numerous factual errors, omit relevant facts, and fail to present the full circumstances.** To date, the project does not seem to have developed adequate solutions to address these concerns.
- **There is a lack of coherence between the risk assessments and the textual reports.** The reports often do not explain the percentage results, but in many cases it is content to merely illustrate the situation with an example that has caused a great media stir. The **same textual justification is used several times** in the reports **for different years despite the fact that the risk values to be substantiated are also different.** The text of the reports for 2016 and 2017 is almost identical, while the risk scores differ significantly in some places. In the case of the indicator on access to media for minorities in **the report on 2017**, this had the **absurd consequence that the high risk rating of 75% was accompanied by almost the same textual justification as in 2016, when the same risk rating was as low as 25%.**<sup>53</sup>
- **The scoring methodology of the questionnaire may lead to disproportionalities.** For certain questions, a high risk rating might be given even for a single example, and indicating 'no data' can itself trigger a deterioration of the risk rating, where avoiding disproportionality depends on whether the core team does indeed effectively apply the principles of differentiated risk review of 'no data' answers.
- Questions over the consistency of report assessments are raised by the fact that the last country report on Hungary **justifies its significantly lower score** – by 11 percentage points – **in the area of fundamental protection** by the fact **that legal issues were subjected to a more thorough examination in this particular report.** They report that, in the meantime, no change in regulation has been observed to support the increase in risks.<sup>54</sup>

### 2.3. Factual errors in media freedom reports

Allegations of media freedom reports	Comments
<p>A recurring claim in the reports on Hungary is the <b>alleged debatability of independence of the Media Council</b>, explaining that <i>"The independence of the Media Authority and the Media Council are formally specified in the Media Act. However, the appointment procedures do not provide adequate legal safeguards for independence."</i> The reports refer to <i>" the power the government has over the appointments of the media council members "</i>.<sup>55</sup></p>	<p>In contrast, Act CLXXXV of 2010 on Media Services and Mass Communications (hereinafter referred to as the Mttv.) <b>clearly states that the Authority is an independent regulatory body, subject only to the law.</b> The members of the Media Council are also subject only to the law and cannot be instructed in their activities. The mere fact that the law gives the Prime Minister the power to propose the president of a non-governmental body does not in itself imply that the non-governmental body is acting on the instructions of the Government or the Prime Minister.</p> <p>The <b>statutory rules are also clear as regards the independence of the President of the NMHH, stating that he/she cannot be instructed in the performance of his/her duties or in his/her</b></p>

<sup>53</sup> Media Pluralism Monitor, report on Hungary, on 2016. [\[LINK\]](#) p. 9., on 2017. [\[LINK\]](#) p. 12.

<sup>54</sup> Media Pluralism Monitor, full report, on 2022. [\[LINK\]](#) p. 18.

<sup>55</sup> Media Pluralism Monitor, report on Hungary, on 2016. [\[LINK\]](#) pp. 5-6, on 2017. [\[LINK\]](#) p. 7., on 2018-2019. [\[LINK\]](#) p. 11., on 2020. [\[LINK\]](#) pp. 11-12, on 2021. [\[LINK\]](#) p. 14. Media Pluralism Monitor, full report, on 2014. [\[LINK\]](#) p. 106. A similar assessment can be found in the country report on 2022: see Media Pluralism Monitor, full report, on 2022. [\[LINK\]](#) p. 17.



	<p><b>procedure or his/her decisions concerning the exercise of his/her powers.</b> The President may not give instructions to the Office to take individual decisions on official matters.<sup>56</sup></p>
<p>A recurring element in the reports is the claim that <b>the NMHH can fine individual media service providers</b> if they breach the requirement of balanced information.<sup>57</sup></p>	<p>The rules for proceedings for breach of the obligation to provide balanced information are laid down in Section 181(5) of the Mttv., which states that <b>no fine may be imposed in such proceedings.</b> Under the most severe sanction applicable, the media service provider <b>is obliged to publish a communication at the time and in the manner specified.</b></p> <p>In addition, it is important to note that such a procedure can only be initiated upon request, i.e. the NMHH cannot initiate the procedure ex-officio.</p>
<p>The Media Pluralism Monitor's report evaluating 2020 says that <b>the Media Council accepted the decision of the Competition Authority in the case of the Central European Press and Media Foundation (known as KESMA) despite the fact that it could have had the power to block the process.</b><sup>58</sup> The 2019 special report, which specifically examines the establishment of the KESMA, directly states that the criticism questioning the independence of the Media Council is confirmed and supported by the fact that the Media Council did not investigate the establishment of the KESMA.</p>	<p><b>As opposed to this, the Media Council was not able to investigate the transaction.</b> The case in question <b>could not be investigated by the Competition Authority either, as the Government had declared the transaction to be of national strategic importance in the public interest.</b><sup>59</sup> The Media Council is able to examine media market concentrations only in the context of merger investigations carried out by the Competition Authority. Essentially, no such procedure could have taken place. For this reason, the Media Council was not in a position to consider intervention.<sup>60</sup></p>
<p>A recurring criticism is that <b>the Media Council did not renew the broadcasting licence of Klubrádió for political reasons,</b> and that the station lost its frequency for similar reasons.<sup>61</sup></p>	<p>The Media Council had <b>no legal possibility to renew</b> the licence of Klubrádió without a tender, as the <b>provisions of the Mttv. preclude it,</b> given the <b>repeated infringements of the radio station.</b> The highest judicial authority in Hungary, the <b>Curia</b> ruled that this <b>procedure of the Media Council was lawful.</b> Klubrádió was then given the opportunity to participate in the tender, and the tender itself rewarded Klubrádió with extra points for having previously broadcast on the same frequency.</p> <p>The tender procedure was unsuccessful because Klubrádió's tender contained programming errors, and the Media Council was not certain about the economic soundness of Klubrádió Zrt.'s operations. Again, the decision was found to be lawful by the Curia.</p>
<p>According to the Media Pluralism Monitor, <i>"independent media organs exist, however these are mainly small online outlets and investigative</i></p>	<p><b>It is untrue to say that the segment of the media that define themselves as independent are mostly small online outlets.</b> The readership data of the</p>

<sup>56</sup> Sections 123 and 111(6) of the Mttv.

<sup>57</sup> Reporters Without Borders: Europe – Central Asia 2014. [\[LINK\]](#)

<sup>58</sup> Media Pluralism Monitor, report on Hungary, on 2020. [\[LINK\]](#) p. 14., on 2018-2019. p. 8., Media Pluralism Monitor's report assessing certain new developments in the Hungarian media market. [\[LINK\]](#) 2019. p. 7.

<sup>59</sup> Press release by the Hungarian Competition Authority. 29 January 2020. [\[LINK\]](#)

<sup>60</sup> Article 171 of the Mttv.

<sup>61</sup> Reporters Without Borders: Country fact-file: Hungary. [\[LINK\]](#)

<p>reporting <i>NGOs that are supported by crowd-sourced and international funds.</i>"<sup>62</sup></p>	<p>Mérték Media Monitor study, which is also cited by the report several times, shows that, in 2016, the top 5 most read websites included index.hu (which was then still written by the editorial team that later founded telex.hu), hír24.hu, hvg.hu and 444.hu.<sup>63</sup></p>
<p>There are also several reports that the <b>NMHH may revoke media licences</b> for infringement, and claims that the Media Council <b>may impose fines</b> of up to <b>USD 950 000</b> on media outlets.<sup>64</sup></p>	<p><b>The Mttv. does not grant any powers under which radio and television licences can be revoked.</b> In addition, the <b>maximum fine</b> known to the Mttv. is <b>currently HUF 200 million</b>, which was equivalent to approximately <b>USD 700 000</b> at the time of the publication of the report that criticises this provision. It should also be noted that <b>this fine can only be imposed on media service providers with significant market power</b>, while for other service providers the maximum fine is HUF 50 million. In addition, the <b>largest fine ever</b> imposed by the Media Council on a media service provider was <b>HUF 23 million</b>, which was imposed after the body had ruled on three related infringements in a single decision.<sup>65</sup> The amount is far from the legal maximum, which has not yet been imposed.</p>
<p>The Freedom on the Net 2021, 2022 and 2023 reports refer to a 2019 study by the Mérték Media Monitor, finding that <b>41.3 percent of the online media market</b> and <b>79.3 percent of the total media market is under pro-government control.</b><sup>66</sup></p>	<p>While the <b>authors of the study referred to in the report defined the online media market as only four leading online news sites</b> (24.hu, origo.hu, index.hu and 444.hu), the <b>Freedom House report misleadingly presents it as the entire online media market.</b> The 41.3 percent share in the study of the Mérték Media Monitor actually represents the share of origo.hu's 2018 revenue in the total revenue of the four sites under review. The same narrowing down approach is applied to other areas of the media market, with a total of 18 print, 5 radio and 5 television media taken into account in the calculation. The 79.3 percent government party share is calculated by adding the public media budget. The <b>calculations and, in particular, Freedom House's interpretation of these calculations, as well as the exclusive consideration of turnover, are simplistic.</b> A later analysis by Mérték Media Monitor and Medián includes a survey on the readership of online news sites, which shows that, in 2018, 19 percent of all readers read origo.hu at least once a week, while the same figure was 20 percent for index.hu, 16 percent for 24.hu,</p>

<sup>62</sup> Media Pluralism Monitor, report on Hungary, on 2016. [\[LINK\]](#) p. 11.

<sup>63</sup> Hann Endre, Megyeri Klára, Polyák Gábor, Urbán Ágnes: Megfertőzött médiarendszer. A politikai tájékozódás forrásai Magyarországon 2020. Figure 37. [\[LINK\]](#) p. 31.

<sup>64</sup> Freedom House: Freedom in the World 2017. [\[LINK\]](#)

<sup>65</sup> Decision No 169/2013 (I. 30.) of the Media Council. [\[LINK\]](#)

<sup>66</sup> Ágnes Urbán (2019): Mérték Media Monitor. Soft censorship 2018. Mérték Füzetek 18., pp. 51–57. [\[LINK\]](#) Freedom House: Freedom on the Net – Hungary, 2019. [\[LINK\]](#) Question B6, 2020. [\[LINK\]](#) Question B5, 2021. [\[LINK\]](#) Question B5, 2022. [\[LINK\]](#) Question B5, 2023 [\[LINK\]](#) Question B5.

	and 11 and 10 percent for hvg.hu and 444.hu, respectively. <sup>67</sup>
According to Freedom on the Net reports, several pieces of legislation, such as blasphemy of national symbols, the use of symbols of totalitarianism, open denial of nazi crimes and communist crimes and incitement against a community can be used to restrict lawful online expression if applied abusively. <sup>68</sup>	All the provisions mentioned in the reports are in line with the legal standards of the European Union and the case law of the European Court of Human Rights. In addition, the constitutionality of all the provisions have been established by the Constitutional Court.

## 2.4. Subjective opinions included in the media freedom reports

Opinions included in the media freedom reports	Comments
According to Freedom on the Net 2023 <b><i>“The government and its allies sometimes employ court orders to pressure publishers and content hosts to delete content.”</i></b> The report, among other examples cites the cases of Magyar Narancs and Forbes from 2020, when courts ordered the removal of articles related to Hell Energy on the grounds that they violated the GDPR. They also present the cases of two well-known individuals: in one case, the data subject asked the hosting service providers of internet sites to remove content that was deemed to be infringing, and in the other, the Curia ruled that the content in question infringed personality rights. <sup>69</sup>	The text of the report refers to pressure exerted by the "government and its allies" through the courts, but <b>in two of the examples cited, the removal of content deemed to be infringing was initiated with an intermediary (hosting) provider, and in the other cases, although court decisions were issued, the report gives the unsubstantiated impression that the courts did not act in accordance with the regulations.</b> The courts in Hungary represent a separate branch of power independent of the government, and according to Act CLXI of 2011 on the Organisation and Administration of the Courts (Court Organisation Act), <b>judges and lay judges are independent, make decisions in accordance with their convictions, according to the law,</b> and cannot be influenced or instructed in the context of their judicial activities. <sup>70</sup> <b>In light of this, the Freedom on the Net finding can be considered a subjective statement.</b>
The Media Pluralism Monitor covering the years 2018-2019 <b>portrayed the Hungarian media situation as a pan-European threat:</b> <i>“The government’s media machinery now has businesses interests in London, Slovenia, Macedonia, and has good relationships with alternative news organizations in France, Germany and Italy. Therefore the Hungarian media environment can pose high risks to media pluralism in Europe too.”</i> <sup>71</sup>	<b>It can be considered a highly exaggerated political statement that the “Hungarian media environment” would pose a risk at European level,</b> simply because Hungarian media market players and entrepreneurs do business in the media sector in other European countries. This finding is <b>not relevant for the assessment of media pluralism in Hungary, and is itself unsubstantiated,</b> without a real examination of the impact of individual media market deals on the media market in a particular country.
The Media Pluralism Monitor’s reports <b>repeatedly express general criticism of the Media Council’s media licensing practices,</b> particularly with regard	The rules for the Media Council’s tendering procedure for linear media services are set out in Chapter III of Part 2 of the Media Act, including the

<sup>67</sup> Endre Hann, Klára Megyeri, Gábor Polyák, Ágnes Urbán (2020): Megfertőzött médiarendszer. A politikai tájékozódás forrásai Magyarországon, 2020. Figure 37. [\[LINK\]](#) p. 31.

<sup>68</sup> Freedom on the Net 2023 – Hungary. [\[LINK\]](#) Question C2.; 2022. [\[LINK\]](#) Question C2; 2021. [\[LINK\]](#) Question C2.; 2020 [\[LINK\]](#) Question C2.; 2019. [\[LINK\]](#) Question C2.

<sup>69</sup> Freedom on the Net 2023 – Hungary. [\[LINK\]](#) Question B2.; 2022. [\[LINK\]](#) Question B2.; 2021. [\[LINK\]](#) Question B2.; 2020. [\[LINK\]](#) Question B2.; 2019. [\[LINK\]](#) Question B2.

<sup>70</sup> Act CLXI of 2011 on the Organisation and Administration of the Courts. Section 3.

<sup>71</sup> Media Pluralism Monitor, report on Hungary, on 2018-2019. [\[LINK\]](#) p. 20.

<p>to radio spectrum management. According to reports, "<i>Community radio licensing has been highly politicised since 2010, due to NMHH's tendering practices which have generally favored outlets that provide government-friendly, conservative and/or religious programming</i>".<sup>72</sup></p>	<p>requirement that calls for tenders must clearly specify "<i>the evaluation principles and criteria to be taken into account in the evaluation, the categories for evaluating tenders, the numerical evaluation framework assigned to each evaluation category, and the rules for the evaluation on the basis of which the Media Council decides about the winner of the tender</i>".<sup>73</sup> It is also worth noting that, in many cases (for example, in the case of Tilos Rádió), there was only one bidder, so if their bid was valid, they won the bid. Therefore, the Media Council would not have been in a position to favour a particular operator in the first place. <b>In the absence of cases to support it, the authors' assertion of politically motivated tendering practices can be regarded as a subjective statement of opinion.</b> It is also noteworthy that the authors argue that radio spectrum allocation has been politicised since 2010, even though public debates about spectrum allocation had included critical voices even before 2010.</p>
<p><b>Reporters Without Borders'</b> reports are characterised by the use of <b>inflammatory phrases and expressions</b>. In this context, <b>Viktor Orbán</b> has been labelled "<i>press freedom predator</i>"<sup>74</sup> and "<i>press freedom's foe</i>."<sup>75</sup></p>	<p>These statements greatly reduce the <b>objectivity and scientific nature of the reports produced by the organisation</b>.</p>

### 3. Media freedom reports and Hungary's rankings and scores after 2010

#### 3.1. Overview of media freedom reports

##### Freedom House

- The **roots of Freedom House go back to 1941**. The original aim of the organisation was to promote US involvement in the Second World War, against the concepts of isolationism. Among its first leaders was President Franklin D. Roosevelt's wife, Eleanor Roosevelt.<sup>76</sup>
- According to Freedom House, **the organisation's non-partisan board of trustees is made up of prominent business and trade union leaders, former diplomats, government officials, academics and journalists**. The organisation is currently headed by Michael J. Abramowitz, formerly of the Washington Post<sup>77</sup>, but also includes Francis Fukuyama, a well-known political scientist.<sup>78</sup>
- The main **objectives of the organisation include the protection of human rights and the promotion of democratic change**, with a special focus on political and civil liberties. The organisation focuses on

<sup>72</sup> Media Pluralism Monitor, report on Hungary, on 2016. [\[LINK\]](#) p. 10., on 2018-2019. [\[LINK\]](#) p. 17., on 2021. [\[LINK\]](#) p. 26., Media Pluralism Monitor, full report, on 2014. [\[LINK\]](#) p. 104.

<sup>73</sup> Section 52 of the Mttv.

<sup>74</sup> Reporters Without Borders: Country fact-file: Hungary. [\[LINK\]](#)

<sup>75</sup> Reporters Without Borders: Is Hungarian press freedom's foe about to be reelected? [\[LINK\]](#)

<sup>76</sup> Freedom House: Our History. [\[LINK\]](#)

<sup>77</sup> Freedom House: Board & Leadership. [\[LINK\]](#)

<sup>78</sup> Freedom House: Board of Trustees: Member Biographies. [\[LINK\]](#)

thirteen key issues, including stopping the decline of democracy, protecting the integrity of elections and media freedom.<sup>79</sup>

- To achieve these goals, Freedom House **organises events and conferences, makes policy recommendations and produces reports.**
  - Currently, the organisation publishes three different reports a year, the most well-known of which is **Freedom in the World**. It seeks to assess **global trends in political and civil liberties**, covering 195 countries around the world.<sup>80</sup>
  - The annual report **Nations in Transit** is also published every year, **covering the former Eastern bloc countries** and post-Soviet countries.
  - First published in 2009 and then annually since 2011, **Freedom on the Net** is **Freedom House's thematic report on internet freedom, including numerical and textual country ratings**.<sup>81</sup>
  - Published annually between 1980 and 2017, the **Freedom of the Press** report sought to assess the state of press freedom in nearly 200 countries.
  - Finally, on 21 June 2023, Freedom House presented **its special report entitled Reviving News Media in an Embattled Europe**.<sup>82</sup> The organisation refers to the paper as a pilot project, which **examined the risks to what they consider to be independent news media and the responses of news media players in six countries**. These countries were Estonia, France, Germany, Hungary, Italy and Poland. The text of the report, which does not include a ranking, does not indicate whether the organisation plans to publish the assessment regularly and, if so, for which countries.
- **A significant part of the organisation's funding comes from the US government:** in 2023, the organisation received nearly USD 93 million in federal funding.<sup>83</sup> **A common criticism is that Freedom House can be biased towards this state and its allies.**<sup>84</sup> As the organization itself states on its website, Freedom House believes that the *“United States has an essential part in the global struggle for liberty.”*<sup>85</sup> Other supporters include Google, the National Endowment for Democracy<sup>86</sup> and the Open Society Foundation.<sup>87</sup>

## Reporters Without Borders

- Reporters Without Borders, or *Reporters Sans Frontieres* in French, was founded in **1985** in Montpellier, France. **Their main objective is to defend the diversity and independence of the press and its representatives.** As part of this work, they produce an **annual World Press Freedom Index**, ranking 180 countries according to their own evaluation of the freedom of the press in these countries.<sup>88</sup> The organisation also publishes a country-by-country update on its website, which assesses and summarises events over several years for a particular country.<sup>89</sup>

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<sup>79</sup> Freedom House: Our Issues. [\[LINK\]](#)

<sup>80</sup> Freedom House: Freedom in the World. [\[LINK\]](#)

<sup>81</sup> Freedom House: Freedom on the Net. [\[LINK\]](#)

<sup>82</sup> Freedom House: Reviving News Media in an Embattled Europe. [\[LINK\]](#)

<sup>83</sup> Freedom House: Financial Statements 2023. [\[LINK\]](#)

<sup>84</sup> Laura Schneider: Media Freedom Indices. DW Akademie, 2014/1, p. 13.

<sup>85</sup> Freedom House: Strengthening US Democracy. [\[LINK\]](#)

<sup>86</sup> Freedom House: Freedom in the World 2023. [\[LINK\]](#)

<sup>87</sup> Open Society Foundation: Awarded Grants. [\[LINK\]](#)

<sup>88</sup> Reporters Without Borders: Who are we? [\[LINK\]](#)

<sup>89</sup> Reporters Without Borders: Country fact-file: Hungary. [\[LINK\]](#)

- Reporters Without Borders also provides **legal, financial and administrative support to journalists**, including the provision of equipment for journalists in war zones.<sup>90</sup>
- **Currently based in Paris**, the organisation has consultative status with the UN, UNESCO, the Council of Europe and the International Organisation of La Francophonie.
- Reporters Without Borders **2022 received almost half of its budget, more than EUR 3.9 million, from the French government and the European Union.**<sup>91</sup> **Its supporters also include** the MacArthur Foundation<sup>92</sup>, the Ford Foundation<sup>93</sup> and the Open Society Foundation.<sup>94</sup>

### Media Pluralism Monitor

- The Media Pluralism Monitor is a **project developed by the Centre for Media Pluralism and Media Freedom** of the European University Institute, with funding from the European Union, to **identify the risks to media pluralism in the Member States of the European Union** and in some candidate countries. Developed since 2013, it has been fully deployed six times between 2016 and 2022. In 2014 and 2015, it was implemented as a pilot to improve the methodology, first with 9 and then with 19 Member States, not previously examined.<sup>95</sup>
- The Media Pluralism Monitor **is of legal and political importance**, as the **European Commission refers to it as a key source for the annual rule of law reports under the Rule of Law Mechanism**, and as a tool influencing the preparation of the EU's proposal for a legislative instrument on media freedom adopted on 16 September 2022.<sup>96</sup>
- The monitor **pays special attention to Hungary**, as **only Hungary has** so far been the subject of an **"extraordinary" investigation and a thematic country report** (in 2019) (on the creation of the Central European Press and Media Foundation).
- **In the context of the project, the following are published:**
  - **quantified risk assessments** for each country, based on the scoring of responses to a standardised questionnaire;
  - **textual country reports** to justify the quantified risk results; and
  - **country rankings for 2021 and 2022**, averaged over the risk scores of the areas by country.
- The first official country ranking by Media Pluralism Monitor was published in 2022, for the year 2021. **However, its methodology can be applied to previous years as well. On this basis, the NMHH has prepared the rankings for the EU Member States for the period between 2016 and 2020.**
- The project **focuses on four main areas:** fundamental protection, market plurality, political independence and social inclusiveness.

<sup>90</sup> Reporters Without Borders: Protect journalists. [\[LINK\]](#)

<sup>91</sup> Reporters Without Borders: Financial report 2022. [\[LINK\]](#)

<sup>92</sup> MaxArthur Foundation – Reporters Without Borders. [\[LINK\]](#)

<sup>93</sup> Ford Foundation – Grants Database. [\[LINK\]](#)

<sup>94</sup> Open Society Foundation: Awarded Grants. [\[LINK\]](#)

<sup>95</sup> Media Pluralism Monitor. European University Institute Centre for Media Pluralism and Media Freedom. [\[LINK\]](#) Monitoring media pluralism in the digital era. European Commission. [\[LINK\]](#)

<sup>96</sup> The document referred to as the European Media Freedom Act is the proposal adopted by the European Commission on 16 September 2022, establishing a common framework for the European Parliament and the Council for media services in the internal market (the European Media Freedom Act) and amending Directive 2010/13/EU. [\[LINK\]](#) See also the European Commission's comments on the use of the Media Pluralism Monitor: Monitoring media pluralism in the digital era. European Commission. [\[LINK\]](#) Press release from the European Commission. European Media Freedom Act: Commission proposes rules to protect media pluralism and independence in the EU. 16 September 2022. [\[LINK\]](#)

## UNESCO

- The **Freedom of Expression and Media Development study is published every four years** by UNESCO; **most recently in 2022**.<sup>97</sup> The report consists of global and regional reports that examine trends in the media world, divided into four categories: trends in media freedom, trends in media pluralism, trends in media independence and trends in the safety of journalists.
- Hungary is rarely mentioned in the reports, which rather aim to analyse general media trends in the region.

## International Research & Exchange Board

- The International Research & Exchange Board is a non-profit organisation **established in 1968** in the United States. **The organisation published the Media Sustainability Index report between 2000 and 2021, which was replaced by the Vibrant Information Barometer in 2021**.<sup>98</sup> These reports do not contain any findings concerning our country, as the focus of the research is on the Balkans and the post-Soviet states.

## United Nations

- The UN **Special Rapporteur for Freedom of Opinion and Expression** visited Hungary in November 2021 and **issued a written report in January 2022**.<sup>99</sup> The report did not contain any rankings or other quantified assessments, but it did contain general criticisms of Hungary in a number of areas, including academic freedom.

## 3.2. Hungary's international ranking since 2010

### Freedom House

- The tables below compare **Hungary's Freedom in the World scores** with neighbouring countries and with major countries in Western Europe on **an international perspective**. Between 2014 and 2017, a maximum of 16 points were available in the area of freedom of expression, under which the state of media was assessed. As of 2018, a maximum of 4 points were available in the self-assessed area of media freedom and independence.

	HU	UK	FRA	GER	SWE	POL	CZE	SK
2014	15	15	15	15	16	16	16	16
2015	14	15	15	15	15	16	16	15
2016	13	13	14	15	16	16	16	15
2017	13	14	14	15	16	14	15	15

Table 1: Freedom of expression scores in Freedom in the World reports between 2014 and 2017 (Source: Freedom House)<sup>100</sup>

<sup>97</sup> UNESCO: Journalism is a public good: World trends in freedom of expression and media development; Global report 2021/2022. [\[LINK\]](#)

<sup>98</sup> IREX: Vibrant Information Barometer (VIBE). [\[LINK\]](#)

<sup>99</sup> UN: Visit to Hungary - Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan. [\[LINK\]](#)

<sup>100</sup> Freedom House reports between 2014 and 2016. [\[LINK\]](#) [\[LINK\]](#) [\[LINK\]](#) [\[LINK\]](#)

	HU	UK	FRA	GER	SWE	POL	CZE	SK
<b>2018</b>	2	4	4	4	4	3	4	3
<b>2019</b>	2	4	4	4	4	3	3	2
<b>2020</b>	2	4	4	4	4	3	3	2
<b>2021</b>	2	4	4	4	4	3	3	3
<b>2022</b>	2	4	4	4	4	3	3	3
<b>2023</b>	2	4	4	4	4	3	4	3

Table 2: Freedom in the World report scores for the freedom and independence of the media between 2018 and 2023 (Source: Freedom House)<sup>101</sup>

- The following is a text summary of the findings of the **Freedom in the World** reports on Hungary between 2010 and 2023, the **flagship** report of Freedom House.
  - The **2011 report** focuses on the **newly created media regulation**, the **creation of the NMHH** and the **transformation of public service media**.<sup>102</sup>
  - The **2013 document** reports on the **proceedings between Klubrádió and the Media Council**, and on the fact that the domestically owned media are largely in the hands of people close to the government.<sup>103</sup>
  - The **2014 report** was the first to **score freedom of expression** as a separate category, **with Hungary scoring 15 out of a maximum of 16 points**.<sup>104</sup>
  - The **report, published in 2015**, **criticises the NMHH's powers to impose fines**, the planned introduction of an internet tax and **the departure of the editor-in-chief of Origo**. **Hungary's score** in the area of freedom of expression **fell from 15 to 14**.<sup>105</sup>
  - In the **2016 report**, the **score** for freedom of expression and belief **was again reduced by one point**. The report also reports on the deterioration of the relationship between Lajos Simicska and Viktor Orbán, and on the *"black list"* operated by the NMHH for sites used for uploading illegal content. Our country's score dropped further to 13.<sup>106</sup>
  - The **2017 report comments on the closure of Népszabadság**, suggesting political reasons behind it. Since the methodology was changed that year, the scores for the individual areas were not shown.<sup>107</sup>
  - Due to the change in methodology, the **2018 report assessed media freedom** as a stand-alone indicator among political freedoms. **Of the maximum four points** that can be achieved in the area, **Hungary has been awarded two**, which has remained unchanged until 2023.<sup>108</sup>
  - The **2019 report** covers the most significant changes in the media market, such as **the closure of Lánchíd Rádió and Heti Válasz**, and **the creation of KESMA**.<sup>109</sup>
  - The **2021 report criticises the criminalisation of scaremongering** and reports on the acquisition of Index.<sup>110</sup>

<sup>101</sup> Freedom House reports between 2018 and 2023. [\[LINK\]](#)

<sup>102</sup> Freedom House: Freedom in the World 2011. [\[LINK\]](#) pp. 301-302.

<sup>103</sup> Freedom House: Freedom in the World 2013. [\[LINK\]](#) p. 310.

<sup>104</sup> Freedom House: Freedom in the World 2014. [\[LINK\]](#) p. 315.

<sup>105</sup> Freedom House: Freedom in the World 2015. [\[LINK\]](#) p. 298

<sup>106</sup> Freedom House: Freedom in the World 2016. [\[LINK\]](#) p. 301

<sup>107</sup> Freedom House: Freedom in the World 2017. [\[LINK\]](#)

<sup>108</sup> Freedom House: Freedom in the World 2018. [\[LINK\]](#)

<sup>109</sup> Freedom House: Freedom in the World 2019. [\[LINK\]](#)

<sup>110</sup> Freedom House: Freedom in the World 2021. [\[LINK\]](#)



- The **2022 report** comments on the **revocation of Klubrádió's broadcasting licence** and Direkt36's **article analysing the potential use of the Pegasus spy software**.<sup>111</sup>
- **According to the 2023 report**, „*public service media controlled by the government has disseminated disinformation and Russian war propaganda*” since the start of the armed conflict in Ukraine.<sup>112</sup>
- In the following, we present the **Nations in Transit report's scores** on media independence, comparing Hungary's scores with those of the Visegrad and neighbouring countries. The methodology of the report has been changed in 2019, so that the previously most unfavourable value of 7 has become the most favourable value.

	HU	SLO	SER	CRO	ROM	POL	CZE	SK
<b>2010</b>	2.75	2.25	4	4	4	2.25	2.5	3
<b>2011</b>	3.25	2.25	4	4	4	2.25	2.5	3
<b>2012</b>	3.5	2.25	4	4	4	2.25	2.5	2.75
<b>2013</b>	3.5	2.25	4	4	4.25	2.5	2.5	2.75
<b>2014</b>	3.5	2.25	4	4	4.25	2.5	2.75	2.75
<b>2015</b>	3.75	2.25	4.25	4	4.25	2.5	2.75	3
<b>2016</b>	3.75	2.5	4.5	4	4.25	2.75	2.75	3
<b>2017</b>	4.25	2.5	4.5	4.25	4.25	3	2.75	2.75
<b>2018</b>	4.5	2.5	4.75	4.25	4.25	3	2.75	2.75

Table 3: Media independence scores in the Nations in Transit reports from 2010 to 2018 (Source: Freedom House)<sup>113</sup>

	HU	SLO	SER	CRO	ROM	POL	CZE	SK
<b>2019</b>	3.25	–	–	–	–	–	–	5
<b>2020</b>	3.25	5.5	3.25	3.75	3.75	5	5	5
<b>2021</b>	3.25	5.25	3.25	3.75	3.5	4.25	5	5
<b>2022</b>	3	5.25	3	3.75	3.5	4.25	5	5
<b>2023</b>	3	5.25	3	3.75	3.5	4.25	5	5

Table 4: Scores for media independence in the Nations in Transit reports from 2019 to 2023 (Source: Freedom House)<sup>114</sup>

- In the *Nations in Transit* report, **Hungary scored increasingly poorly** in the independent media domain between 2010 and 2020, and **then stagnated** between 2020 and 2022.
  - The report comments **negatively on the adoption of the Mtv.**, referring to the authority of the NMHH to impose fines if certain media service providers report on certain events in an "immoral" or unbalanced way. **Critical comments in the report led to a drop in the media freedom score from 2.75 in 2010 to 3.25 in 2011**.<sup>115</sup>
  - **In 2012**, apart from the above allegations, the report **criticised** mainly **the wave of redundancies in public media and the creation of MTVA (Media Service Support and Asset Management**

<sup>111</sup> Freedom House: Freedom in the World 2022. [\[LINK\]](#)

<sup>112</sup> Freedom House: Freedom in the World 2023. [\[LINK\]](#)

<sup>113</sup> Originally, the report was prepared using the old methodology until 2019, when a score of 7 was the most favourable for states, but the reports on the Freedom House website covering Hungary have been listed using the new methodology since 2015, as the organisation has presumably recalculated the previous scores to reflect the new methodology.

<sup>114</sup> Freedom House Nations in Transit reports between 2009 and 2022. [\[LINK\]](#) The 2019 report scores are not available for Slovenia, Serbia, Croatia, Romania, Poland and the Czech Republic.

<sup>115</sup> Freedom House: Nations in Transit – Hungary 2011. [\[LINK\]](#)

**Fund). Hungary's score of 3.5 points was a further deterioration compared to the previous year.**<sup>116</sup>

- The report **analyses the development of the media market in several reports from 2012 onwards**, detailing the growing influence of pro-government businessmen such as Lőrinc Mészáros or Andrew Vajna. During this period, the score **stagnated at 3.5 until 2014**, before **deteriorating to 3.75 in 2015**.
- The **2016 report deals in detail with the conflict between Lajos Simicska and Viktor Orbán** and its consequences for the media market.<sup>117</sup>
- Hungary's score **has dropped to 4.5 points in 2018**. In addition to reiterating the objections mentioned above, the report also reports on the standardisation of content in local newspapers.<sup>118</sup>
- The **2019 report focuses on the creation of KESMA, an organisation made up of 476 newspapers**, which the government has designated as a national strategic priority. For this year, the methodology of the report has been changed: **the 7-point value has become the most favourable. Hungary scored 3.25 points**.<sup>119</sup>
- The **2020 report focused on the banning of journalists from the Parliament building**<sup>120</sup>, while the **2021 document focused on the criminalisation of scaremongering**. In both reports, **our country scored 3.25** in the area of media independence.<sup>121</sup>
- The **2022 report criticises Hungary** for not renewing the broadcasting licence of Klubrádió and for allegedly using the Pegasus spy software for political purposes. **Hungary's score continued to fall, reaching a 3 for media independence**.<sup>122</sup>
- In the report published on 24 May 2023, **Hungary still scored 3 points for media independence**. The report mentions documents published by Direkt36 that show how the Hungarian government influences and censors the work of MTI. The report also informs that the NMHH did not renew the broadcasting licence of Tilos Radio, citing various violations, while also mentioning that the station later regained its license.<sup>123</sup>
- **Hungary was assessed 12 times between 2012 and 2023 by Freedom on the Net**, which scores **countries between 0 and 100**, similar to other Freedom House reports. Until 2018, 0–30 points indicated that the country under review was free, 31–60 points indicated partly free, while 61–100 points indicated not free. However, **according to the new calculation available from 2016, 70–100 points indicate that the country under review was free, 40–69 points indicate partly free, while 0–39 points indicated not free**.<sup>124</sup> **With the exception of the 2022 and 2023 reports, our country received a free rating for the entire examined period**, that is, between 2012 and 2015, its score did not exceed 30 points, and after 2016 – in the years affected by the new calculation method – it reached

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<sup>116</sup> Freedom House: Nations in Transit – Hungary 2012. [\[LINK\]](#)

<sup>117</sup> Freedom House: Nations in Transit – Hungary 2016. [\[LINK\]](#)

<sup>118</sup> Freedom House: Nations in Transit – Hungary 2018. [\[LINK\]](#)

<sup>119</sup> Freedom House: Nations in Transit – Hungary 2019. [\[LINK\]](#)

<sup>120</sup> Freedom House: Nations in Transit – Hungary 2020. [\[LINK\]](#)

<sup>121</sup> Freedom House: Nations in Transit – Hungary 2021. [\[LINK\]](#)

<sup>122</sup> Freedom House: Nations in Transit – Hungary 2022. [\[LINK\]](#)

<sup>123</sup> Freedom House: Nations in Transit – Hungary 2023. [\[LINK\]](#)

<sup>124</sup> The 2016, 2017 and 2018 reports were, therefore, originally produced according to the old methodology (0–30 points: free, 31–60 points: partly free, 61–100 points: not free), but their results have been recalculated and made available according to the new calculation introduced in 2018 (70–100 points: free, 40–69 points: partly free, 0–39 points: not free). This allows the data to be plotted with the same scoring between 2016 and 2022, as we have done in this analysis. Freedom House: Freedom on the Net. Research Methodology. [\[LINK\]](#)

70 points each time, with a single exception. The **69-point score in 2022 and 2023 corresponded to a rating of partly free.**

- Despite the fact that the current system of scoring is only available from 2016, it can be said that **Hungary's score has shown a downward trend over the whole period**, with a stagnation in 2018 and 2023 and a temporary minimal (one point) improvement in 2019. **In each year between 2016 and 2022, the most favourable score proportionally was given to obstacles to access**, while the **least favourable score was given to violation of users' rights.**

2012	2013	2014	2015
19	23	24	24
free	free	free	free

Table 5: Hungary's Freedom on the Net scores between 2012 and 2015. 0 points is the best possible result. (Source: Freedom House)<sup>125</sup>

2016	2017	2018	2019	2020	2021	2022	2023
73	71	71	72	71	70	69	69
free	free	free	free	free	free	partly free	partly free

Table 6: Hungary's Freedom on the Net scores between 2016 and 2022. 100 points is the best possible result. (Source: Freedom House)<sup>126</sup>

- In the **Freedom of the Press** reports published by Freedom House, there is a significant spread between Hungary and the Visegrad countries on the one hand and the major Western European countries on the other hand, as can be seen in the table below. **The trend is that Hungary has been slipping down the rankings**, with the exception of 2013, 2014 and 2015.

	HU	UK	FRA	GER	SWE	POL	CZE	SK
2010	40	26	40	19	1	47	24	43
2011	65	26	40	17	2	48	26	36
2012	78	31	43	16	1	47	25	31
2013	74	31	35	19	1	47	27	35
2014	71	36	33	18	1	48	27	36
2015	71	38	35	22	1	47	28	38
2016	78	41	51	25	2	51	28	38
2017	84	39	44	25	2	66	26	44

Table 7: Freedom of the Press rankings (Source: Freedom House)<sup>127</sup>

- Based on the **Freedom of the Press** reports for the individual years, the following conclusions can be drawn:
  - The **biggest decline occurred in 2011**, when Hungary lost **25 places in the ranking**. They cite **the adoption of new media legislation** as one of the main reasons for this, under which they believe the government has gained control over the media.<sup>128</sup> The report also criticises the establishment of the NMHH, which it claims is under the control of government appointees, and mentions that *"the public broadcaster is under increased political control"*.<sup>129</sup>

<sup>125</sup> Freedom House Freedom on the Net reports between 2010 and 2015. [\[LINK\]](#)

<sup>126</sup> Freedom House Freedom on the Net reports between 2016 and 2022. [\[LINK\]](#)

<sup>127</sup> Freedom House reports between 2010 and 2017. [\[LINK\]](#) [\[LINK\]](#) [\[LINK\]](#) [\[LINK\]](#)

<sup>128</sup> Freedom House: Freedom of the Press 2011. [\[LINK\]](#) pp. 1-2.

<sup>129</sup> Freedom House: Freedom of the Press 2011. [\[LINK\]](#) p. 9.

- **In 2012, Hungary** fell back in the **partly free classification, dropping a further 13 places** in the global ranking. According to the report, there has been an increase in censorship and self-censorship, particularly in the public media. They also report a steady deterioration in the economic opportunities for media owners considered independent by the report.<sup>130</sup>
- In the 2013 and 2014 reports, Freedom House mentions few changes, with the most notable being the **legal proceedings related to Klubrádió's frequency**.<sup>131</sup> Hungary moved up three places from 2013 to 2014, before stagnating in the rankings until 2015.
- **In 2016 and 2017**, the Freedom of the Press **report** has been **sharply critical of** our country, citing, among other, **the lack of access for journalists to areas affected by migration**<sup>132</sup> and **the growing influence of pro-government businessmen in the media sector**, culminating in the closure of Népszabadság.<sup>133</sup>
- In 2019, a publication entitled Media Freedom: A Downward Spiral was published as a kind of "*successor*" to the Freedom of the Press reports published by Freedom House, after the original report was last published in 2017. The 2019 document does not include a ranking or a score.<sup>134</sup>
- **In June 2023, the organisation published for the first time its self-designated pilot entitled Reviving News Media in an Embattled Europe, which assesses six countries on the basis of the risks to the news media and the responses of news media actors.** These six countries are Estonia, Poland, Hungary, Italy, Germany, France and Poland.<sup>135</sup>
  - **The report criticises our country in several respects.** In their view, although independent media still exist, the media is dominated by pro-government sources. The report also comments on the creation of **KESMA, media buy-outs** by businessmen close to the government and the problem of unequal distribution of public advertising, among other issues. Another problem, according to the report, is the declining public trust in the media and the increasingly polarised society.
  - A **positive example is the emergence of new business models** that are proving successful so far, such as crowd-funding, which has helped launch the **Telex** news site.<sup>136</sup>

<sup>130</sup> Freedom House: Freedom of the Press 2012. [\[LINK\]](#) p. 7.

<sup>131</sup> Freedom House: Freedom of the Press 2014. [\[LINK\]](#) p. 12.

<sup>132</sup> Freedom House: Freedom of the Press 2016. [\[LINK\]](#) p. 18.

<sup>133</sup> Freedom House: Freedom of the Press 2017. [\[LINK\]](#) pp. 4-6.

<sup>134</sup> Freedom House: Media Freedom: A Downward Spiral. [\[LINK\]](#)

<sup>135</sup> Freedom House: Reviving News Media in an Embattled Europe. [\[LINK\]](#)

<sup>136</sup> Freedom House: Case Study: How Hungary's Independent News Outlets are Building New Revenue Models. [\[LINK\]](#)

## Reporters Without Borders

- The **World Press Freedom Index** published by **Reporters Without Borders** also shows that, apart from the 2022 and 2023 editions, **Hungary has been falling behind**. The organisation scores each country between 0 and 100, with 100 being the most favourable for each country.<sup>137</sup>

	HU	UK	FRA	GER	SWE	POL	CZE	SK
<b>2010</b>	23	19	44	17	5	32	24	35
<b>2011/12</b>	40	28	38	18	12	24	14	27
<b>2013</b>	56	29	37	17	10	22	16	23
<b>2014</b>	64	33	39	14	10	19	13	20
<b>2015</b>	65	34	38	12	5	18	13	14
<b>2016</b>	67	38	45	16	8	47	21	12
<b>2017</b>	71	40	39	16	2	54	23	17
<b>2018</b>	73	40	33	15	2	58	34	27
<b>2019</b>	87	33	32	13	3	59	40	35
<b>2020</b>	89	35	34	11	4	62	40	33
<b>2021</b>	92	33	34	13	3	64	40	35
<b>2022</b>	85	24	26	16	3	66	20	27
<b>2023</b>	72	26	24	21	4	57	14	17

Table 8: World Press Freedom Index rankings (Source: Reporters Without Borders)<sup>138</sup>

- **In the 2011-2012 report**, the organisation strongly criticised the adoption of the Mttv., which, according to their interpretation, has brought the media under the direct control of the ruling party. Largely as a result, **Hungary has dropped 17 places** in the rankings.<sup>139</sup>
- **2013** again saw a **significant decline in our country, which has still been justified with the entry into force of the Mttv.**<sup>140</sup>
- **In 2014**, for the first time, regional reports were published, of which the report on our country **criticises the possibility of fining by the NMHH of those who produce unbalanced content**, referring to the the definition of "unbalanced", which is, according to the Reporters Without Borders intentionally vague and ambiguous. Also criticised is the **creation of the Media Council, which** is described as highly politicised and closely linked to the government.<sup>141</sup>
- The 2015-2016 reports have little to say about Hungary, and **in 2017**, only an article **supporting the report mentions the closure of Népszabadság**, which it claims was the victim of an "economic coup".<sup>142</sup>
- **The 2018 regional report refers in particular to the campaigns against George Soros**, "whom Viktor Orbán [...] branded him public enemy number 1".<sup>143</sup>
- **2019** saw another **drastic decline**. The reason provided in the **report was the practice of government politicians not to give interviews to the opposition media**. The report also criticised Viktor Orbán, who refused to comment for HírTV, calling the television "fake news"

<sup>137</sup> Reporters Without Borders: Methodology used for compiling the World Press Freedom Index. [\[LINK\]](#)

<sup>138</sup> Reports published by Reporters Without Borders. [\[LINK\]](#)

<sup>139</sup> Reporters Without Borders: World Press Freedom Index 2011/2012. [\[LINK\]](#)

<sup>140</sup> Reporters Without Borders: World Press Freedom Index 2013. [\[LINK\]](#)

<sup>141</sup> Reporters Without Borders: Europe – Central Asia 2014 – European Union and Balkans. [\[LINK\]](#)

<sup>142</sup> Reporters Without Borders: Journalism weakened by democracy's erosion. [\[LINK\]](#)

<sup>143</sup> Reporters Without Borders: Europe – Central Asia 2018 RSF Index: Europe – Central Asia. [\[LINK\]](#)

media.<sup>144</sup> The article cited in the report raises concerns about the Speaker's ability to exclude certain journalists from parliamentary coverage.<sup>145</sup>

- **In 2021, Hungary's rating has dropped to a low of 92nd place.** The report also criticises the **criminalisation of scaremongering** related to the coronavirus epidemic and the banning of media representatives from hospitals.<sup>146</sup>
- **In 2022,** there was minimal improvement, with **Hungary moving up to 85th place.** The **reason for the positive shift is not apparent** from the report, as they believe that the Hungarian government has further tightened its "*draconian*" regulation of journalists. On the EU side, the organisation said it was positive that "*the European institutions have started to implement measures for journalists and press freedom*" and have launched proceedings against Hungary for breaching EU law.<sup>147</sup>
- **In May 2023,** the latest Global and Regional Report was published without mentioning **Hungary, despite having moved up 13 places in the ranking.** However, the regional report says that the EU's eastern member states have moved forward because "*independent reporting can serve as a bulwark against Kremlin propaganda*". The same report also comments on the European Union's legal efforts to "*guarantee the independence of the media*".<sup>148</sup>
- **The organisation also publishes country-by-country ratings on its website, which,** following the system set up by the questionnaire on which the index is based, classify **each country** into 6 sub-categories: *Media Landscape, Political Context, Legal Framework, Economic Context, Sociocultural Context* and *Security*. In this capacity, the report comments on the creation of KESMA, but also acknowledges the strong position of some opposition media outlets, such as RTL, Népszava, 24.hu and HVG, which he describes as independent. In other news, it also reports on allegations of the use of Pegasus spy software.<sup>149</sup>

### Media Pluralism Monitor

- As indicated earlier, the project issues a quantified risk assessment, **looking at four main areas:** fundamental protection, market plurality, political independence and social inclusiveness. **Risk score** is provided as a percentage value **classified as low** between **0 and 33 percent, medium** between **34 and 66 percent and high** above **67 percent.**<sup>150</sup>
- The table below shows **Hungary's area-specific and annual average results** and its **ranking among EU Member States in the years covered by the Media Pluralism Monitor.**<sup>151</sup>

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<sup>144</sup> Reporters Without Borders: Europe – Central Asia 2019 RSF Index: Europe – Central Asia. [\[LINK\]](#)

<sup>145</sup> Reporters Without Borders: Is Hungarian press freedom's foe about to be reelected? [\[LINK\]](#)

<sup>146</sup> Reporters Without Borders: Europe – Central Asia 2021. [\[LINK\]](#)

<sup>147</sup> Reporters Without Borders: Europe – Central Asia; Polarisation to the west, war & propaganda to the east. [\[LINK\]](#)

<sup>148</sup> Reporters Without Borders: Europe – Central Asia: Press freedom in Europe overshadowed by the war in Ukraine. [\[LINK\]](#)

<sup>149</sup> Reporters Without Borders: Country fact-file: Hungary. [\[LINK\]](#)

<sup>150</sup> Media Pluralism Monitor, full report, on 2022. [\[LINK\]](#) pp. 174–190

<sup>151</sup> Percentage results were not reported in the 2014 survey, which did not look at social inclusiveness, but at three other related areas (geographical, cultural and pluralism related to media types and genres).

	2014	2016	2017	2018/19	2020	2021	2022
<b>EU Member State ranking</b>	–	28	26	25	25	25	27
<b>Average result (%)</b>	–	60.75	61.25	62.25	66.25	65.5	74.25
<b>Fundamental protection (%)</b>	Medium	58	44	43	41	45	56
<b>Market plurality (%)</b>	Medium	54	63	71	82	80	86
<b>Political independence (%)</b>	High	85	79	82	78	74	80
<b>Social inclusiveness (%)</b>	–	46	59	53	64	63	75

Table 9: Hungary's rankings and scores in Media Pluralism Monitor reports in the years under review (Source: Media Pluralism Monitor)<sup>152</sup>

- **Hungary was ranked** by the project as **one of the riskiest EU Member States** in terms of media pluralism for the **entire period under review (2016–2022)**.
  - The country's **average annual risk score between 2016 and 2020 ranged between 60.75 and 66.25 percent**, approaching the high risk threshold of 67 percent. The assessment for 2021 showed only a slight improvement with an average score of 65.5 percent, and the report on 2022, published in June 2023, showed a significant deterioration in Hungary's rating, with the worst risk score ever, at 74.25 percent. Therefore, the risk assessment **showed an overall downward trend**, with a more significant negative change in the last year of the survey.
  - **For 2016, Hungary has the worst average score of all Member States at EU level**, while lower average scores were obtained by **Poland and Bulgaria** in the assessment covering **2017**, **Cyprus, Romania and Bulgaria** in the joint assessment covering **2018- 2019**, **Slovenia and Bulgaria** in the assessment covering **2020**, and **Bulgaria and Poland** in the assessment covering **2021**. **In the Media Pluralism Monitor for 2022, Hungary received the worst average rating, nine percentage points behind Romania, which was ranked just ahead.**
  - **In terms of political independence, Hungary has received a high risk rating every year, and has always received the worst rating except for two years**, when Malta came last (the assessment for 2021 showed the same level of risk for Poland).
  - The risk assessment of market plurality has **steadily and sharply deteriorated between 2016 and 2022**, with a high risk rating from the report on 2018-2019 onwards and the worst score in the latest report covering 2022.
  - The **fundamental protection**, i.e. the basic tools of the legal system to protect media pluralism, **showed little difference in the assessment for a long time, apart from the slightly worse result of 2016**. Compared to other Member States, Hungary had a **relatively high risk score, corresponding to medium on the risk scale**. However, the latest report showed an **11 percentage point increase in risk**.

<sup>152</sup> Media Pluralism Monitor country reports on Hungary for the period 2014–2022. [\[LINK\]](#)

- Finally, the assessment in the area of social inclusiveness showed a downward trend, but until the last survey it was typically in the middle of the European average. However, the report on 2022 showed a 12 percentage point increase in risk and thus a high risk rating.
- The Media Pluralism Monitor, as previously defined, did not aim to establish rankings between countries.<sup>153</sup> As a result, as indicated, country rankings were first published only in 2022 for the year 2021 (and repeated for the latest survey published in 2023). This was compiled by averaging the results achieved by each country in the four sub-areas covered. Following this method, by averaging the results of previous years, the NMHH produced a ranking of the EU Member States. The table below shows the ranking of Hungary and some EU Member States in terms of annual average risk assessments.<sup>154</sup>

	HU	UK	FRA	GER	SWE	POL	CZE	SK
2016	28	8	1	2	3	23	19	9
2017	26	7	1	3	2	27	18	10
2018/19	25	9	3	1	2	21	19	17
2020	25	-	7	1	2	23	19	15
2021	25	-	6	1	2	27	17	16
2022	27	-	6	1	2	25	17	15

Table 10: Hungary's rankings in Media Pluralism Monitor reports between 2016 and 2022 in international comparison (Source: Media Pluralism Monitor)<sup>155</sup>

- Hungary has been ranked between 25th and 28th in the EU ranking, finishing last on two occasions (in 2016 and in 2022). Slovakia was the best performing of the Visegrad countries, with a ranking between 9th and 17th (with a significant drop in 2018), the Czech Republic between 17th and 19th, and Poland almost consistently at the bottom of the table, with a ranking between 21st and 27th.

## 4. Methodology and evaluation of media freedom reports

### 4.1. Methodology of media freedom reports

#### Freedom House – Freedom in the World

- The Freedom in the World reports focus on political and civil liberties in 195 countries and in certain territories selected by Freedom House that are either not under government control or have a significantly different situation of freedoms compared to other territories of the country. The reports assess events in the year before the year of publication.
- 128 analysts and 40 consultants were involved in the preparation of the latest report. The country reports are prepared by analysts who use newspaper articles, NGO reports, academic analysis, local research and their professional contacts to develop the scores for each country and the associated text reports. The final scores are developed after so-called "review meetings" involving the staff of Freedom House and a panel of experts.
- A total of 25 indicators were assessed in the preparation of the report, 10 of which cover political freedoms and 15 cover civil liberties.

<sup>153</sup> See: Media Pluralism Monitor, full report, for 2020. [\[LINK\]](#) p. 11.

<sup>154</sup> Percentage results were not reported in the 2014 survey, which did not look at social inclusiveness, but at three other related areas (geographical, cultural and pluralism related to media types and genres). From 2016, as mentioned above, the risk score is classified as low between 0 and 33 percent, medium between 34 and 66 percent and high above 67 percent.

<sup>155</sup> Media Pluralism Monitor reports for the period between 2016 and 2022. [\[LINK\]](#)



- Both types of indicators have been grouped into subcategories. Political indicators are included in the subcategories of electoral process, functioning of government and political pluralism and participation.
- In contrast, the civil liberties indicators can be found in the subcategories of freedom of expression and belief, associational and organizational rights, rule of law and personal autonomy and individual rights.
- **The report evaluates the situation of the media specifically in the context of the indicator on media freedom and independence**, although media-related findings are also found in the assessment of other indicators.
- **A score between 0 and 4 is available in each of the indicators**, with a score of 4 being the most favourable. This means that a total of 40 points are allocated for political freedoms and 60 points for civil liberties. Accordingly, **countries are assigned a final score on a scale of 0 to 100 points** according to the degree of freedom.
- Based on the overall score, **each state is classified into one of three categories – free, partly free, not free**<sup>156</sup>

### **Freedom House – Nations in Transit**

- The Nations in Transit **report** focuses on the countries that were once part of the Eastern bloc, all located in **Central and Eastern Europe** and **Central Asia**. Each report is prepared **by analysing the previous year's events**.
- In preparing the reports, the lead researcher examines the country in question on the basis of a questionnaire consisting of 60 questions and a number of sub-questions. Once the document has been finalised, Freedom House, in consultation with the authors of the country reports, an expert advisory group and a regional expert group, provides a numerical evaluation for each country.
- In each country, the inquiry **covers** the following **7 areas: national democratic governance, electoral process, civil society, independent media, local democratic governance, judicial framework and independence, corruption**. In each area, countries are given a score between 1 and 7, with 7 being the most favourable. Prior to the 2019 report, however, the value of 7 was the most unfavourable.
  - In the area of **national democratic governance**, the organisation analyses the independence, effectiveness and accountability of the legislature and the branches of government.
  - The **electoral process** focuses on the parliamentary elections in each state, examining the electoral framework, public participation and the party system.
  - The area of **civil society** assesses the possibilities for organising civil society, the financial conditions, the legal and political environment, the functioning of trade unions and the possible presence of extremist groups.
  - **The independent media indicator** focuses mainly **on the state of press freedom**, including legal provisions on defamation, harassment of journalists and editorial independence, the functioning of a financially viable independent private press, and the state of public media.
  - In the area of **local governance**, the report examines the decentralisation of power, the responsibility, election and powers of local government bodies, as well as the transparency and accountability of local authorities.

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<sup>156</sup> Freedom House: Freedom in the World Research Methodology. [\[LINK\]](#) Freedom in the World 2022. [\[LINK\]](#) p. 34

- The **judicial framework and independence** indicator focuses on the protection of constitutional and civil rights, the situation of the rights of ethnic minorities, guarantees of equality before the law, the treatment of suspects and detainees, and compliance with court decisions.
- In the area of **corruption**, the report focuses on its public perceptions, the business interests of leading policy makers and the effectiveness of anti-corruption initiatives.
- The **"Democracy Score"** is calculated by taking the average of the scores in each area and classifying countries into one of the following **regime types**: consolidated democracy, semi-consolidated democracy, transitional or hybrid regime, semi-consolidated authoritarian regime and consolidated authoritarian regime.<sup>157</sup>

### Freedom House – Freedom on the Net

- The report **assesses three main areas: the obstacles to access, limits on content and the violation of user rights**.
- The project **also produces comprehensive reports and country reports**. The number of countries analysed continues to grow, from 15 in 2009 to 37 in 2011 and 70 in 2023. Hungary was first included in the survey in 2012, and has been assessed every year since.
- The **project involves a scoring and related textual assessment**.
  - **The scoring is based on the completion of a standardised questionnaire** covering the three areas tested: obstacles to access up to 25 points, content restriction up to 35 points, the violation of user rights up to 40 points. Freedom on the Net scores **countries between 0 and 100**, similar to the Freedom House reports. Until 2018, 0–30 points indicated that the country under review was free, 31–60 points indicated partly free, while 61–100 points indicated not free. However, **according to the new calculation available from after 2016, 70–100 points indicate that the country under review was free, 40–69 points indicate partly free, while 0–39 points indicated not free**.<sup>158</sup>
  - **The textual assessment is used to explain the rationale behind each country's numerical results**.
- **Freedom House asks at least one expert** or organisation from **each country to score the questionnaire** and to write the **report**. Annual reports typically list one, sometimes two, experts per country. **Hungary was also assessed by a single person, or two in certain years**. As regards the selection of experts, **the project states that local experts with a variety of backgrounds** (e.g. academic or journalistic) **will be invited**. They also indicate that training will be provided to invited experts about the methodology of Freedom on the Net.<sup>159</sup>
- The local expert submits his/her scoring and draft report, which may then be reviewed in two rounds.
  - First, regional expert meetings will be held to discuss the reports and amend the points.
  - Next, the Freedom House staff carries out fact-checking and edits the reports, and may also adjust the scores if deemed necessary for the *"reliability and integrity"* of the evaluation.

<sup>157</sup> Freedom House: Nations in Transit Methodology. [\[LINK\]](#)

<sup>158</sup> The 2016, 2017 and 2018 reports were, therefore, originally produced according to the old methodology (0–30 points: free, 31–60 points: partly free, 61–100 points: not free), but their results have been recalculated and made available according to the new calculation introduced in 2018 (70–100 points: free, 40–69 points: partly free, 0–39 points: not free). This allows the data to be plotted with the same scoring between 2016 and 2022, as we have done in this analysis. Freedom House: Freedom on the Net. Research Methodology. [\[LINK\]](#).

<sup>159</sup> Freedom House: Freedom on the Net. Research Methodology. [\[LINK\]](#) Freedom on the Net, full report, 2022. [\[LINK\]](#) p. 44

- The scoring **questionnaire contains 21 questions** (5 related to the obstacles to access, 8 to content restriction 8 to the violation of user rights) and nearly 100 sub-questions. **Each question has a fixed maximum score.** Sub-questions are intended for the guidance of the respondent and are not scored independently. **The final result is obtained by adding up the scores for each question.**<sup>160</sup>
- Freedom on the Net's non-country-specific overall reports **also include a ranking of the countries** in order of their score, but the **ranking has very limited comparability and informative value**, as
  - **it covers only a small number of countries** (70 in 2023) **compared to a global survey**,
  - **there are no well-defined criteria for the selection of countries** (while reportedly aiming for diversity in terms of geography, economic development and degree of media freedom),
  - **and only the reverse scoring is available for years prior to 2016.**
- According to the project's own statement, **the evaluations take into account the year before the report is issued** (for example, the report issued in 2023 covers the period from June 2022 to May 2023).<sup>161</sup>
- The **description briefly states that the methodology has been developed in consultation with international experts** and aims to provide a comprehensive overview of human rights in the online world. The methodological description refers to Article 19 of the Universal Declaration of Human Rights on freedom of expression as a starting point, but **does not set out any substantive requirements for a balanced use of sources in textual evaluations.**<sup>162</sup>

#### Freedom House – Freedom of the Press

- The **methodology of the Freedom of the Press reports has changed only slightly** between 2010 and 2017, but **the number of countries covered has increased.**
- The reports issued always **assess the events of the previous year** for each individual country.
- The organisation seeks to assess the extent of media freedom in each country as a "*universal criterion*" within the framework of the values set out in Article 19 of the Universal Declaration of Human Rights, namely the right to freedom of expression.
- The Freedom of the Press reports **focus on journalists and traditional media service providers**, whether print, broadcast or online. In addition, investigations also cover **more recent news sources** such as blogs and **social media**, when they act as de facto news providers.
- **The set of questions** compiled by Freedom House **consists of 23** so-called "*methodological questions*", **grouped into three sub-categories**: legal environment, political environment and economic environment. The questions have been designed to explore the practices of putting pressure on the flow of information and the free and uncontrolled operation of print, broadcast and digital media. The 23 questions include a number of sub-questions.
  - The questions in the category of **legal environment** are mainly intended to assess the ways in which regulations can influence the content published in the media.
  - Within the **political environment**, the organisation's experts are looking at the impact of political pressure on the content published in the media.

<sup>160</sup> Freedom House: Freedom on the Net. Research Methodology. [\[LINK\]](#)

<sup>161</sup> Freedom House: Freedom on the Net. Research Methodology. [\[LINK\]](#)

<sup>162</sup> Freedom House: Freedom on the Net. Research Methodology. [\[LINK\]](#) Freedom House: Freedom on the Net, full report, 2017. [\[LINK\]](#) pp. 35-37.

- Finally, the questions relating to the **economic environment** examine, among others, ownership, its' transparency and concentration, as well as the general media market conditions.
- **The total score in these areas ranges from 0 to 100 points**, with a score of 0 being the most favourable for the countries under review.
- According to Laura Schneider<sup>163</sup>, who was previously involved in the preparation of the report<sup>164</sup>, **a single expert compiles** the reports on each country. **Scores in each area are assessed by a team of experts and researchers**. The process involves more than 90 analysts who are responsible for the scores and reports on each individual country. The **information** is drawn from **local research by analysts, people with professional contacts at Freedom House, reports by NGOs, governments and multilateral organisations**, and the **press**.
- The scores in each area are used to calculate **the final score**, where **zero is assigned to the highest level of media freedom** in the particular country. A score between **0 and 30 is classified as free**, between **31 and 60 as partly free** and **between 61 and 100 as not free**.
- Finally, the **scores are reviewed in a series of seven regional meetings** involving analysts, academic advisors and Freedom House staff.<sup>165</sup>

### Freedom House – Reviving News Media in an Embattled Europe

- As indicated above, Reviving News Media in an Embattled Europe<sup>166</sup> **did not aim to establish a media freedom ranking**, but merely provides a textual assessment of a few EU countries on specific media freedom issues. As regards the choice of countries, they point out that they have selected EU Member States with different situations in terms of market size and “the health of democracy”.
- According to the short methodological outline, based on **preliminary interviews with experts**, four dimensions were identified of the constructive role in democracy of news media organisations that they considered independent: financial situation, ability to reach and represent a diverse audience, public trust and credibility, and the ability to play a role in checking political authority without the risk of reprisal.
- **Their qualitative research** was based on **online and face-to-face** interviews conducted between December 2022 and February 2023. **Forty interviews** were conducted in the six countries with representatives of the local media. According to Freedom House, they include **researchers, representatives of NGOs and media organisations, and people involved in the practical operation of the media**, such as founders, editors-in-chief, news editors, journalists from print, digital and television media, and freelance journalists. Finally, they note that the **findings from the interviews were reviewed by expert consultants**.

### Reporters Without Borders

- The current **methodology** used for compiling the Press Freedom Index is presented by Reporters Without Borders **only very briefly**, in a text of a few pages published on their website. This methodology has changed several times since 2002; most recently in 2022, meaning that last year's report was already based on the new methodology.

<sup>163</sup> Laura Schneider: Media Freedom Indices. DW Akademie, 2014/1, p. 15.

<sup>164</sup> Freedom House: Freedom of the Press. [\[LINK\]](#) p. 9.

<sup>165</sup> Freedom House: Freedom of the Press Research Methodology. [\[LINK\]](#)

<sup>166</sup> Freedom House: Reviving News Media in an Embattled Europe. [\[LINK\]](#) p. 27.

- In previous years, the organisation itself did not define the concept of press freedom in the ranking. By 2022, this gap was filled with the creation of the following concept: *"Press freedom is defined as the ability of journalists as individuals and collectives to select, produce, and disseminate news in the public interest independent of political, economic, legal, and social interference and in the absence of threats to their physical and mental safety."*<sup>167</sup>
- The index always **evaluates the calendar year that precedes publication**, but in **exceptional cases** (due to extreme events that have occurred in the meantime) the **evaluation of a country may be revised before publication**. For example, in 2022, the reports for Russia, Ukraine and Mali were revised.
  - For the first two nations, the armed conflict that erupted in February 2022, and for the African state, the kidnapping of journalist Olivier Dubois by armed men, prompted the last-minute change.
- Under the current methodology, each country is **scored between 0 and 100, with 100 being the most favourable**. Previously, until 2013, the scoring was the other way around, meaning that a country had to achieve the lowest possible score to be ranked as highly as possible.
- **The score is the result of qualitative and quantitative research. On the one hand**, the organisation **looks at the number of abuses and possibly murders of journalists** in each country. **On the other hand, the qualitative research used for the index is provided by questionnaires** compiled by Reporters Without Borders and **completed** in each country by journalists, researchers, academics and human rights activists, among others.
- **The questionnaire** – currently available in 23 languages, including Hungarian – **consists of a total of 117 questions and sub-questions, grouped into five areas: political context, legal framework, economic context, socio-cultural context and safety. A maximum of 100 points is available in each of the above areas** and each area counts equally towards the final score.
  - In the area of **political context**, 33 questions and sub-questions are included to assess the extent to which the state respects the autonomy of the media; the extent to which different journalistic approaches that meet professional standards are accepted; and the extent to which the media are supported in their role in holding politicians and government accountable to the public interest.
  - There are 25 questions and sub-questions on the functioning of the **legal framework** in a particular country. The questions concern the extent to which the activities of journalists and the media can be considered free from censorship or judicial sanctions or excessive restrictions on freedom of expression; the extent to which journalists' sources are protected and journalists are able to access information without discrimination; and the extent to which those responsible for acts of violence against journalists can be held legally accountable.
  - The report also examines the **economic context** in relation to 25 issues, focusing on the following areas: economic barriers related to government policy (including difficulties in setting up media organisations, favouritism in the allocation of state aid and corruption); economic barriers related to non-state actors (advertisers and commercial partners) and economic barriers related to media owners seeking to promote or protect their business interests.

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<sup>167</sup> Reporters Without Borders: Methodology used for compiling the World Press Freedom Index. [\[LINK\]](#)

- The **socio-cultural environment** is the subject of 22 questions that seek to evaluate the impact of social (gender, ethnic, religious, class) and cultural (pressures on journalists not to report on certain topics) constraints on members of the press.
- Finally, the last 12 questions of the questionnaire deal with the issue of **safety**, in which respondents report on physical and psychological abuse suffered by members of the press and professional damage suffered (destruction of facilities, confiscation of professional equipment). Physical abuse of different severity counts for different weight in the final assessment. In addition to the 12 questions, which account for two-thirds of the safety score, there is also an "*abuse score*", which assesses the number of abuses against journalists, introducing different coefficients to grade the severity of the abuse. The value obtained here gives the remaining one third of the safety score.<sup>168</sup>

## Media Pluralism Monitor

- As we pointed out earlier, the **Media Pluralism Monitor** consists of **two parallel evaluations**.
  - **In the context of the risk assessment, expressed as a percentage**, as described above, the Media Pluralism Monitor **assesses risk in four main areas**: fundamental protection, market pluralism, political independence and social inclusiveness. These areas are **rated as low** between 0 and 33, **medium** between 34 and 66 percent and **high** above 67 percent. **This is based on the scores obtained by completing a standardised questionnaire** developed by the Centre for Media Pluralism and Media Freedom. The **questionnaire** is filled in by a country *team invited by the Centre* to carry out the survey in each country, based on information gathered through their own data collection and interviews. The **evolution of risk scores is, therefore, ultimately based on the responses of local experts**. Each domain consists of indicators; the indicators consist of sub-indicators, and the total of 200 questions in the questionnaire are grouped by sub-indicators.<sup>169</sup>
  - The **textual country reports** written by the country team **serve to explain and supplement the numerical evaluation**, reporting on the main experiences and conclusions of the country team that completed the questionnaire. As with the scoring, the text reports assess one year at a time, or two years together, in case of the report covering 2018-2019. The reports include the composition of the country teams and external expert groups.
- The **key players in the preparation of the Media Pluralism Monitor are**, as mentioned above, **the members of the country team**. The project's methodological guide **provides little information** on their **selection**, stating only that they are **recognised experts** in the field of media pluralism and media freedom.<sup>170</sup> The project claims to strive to maintain consistency in the composition of the country team in order to increase the comparability of the individual reports.<sup>171</sup>
- In addition to the country team, the **external group of experts** also plays an important role, whose **members are recruited from among experts and representatives of the media sector in the country concerned**. As regards the selection of external experts, the project expressed its intention in the

<sup>168</sup> Reporters Without Borders: Methodology used for compiling the World Press Freedom Index. [\[LINK\]](#)

<sup>169</sup> Media Pluralism Monitor, full report, on 2022. [\[LINK\]](#) pp. 174–190

<sup>170</sup> Media Pluralism Monitor, full report, on 2022. [\[LINK\]](#) p. 176 In the full report on 2014, they note that they approached local institutions considered by them to be independent and neutral, and local team members are invited by the designated "*national team leader*". Media Pluralism Monitor, full report, on 2014. [\[LINK\]](#) pp. 24-25.

<sup>171</sup> Media Pluralism Monitor, full report, on 2021. [\[LINK\]](#) p. 181., on 2022 [\[LINK\]](#) p. 188.

**methodological notes for the first years of the study to set up teams of experts with a pluralistic composition**, specifying the number of experts (7) and the professional fields to be represented (e.g. 1 from the media regulator, 1 from a journalistic organisation, 1 from a publishers' organisation, 1 from a broadcasters' organisation), **but no such expectations were made in the last three full reports.**<sup>172</sup> The **role** of the experts involved is emphatically not to fill in the questionnaire or to participate in the writing of the report. Their role **is limited to assisting the country team with their opinions on certain issues** that require qualitative assessment or are considered sensitive. They explicitly state that the reports do not necessarily reflect the views of the members of the external expert group.<sup>173</sup>

- The **questionnaire contains different types of questions:**<sup>174</sup>
  - **Yes/no questions, questions used for determining the low-medium-high risk classification and open-ended questions.** The low-medium-high risk response options also include an explanation (e.g. low risk: no violation of freedom of expression, medium risk: occasional violation, high risk: systematic violation). Questions to be completed are typically of the economic type that can be answered numerically.
  - **Questions are also differentiated** according to whether they **are of a legal, socio-political or economic nature**, which is relevant for scoring.
- The questionnaire is **evaluated and the results are calculated as follows:**
  - **For each question, the answers received are scored on a 0 to 1 scale:** 0 or 1 for a yes/no type of question, 0, 0.5 or 1 for a low-medium-high risk type of question, and 0, 0.5 or 1 for an open-ended question, based on classification criteria that are not necessarily known.
  - **The final result is obtained by multiple averaging.** The scores of the same type of questions (legal, socio-political, economic) are averaged within the sub-indicators, with the average of these averages giving the result of the sub-indicators, the average of the sub-indicators giving the result of the indicators, and the average of the results of the territorial indicators giving the result for each territory.
  - **The resulting score is converted into a percentage value**, which represents a risk score. The best achievable score is 3 percent and the worst is 97 percent, because they wish to avoid conveying the image of a perfect or an infinitely risky situation of pluralism by assigning 0 or 100 points.
- **For each question, the questionnaire offers the "not applicable" or "no data" options.**
  - **"Not applicable"** is accepted **if the question is not applicable to the country in question or is meaningless because of an answer to a previous question** (for example, if it is meaningless to answer a question on the practical effectiveness of legislation in the absence of such legislation). **For the purposes of risk assessment, this option is ignored.**
  - A **"no data" response, on the other hand, is in most cases taken into account in the risk assessment**, i.e. the lack of data is usually also recorded as an interpretable response from the perspective of the risk assessment. In such cases, the country team's assessment is the starting point for judging whether the data gap is a risk or an indication of risk in itself, based on the local

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<sup>172</sup> Media Pluralism Monitor, full report, on 2014. [\[LINK\]](#) pp. 28-30, on 2016. [\[LINK\]](#) pp. 75-76, on 2017. [\[LINK\]](#) pp. 78-79.

<sup>173</sup> See Media Pluralism Monitor's report on Hungary, on 2022. [\[LINK\]](#) p. 56. According to the methodological note, an additional country expert is involved, when necessary, who is considered to be a leading researcher in the field of media in the country concerned. Media Pluralism Monitor, full report, on 2021. [\[LINK\]](#) p. 173.

<sup>174</sup> Media Pluralism Monitor, questionnaire, on 2023. [\[LINK\]](#)

context. Next, the core team will have the opportunity to review the rating given by the country team by analysing the reasons behind the data gap from the perspective of risk assessment. This may include a very low (0 points), low (0.25 points), high (0.75 points) and very high (1 point) risk rating or, in exceptional cases, a *'not applicable'* rating for technical reasons, thus excluding the answer from the assessment. A low risk rating may be given, for example, if the information was judged to be of little importance. However, a high or very high risk rating may be given, for example, if the lack of data is an obstacle to meeting a legal obligation (e.g. lack of data on market concentration).<sup>175</sup>

- **To complete the questionnaire**, the project provides **recommendations** for the country team on the **use of resources**, instructions for data collection (e.g. email or phone the public media about the representation of women in management), and recommended primary sources (legislation, databases). However, **no substantive rule or expectation on the use of resources in the textual country report** is explicitly set out for the **country team** to ensure that different opinions are reflected and balanced. The 2022 evaluation report states that "*views expressed in this publication reflect the opinion of individual authors and not those of the European University Institute*".<sup>176</sup>
- **The methodology can be considered almost identical for the period 2016–2022.** As discussed earlier, the years 2014 and 2015 were examined only in the context of a pilot and only in a subset of Member States per year.
  - Nevertheless, the questions in the questionnaire have been changed from time to time, and indicator-level changes were also applied in certain cases.<sup>177</sup>
  - Since the report published in 2020 (covering the period 2018–2019), there has been a stronger focus on examining the pluralism of digital and online media. From this year onwards, the risk assessment of the area is also presented separately, based on the scores of the variables related to the online environment.<sup>178</sup>

## 4.2. Evaluation of the methodology of media freedom reports

### Freedom House – Freedom in the World

- **Overall, Freedom in the World reports leave ample room for subjective assessments.** It should be mentioned in this context that, from 2020 onwards, the names of those involved in the preparation of the reports are not listed. The risk of the subjective nature of the analysis is further reinforced by the fact that, in addition to analysing the text of the legislation, the authors also give opinions on its implementation. In other words, **they analyse not only the legal guarantees but also their enforcement. While this is an important objective, it leaves much more room for biased opinions** than for an objective analysis of the legislation.
- **Occasional subjectivity is acknowledged by Freedom House itself**, which states in its methodology document that "*an element of subjectivity is unavoidable in such an enterprise.*"<sup>179</sup>

<sup>175</sup> Media Pluralism Monitor, full report, on 2022. [\[LINK\]](#) pp. 174–190

<sup>176</sup> Media Pluralism Monitor, report on Hungary, 2022. [\[LINK\]](#) p. 3.

<sup>177</sup> For example, in 2020, access to media for people with disabilities has been removed from the five indicators of social inclusiveness, and protection against illegal and harmful content has been added. Media Pluralism Monitor, full report, 2020. [\[LINK\]](#) pp. 172–182.

<sup>178</sup> Media Pluralism Monitor, full report, 2018–2019, [\[LINK\]](#) p. 138.

<sup>179</sup> Freedom House: Freedom in the World Research Methodology. [\[LINK\]](#)



- 128 analysts and 40 consultants contributed to the organisation's latest report. Given that the situation of 195 countries and 15 territories with disputed or special status were examined,<sup>180</sup> it occurred several times that **a single analyst had to prepare a report on several countries**. It is **unlikely that a single expert will have the depth of knowledge required** to produce a report on more than one country, beyond his or her general expertise.
- The **areas covered** by the Freedom in the World reports **are very broad**, as evidenced by the fact that the questionnaire on which the report is based is over 12 pages long. **A specialist would need to have in-depth knowledge of a wide range of areas**, from political conditions through legal issues to the extent of pressure exerted on editors by media owners, **sometimes across several countries, in order to produce a well-researched report**.
- Although the document outlining the methodology of the reports state that, in preparing the analysis, analysts *"use a broad range of sources, including news articles, academic analyses, reports from nongovernmental organizations, individual professional contacts, and on-the-ground research"*<sup>181</sup> it should be mentioned that the **reports from 2021 onwards do not include the sources used**. These are usually included in full reports published in book form. According to their website, book editions of the 2021, 2022 and 2023 reports will be published as soon as they become available; however, this has not yet happened.<sup>182</sup>
  - **The only Hungarian source for the reports published between 2015 and 2020 was the Politics.hu website**, which was suspended indefinitely in January 2018 and relaunched only in 2020.<sup>183</sup>
- A further criticism of the transparency of the report is that the **identity of the analyst who carried out the research on a country cannot be clearly identified**. Although the reports indicate the contributors, it is not specified which expert produced the report on a particular country. This disclosure would be beneficial for the evaluation of the research as well, given the risk that the professional contacts of the researchers used as sources may be among people with similar views.
- Another **criticism is the repetition of statements in the reports**. Certain events are reported several times over the years. The closure of Népszabadság in 2016, for example, is mentioned year after year until 2023, the last report to date. **This is clearly at odds with the report's aim of assessing the situation of countries in relation to the years in question**.

### Freedom House – Nations in Transit

- If we look at the sources cited by the reports, we can see that they **largely use a one-sided selection of papers and research**:
  - For example, articles from the websites of 444.hu and Hvg.hu, as well as research by the Mérték Media Monitor, are recurrent elements, but there are few different sources and viewpoints, which makes **the Nations in Transit reports one-sided**.

<sup>180</sup> Freedom House: Freedom in the World 2023: About the Report. [\[LINK\]](#)

<sup>181</sup> Freedom House: Freedom in the World 2023, Methodology questions. [\[LINK\]](#)

<sup>182</sup> Freedom House: Publication Archives. [\[LINK\]](#)

<sup>183</sup> Web Archive: Politics.hu. [\[LINK\]](#)

- A criticism of the methodology is that the **report** is usually **prepared by one, sometimes two authors**. This reduces the chances of producing a report that is sufficiently objective and that presents the issues from several angles.
  - The evaluations are mostly written by people who usually express one-sided critical opinions about the media situation in Hungary, and **there is little room left for different interpretations and perspectives**.<sup>184</sup>
- Given the breadth of the scope of the report, a further **question** is **whether** the person or **persons preparing the reports** have, in addition to their general competence, a **sufficient depth of knowledge in all seven areas covered**.
- The methodology document itself contains a section stating that the “*Nations in Transit does not rate governments per se, nor does it rate countries based on governmental intentions or legislation alone. Rather, a country’s ratings are determined by considering the practical effect of the state and nongovernmental actors on an individual’s rights and freedoms.*” While the former, i.e. the provisions of regulations and government intentions, are easier to analyse objectively, the **analysis of the impact of government implies a more subjective assessment**.<sup>185</sup>

### Freedom House – Freedom on the Net

- The **scoring and textual country evaluation** produced by the Freedom on the Net project **is also typically based on the opinion of a country expert**. Other experts at regional meetings and Freedom House’s core team also have an influential role as a result of their powers to revise the reports. **Several objections can be raised in this context** against the reporting process, which are outlined below.
- **Regulatory and transparency gaps in selection:** A **shortcoming** of the project is **that it does not contain any substantive description or accountable rules** for the **selection of experts** to prepare the reports. All that is said is that local experts from a variety of backgrounds (e.g. academic or journalistic) will be invited. They also indicate that training will be provided to invited experts about the methodology of Freedom on the Net.<sup>186</sup>
  - The validity and impartiality of the reports is marred by the fact that **they are based on the scoring and textual assessment of a single, sometimes two, experts**. For example, the scoring and textual **assessment of Hungary in the last years was carried out by a single employee of the Hungarian Civil Liberties Union**, who made little effort to reduce the risk of subjective assessment by presenting different approaches and contexts.
  - The project’s methodology **does not say** exactly in **what framework and to what extent** the **regional expert meetings** and **then the core team of Freedom House can change the evaluation proposed by the local expert, especially with regard to the textual reports**. Even though the organisation claims that the revision will have a professional balancing role, it is not known to what extent this role is actually observed.
- **Use of sources:** According to the methodological description, **the project does not make any substantive demands on the selection and use of sources** for scoring and textual assessment, merely indicating that the staff of Freedom House will fact-check reports before publication.<sup>187</sup> The risk of this

<sup>184</sup> See German Marshall Fund: Zsuzsanna Végh [\[LINK\]](#) and German Marshall Fund: Dániel Hegedüs [\[LINK\]](#)

<sup>185</sup> Freedom House: Nations in Transit Methodology. [\[LINK\]](#)

<sup>186</sup> Freedom House: Freedom on the Net. Research Methodology. [\[LINK\]](#) Freedom on the Net 2022, full report, p. 44.

<sup>187</sup> Freedom House: Freedom on the Net. Research Methodology. [\[LINK\]](#)

is shown by the fact that, **in many cases, the reports refer to methodologically questionable research.** Freedom on the Net repeatedly refers, for example, to the 2019 analysis of the Mérték Media Monitor, claiming that 41.3 percent of the Hungarian online media market is under pro-government control, even though the cited calculation only took into account the annual revenue of four leading sites, including origo.hu.<sup>188</sup> **The text of the report does not present the methodological limitations of the calculation presented in the source,** but misleadingly refers to it as a statement that can describe the Hungarian online media market as a whole.

- **Further concerns are raised by the possible obsolescence of the sources.** For example, Freedom on the Net 2023 refers to a document published in 2007 on the access to the internet of certain social groups. Furthermore, in certain cases the report tries to support its claims by referring to legislation that is no longer in force.<sup>189</sup>
- **One-sidedness and subjectivity:** While the report **tries to present its findings** – which are **not necessarily supported by the facts** – as the **opinions of those it quotes** rather than that of its creators, the **selection of these opinions is usually one-sided.** For example, the report does not claim that *"the combined effects of a politically controlled media regulatory authority and distortionary state intervention in the media market have eroded media pluralism and freedom of expression in Hungary"*<sup>190</sup>, but it repeatedly presents such claims on a particular issue and refrains from discussing these claims. In certain cases, the report also indulges in subjective commentary, claiming, for example, that *"independent news websites face increasing pressure to conform to pro-government narratives"*.<sup>191</sup>
- A shortcoming of the **project** is that the **text of its reports often stays largely the same for many years, in spite of the fact that** the authors **are formally undertaking the study of a single year.** For example, every year between 2012 and 2021, the Media Council's sanctioning powers were criticised by referring to the same document, signed by an organisation called Article 19.<sup>192</sup>
- **Irrelevance:** While Freedom on the Net is, as the name suggests, an investigation of internet freedom, the reports **also cover a range of phenomena and events outside the research area.** For example, the 2021 Freedom on the Net report covers the Media Council's licensing practices for radio frequencies and the case of Klubrádió, while the 2018 report looks at the regulation of foreign funding of NGOs.<sup>193</sup>

### Freedom House – Freedom of the Press

- The Freedom of the Press report, as in other Freedom House reports, classifies **countries into just three categories.** With nearly 200 states examined, the consequence is that countries with significantly different scores are given the same classification, while similar states are placed in different groups.

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<sup>188</sup> Ágnes Urbán (2019): Mérték Media Monitor. Soft censorship 2018. Mérték Füzetek 18. [\[LINK\]](#) pp. 51–57.

<sup>189</sup> Freedom House: Freedom on the Net 2023 – Hungary. [\[LINK\]](#) Footnotes no. 10 and 13.

<sup>190</sup> Freedom House: Freedom on the Net 2023 – Hungary. Question B7 [\[LINK\]](#)

<sup>191</sup> Freedom House: Freedom on the Net 2020 – Hungary. [\[LINK\]](#). Question B7, 2021 [\[LINK\]](#) Question B7, 2022 [\[LINK\]](#) Question B7.

<sup>192</sup> Article 19: Hungarian media laws Q&A. August 2011. [\[LINK\]](#) pp. 5-6. Freedom House: Freedom on the Net, full report, 2015 [\[LINK\]](#) p. 372., 2014. [\[LINK\]](#) p. 368., 2013. [\[LINK\]](#) p. 329., 2012. [\[LINK\]](#) p. 224., Freedom on the Net 2016 – Hungary, 2016. [\[LINK\]](#) Question Group A. 2017. [\[LINK\]](#) Question Group A. 2018. [\[LINK\]](#) Question group A. 2019. [\[LINK\]](#) Question B6. 2020. [\[LINK\]](#) Question B6, 2021. [\[LINK\]](#) Question B6.

<sup>193</sup> Freedom House: Freedom on the Net – Hungary, 2021. [\[LINK\]](#) Question A5, Freedom House: Freedom on the Net, – Hungary, 2018. [\[LINK\]](#) Question C.

- In the 2017 report, both Hungary and Afghanistan were classified as partly free, in spite of the fact that, in 2016, seven television workers were killed in a bombing in the latter country and four journalists died in connection with their work.<sup>194</sup>
- A question often consists of several elements. As only one score can be given for a question despite the multiple items, the result can be misleading in some cases.
- In relation to the reports, it is important to note that they contain a number of unsubstantiated allegations, as it is illustrated in the chapter on factual errors. It is common for the claim to be completely lacking in substantiation, which greatly undermines the credibility of the index.
- It should be noted that the exact quantity and nature of information used to produce the reports is not transparent. Even though the methodological descriptions state that they use local research by analysts, professional local contacts of researchers, as well as reports by NGOs, governments and international bodies, none of these are identified, which greatly reduces the transparency of the report.
- Another problematic issue is that, according to Laura Schneider, who was involved in preparing the report in 2013<sup>195</sup>, a single expert prepares the report on a particular country, which adds to the subjective nature of the document.<sup>196</sup>
  - In the methodological section of earlier reports, Freedom House acknowledged, as in case of the Freedom in the World report, that *"some degree of subjectivity may be unavoidable"* in the reports.<sup>197</sup>
- In 2017, 90 researchers participated in the research<sup>198</sup>, which is a relatively small number considering that the report covers nearly 200 countries. Most of the senior researchers commissioned are from the United States, which raises the question of bias against their own nation. In addition, the fact that one expert assesses several countries also raises questions.<sup>199</sup> It is difficult to imagine that a single researcher, beyond his or her general professional expertise, would have the depth of knowledge of the regulatory environment, media markets and political framework, and the practical implications of the widely different regulatory environments, media markets and policy frameworks of several states in a region.<sup>200</sup>
- The fact that it is not known what criteria were used to select the authors of the analysis is a concern. Among the contributors to the 2017 report, there was only one Hungarian analyst, who was the head of the unilaterally critical Mérték Media Monitor. A former Amnesty International staff member with a similar viewpoint had contributed to previous reports on several occasions.<sup>201</sup>
  - It is regrettable that Freedom House did not seek a more pluralistic selection of experts or leave room for a diversity of views in its report.
  - Another problem is that no Hungarian staff were involved in the preparation of the 2016 report.<sup>202</sup>

<sup>194</sup> Freedom House: Freedom of the Press 2017. [\[LINK\]](#) pp. 25 and 27.

<sup>195</sup> Freedom House: Freedom of the Press 2013. [\[LINK\]](#) p. 9.

<sup>196</sup> Laura Schneider: Media Freedom Indices. DW Akademie, 2014/1, pp. 14-15.

<sup>197</sup> Freedom House: Freedom of the Press 2015. [\[LINK\]](#) p. 26.

<sup>198</sup> Freedom House: Freedom of the Press Methodology. [\[LINK\]](#)

<sup>199</sup> Laura Schneider: Media Freedom Indices. DW Akademie, 2014/1., p. 15.

<sup>200</sup> Laura Schneider: Media Freedom Indices. DW Akademie, 2014/1., p. 15.

<sup>201</sup> Freedom House: Freedom of the Press 2017 – Acknowledgements. [\[LINK\]](#); Freedom House: Freedom of the Press 2015 – Acknowledgements. [\[LINK\]](#)

<sup>202</sup> Freedom House: Freedom of the Press 2016 – Acknowledgements. [\[LINK\]](#)

## Freedom House – Reviving News Media in an Embattled Europe

- As with the other documents, this special report **lacks objectivity and pluralism of sources**.
  - A review of the footnotes reveals that the **interviewees were selected in a one-sided manner**, mainly from **media and NGOs** with certain subjective political views. A similar conclusion can be drawn from a review of the sources used. **Due to the one-sided selection of sources, the report may present an unbalanced picture of the media situation in Hungary.**
- It is also problematic that the special report **does not fully list the names of the interviewees involved**, which can only be inferred from the footnotes.<sup>203</sup>

## Reporters Without Borders

- It should be noted in connection with the transparency of the report that it **does not guarantee a plurality of participants, as there is no information on the identity of the authors, those who completed the questionnaire or, since 2012, the number of respondents.**<sup>204</sup> According to Laura Schneider, in the absence of this information, it cannot be excluded that the questionnaire is mostly filled in by people who are known to the staff of Reporters Without Borders.<sup>205</sup>
  - In the first years of the publication of the index, Reporters Without Borders published the number of partner organisations and individuals involved in the research, but abandoned this good practice from 2011 onwards, reducing the transparency of the index.
- In addition, another problem is that **the organisation is not consistent in the use of resources** when producing textual reports. Although the organisation tries to back up certain claims with hyperlinks, they point to their own articles, which raises questions about the plurality of source material. In addition, the fact that not all claims are referenced further reduces the transparency of the report.
- An additional issue is that knowledge of a **wide range of disciplines**, including criminal law, media regulation, economics and politics, is essential to complete the **questionnaire** in a well-informed way, but **relatively few people have such a broad knowledge**.
- There are also **concerns about the fact** that the **methodology** used by the organisation **has changed several times**, most significantly in the 2011-2012, 2013 and 2022 reports. The methodology of the 2011-2012 report was changed because, according to the organisation's experts, it did not adequately reflect differences between countries.<sup>206</sup>
- In addition, it should be noted that the organisation often **uses pretentious language and phrases and makes claims without factual support**.
  - According to the 2011-2012 General Analysis, **for example "Hungary fell 17 rungs to 40th place after adopting a law giving the ruling party direct control over the media."**<sup>207</sup>
  - According to the 2014 regional report of Reporters Without Borders on Hungary, there is a **„witchhunt against independently reported news"** The same report also criticises the Media Council in a highly pretentious manner: **„This "Media Council" guaranteed just one thing – political interference in news and information content."**<sup>208</sup>

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<sup>203</sup> Freedom House: Reviving News Media in an Embattled Europe. [\[LINK\]](#)

<sup>204</sup> Laura Schneider: Media Freedom Indices. DW Akademie, 2014/1, p. 22.

<sup>205</sup> For more on the risk reported by respondents from the same circle of acquaintances, see: Laura Schneider: Media Freedom Indices. DW Akademie, 2014/1, p. 22.

<sup>206</sup> Justin D. Martin Dalia Abbas, Ralph J. Martins: The Validity of Global Press Ratings. [\[LINK\]](#)

<sup>207</sup> Reporters Without Borders: World Press Freedom Index 2011/2012. [\[LINK\]](#)

<sup>208</sup> Reporters Without Borders: Europe – Central Asia 2014: European Union – Rights guaranteed but under threat. [\[LINK\]](#)

- In 2021, the organisation's regional report stated that "**Viktor Orbán has built an alternative European model in Hungary that completely lacks press freedom,**" and that "**Independent media outlets censored by Viktor Orbán's government.**"<sup>209</sup>
- The organisation's current evaluation, available on their website, also contains sensationalist terms. These include the fact that Reporters Without Borders **considers the Hungarian Prime Minister to be a "press freedom predator"** and that, according to them, "**the ruling party, Fidesz, has seized de facto control of 80% of the country's media.**"<sup>210</sup>

## Media Pluralism Monitor

- **The strict expectations regarding the methodology of the Media Pluralism Monitor are particularly justified, since,** as already mentioned, the European Commission, in its pre-legislative and rule of law activities, also gives priority to the project documents. Therefore, the Media Pluralism Monitor **can also have an indirect impact on Member States' access to EU funds through the rule of law reports.**<sup>211</sup>
- **The results of the studies are largely based on the opinions of a local team of a few people,** based on their answers to the questions in the questionnaire, which **significantly increases the weight of critical comments.**<sup>212</sup>
  - **Regulatory and transparency gaps in selection:** The project **does not lay down clear rules for the selection of country team members.** The methodological specifications do not contain any specifications regarding the number or composition of the team. They merely state that they are recognised experts in the field of media pluralism and media freedom.<sup>213</sup> There is no accountable rule on the institutional, professional or socio-cultural plurality of the country team.
  - **Number of authors and continuity of the country team: The variation in the number and composition of the country team is unfortunate for the comparability of the annual surveys.** The number of members of the country team varied almost every year,<sup>214</sup> and a single expert was involved in the study every year, except for 2014 and 2022, in spite of the project's emphasis on continuity.
  - **Composition:** As regards the composition of the country team, in addition to the regulatory shortcomings in the selection process mentioned above, **there is a lack of plurality.** For example, the evaluations for 2016 and 2017 were carried out by a single institute, the Center for Media, Data and Society at the Central European University (CEU). The Hungarian experts who wrote the report on 2021 are all journalists linked to a one-sidedly selected portal, Átlátszó. Also, the 2020 assessment was written by a single faculty member and student from a single university

<sup>209</sup> Reporters Without Borders: Europe – Central Asia RSF 2021 Index: EU struggles to defend values at home. [\[LINK\]](#)

<sup>210</sup> Reporters Without Borders: Country fact-file: Hungary. [\[LINK\]](#)

<sup>211</sup> The document referred to as the European Media Freedom Act is the proposal adopted by the European Commission on 16 September 2022, establishing a common framework for the European Parliament and the Council for media services in the internal market (the European Media Freedom Act) and amending Directive 2010/13/EU. [\[LINK\]](#) See also the European Commission's comments on the use of the Media Pluralism Monitor: Monitoring media pluralism in the digital era. European Commission. [\[LINK\]](#) Press release from the European Commission. European Media Freedom Act: Commission proposes rules to protect media pluralism and independence in the EU. 16 September 2022. [\[LINK\]](#)

<sup>212</sup> Media Pluralism Monitor, full report, for 2022. [\[LINK\]](#) pp. 174–190

<sup>213</sup> In the full report on 2014, they note that they approached local institutions consider by them to be independent and neutral, and local team members are invited by the designated "*national team leader*". Media Pluralism Monitor, full report, 2014. [\[LINK\]](#) pp. 24-25.

<sup>214</sup> The team had 4, 5, 3, 3, 2, 4 and 3 member between 2014 and 2022, in sequence.

department. On several occasions, the country team has included foreign experts and even a researcher from the centre that developed the project.

- The methodological criticism regarding the dominance of the country team and the lack of plurality is reinforced by the **study of the external expert team**.<sup>215</sup>
  - **Selection and composition:** It was pointed out earlier that, **even though the report expressed its intention in the first years of study to set up expert teams with a pluralistic composition**, specifying the number of members (7) and the professional areas to be represented (e.g. 1 from the media regulator, 1 from a journalistic organisation, 1 from a publishers' organisation and 1 from a broadcasters' organisation), **no such expectations were stated in the last three full reports, and the expectations described earlier were not fully met in any of the years**.<sup>216</sup> **For example, the expert team for the evaluation of 2018-2019 consisted of only three members instead of the seven previously reported, only one professional organisation was represented, and there was no participation from the regulator**.<sup>217</sup>
  - **Therefore, people who would present a different angle were not always part of the expert group.** The representative of the NMHH and the Media Council were only present in certain years<sup>218</sup>, in contrast to the one-sidedly selected experts who were highly critical of the domestic media situation on the basis of their publications and statements.<sup>219</sup>
  - **Lack of substantial influence:** It is important to stress that **the members of the external expert group do not fill in the questionnaire and are not involved in writing the reports**. The country team draws on external expertise to help with sensitive issues that require qualitative evaluation. Furthermore, **the extent of influence that the external expert group has on the evaluation is questionable**, given that its members have different or opposing opinions, **as they are not responsible for scoring or writing the report, and their possible dissenting opinion can be ignored by the country team**.<sup>220</sup> The Country Report covering 2022 also points out that "*country reports do not necessarily reflect the personal opinions of the experts who offered their assistance*" and that "*the final results reflect the expertise and findings of the team collecting the data and writing the report*".<sup>221</sup> In the full report on 2022, it is stated that the country team is free to confirm or modify its original position based on the evaluation of the members of the expert group.<sup>222</sup> All in all, **we do not see any guarantee that the members of the external expert group, who may express dissenting opinions, have any meaningful influence on the balancing of the country team, and their actions can only give the impression of such influence to the public**.

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<sup>215</sup> Media Pluralism Monitor, full report, on 2022. [\[LINK\]](#) pp. 174–190

<sup>216</sup> Media Pluralism Monitor, full report, on 2014. [\[LINK\]](#) pp. 28-30, 2016. [\[LINK\]](#) pp. 75-76, 2017. [\[LINK\]](#) pp. 78-79.

<sup>217</sup> Media Pluralism Monitor report on Hungary, on 2018-2019. [\[LINK\]](#) p. 23.

<sup>218</sup> In 2016 and 2017, András Koltay as a member of the Media Council, in 2021 and 2022, Levente Nyakas as Head of Institute for Media Studies at NMHH

<sup>219</sup> The Hungarian Association of Newspaper Publishers as a professional organisation was represented by the CEO of the publisher of the 444.hu website in the expert group that contributed to the preparation of the latest report, evaluating the year 2022. In order to ensure a more balanced approach, it would be beneficial if professional organisations could include a number of officials from different media with different orientations.

<sup>220</sup> According to the methodology of previous reports, in such cases the local team had to provide a justification, which in itself unfortunately does not guarantee that conflicting expert views will be reflected in the evaluations, especially in the case of text reports. See: Media Pluralism Monitor, full report, on 2016. [\[LINK\]](#) p. 76.

<sup>221</sup> Media Pluralism Monitor, report on Hungary, on 2022. (Hungarian edition) [\[LINK\]](#) p. 56.

<sup>222</sup> Media Pluralism Monitor, full report, on 2022. [\[LINK\]](#) p. 177.

- Another **shortcoming of the project** is the **lack of a clear definition and consistent application of the rules on the balanced selection of sources, in particular with regard to the country reports**. While it is true that the questionnaire explicitly suggests the use of certain relevant legislation and databases as primary sources for scoring, it does not seem to address the methodological risks inherent in the selection of secondary sources.
- Such recurring **risks are the one-sidedness of the sources used, the imbalance of the reports due to the appearance of political opinions and the selective choice of sources** to support the risk assessment figures. The majority of secondary sources come from politically committed, one-sidedly selected organisations and media, and, in many cases, from a single actor (for example, the Mérték Media Monitor or Átlátszó, which are in cooperation with each other), with few instances of expressing dissenting opinions against the critical comments. The latest report, covering the year 2022, also explicitly states that part of its legal assessment is based on the work of a single author published in the context of the Mérték Media Monitor.<sup>223</sup> For certain issues, the same source has been cited for several different years.<sup>224</sup> In addition to the external expert group, the report on 2022 also refers to interviews with other experts as a source. The composition of this expert group also raises the risk that the evaluation is biased.<sup>225</sup>
- A related **recurring problem in the textual reports is the appearance of subjective political opinions mixed with factual statements** (e.g. the 2018-2019 evaluation report states that the Hungarian government promotes authoritarian, even totalitarian principles)<sup>226</sup>, and in several cases the **lack of evidence and its replacement by vague references** (e.g. "*it is widely believed that people can easily lose their livelihood by voicing opinions that are critical of the government...*").<sup>227</sup>
- The **link between numerical risk assessments and textual reports is also open to criticism**.
  - **On the one hand, the text of the report does not provide a detailed explanation of the percentage results**, in many cases it is content to merely illustrate the situation with an example that has caused a great media stir (for example, in the context of freedom of expression, it is noted that "*in June 2021, a Hungarian blogger, Kristóf Marton, was sentenced to 10 months in prison for a Facebook post shaming three police officers*").<sup>228</sup>
  - **On the other hand, the same textual justification is repeatedly found in the reports, even though they present different years and the risk values to be substantiated are different**.
  - **In the case of the indicator on access to media for minorities in the report on 2017, this had the absurd consequence that the high risk rating of 75% was accompanied by almost the same textual justification as in 2016, when the same risk rating was as low as 25%**. The only difference in wording was the statement that "*minorities not recognised by law do not have access to airtime, especially on private television and radio channels*." and that "*neither the thirteen recognised, nor other minorities have their own programmes and airtime on commercial, private*

<sup>223</sup> Media Pluralism Monitor, report on Hungary, on 2022. [\[LINK\]](#) p. 8.

<sup>224</sup> For example, the Media Pluralism Monitor report on Hungary on 2016, 2017 and 2018-2019: A médiaszabályozás leghátsó oldala. Mértékblog. 14 August 2015. [\[LINK\]](#)

<sup>225</sup> Media Pluralism Monitor, report on Hungary, on 2022. [\[LINK\]](#) p. 43

<sup>226</sup> Media Pluralism Monitor report on Hungary, for 2018-2019. [\[LINK\]](#) p. 20.

<sup>227</sup> Media Pluralism Monitor, report on Hungary, for 2021. [\[LINK\]](#) p. 12. See also: "(...) *Tilos Rádió could continue broadcasting, but the threat of losing a licence contributes to the widespread perception that community media's independence of the state is at least fragile in Hungary.*" Media Pluralism Monitor, report on Hungary, on 2022. [\[LINK\]](#) p. 35.

<sup>228</sup> Media Pluralism Monitor, report on Hungary, on 2021. [\[LINK\]](#) p. 30.



*television channels*". However, the claims in the quotes were already valid in the previous year, and the NMHH notice itself refers to test results from the 2015–2016 period.<sup>229</sup>

- **The relevance of certain questions is also questionable.** In the reports covering 2016 and 2017, for example, the authors indicate that *"the indicators of universal access to traditional media and access to the internet present the highest risk to fundamental protection, as media regulation does not include universal access to public service media"*. This is because the highest risk rating must be marked in the questionnaire if, according to the authors of the report, universal access to public service media is not explicitly covered by media regulation. The very fact that the rate of access is, even according to the reports, over 99 percent calls into question the relevance of the issue and raises the problem that the report paints a misleading picture of Hungary in this respect.<sup>230</sup> It also should be noted that the textual assessment for 2022 no longer imposes the lack of universal access to public service media. On the contrary, it stresses that the law not only requires public service television channels to be broadcast on all platforms, but also that they must be at the top of the list of programmes.<sup>231</sup>
- In connection with to the issue of transparency, **the questionnaire discloses the method used for the categorisation of the numerical response to the question to be completed** as low, medium or high risk **only in certain cases**. It is known, for example, that access to public service television and radio is considered low risk above a coverage of 99%, while the principle of rating of the percentages is not known, for example, for the market share of the most important media service providers.<sup>232</sup>
- **The methodology can lead to disproportionalities:**
  - **Some of the questions** in the questionnaire **lead to disproportionate results – and thus paint a misleading picture – by expecting a high risk rating based on even a single example.** Question 119 of the latest questionnaire, for example, asks about political control of digital media and requires the marking of the high risk option if the respondent believes that even one leading digital media outlet is under political influence.<sup>233</sup>
  - The success of avoiding potential disproportionalities arising from the practice of labeling data gaps as risks depends on whether the core team does indeed revise the “no data” responses in a differentiated manner.<sup>234</sup>
- Text reports **sometimes include events outside the period under review**. Thus, the report covering 2021 states in its explanatory memorandum to the indicator on protection against illegal and harmful content:<sup>235</sup>
  - *"Facebook (...) recently banned the page of the radical rightwing party, Mi Hazánk Mozgalom's for unknown reasons days before the elections",*
  - *"In 2022, the war in Ukraine sparked the spread of anti-Ukrainian disinformation",*

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<sup>229</sup> Media Pluralism Monitor, report on Hungary, on 2017. [\[LINK\]](#) p. 12., on 2016. [\[LINK\]](#) p. 9., Communication from the National Media and Infocommunications Authority. The proportion of minorities in news programmes is at a low. 1 February 2017. [\[LINK\]](#)

<sup>230</sup> Media Pluralism Monitor, report on Hungary, on 2016. [\[LINK\]](#) p. 6., on 2017. [\[LINK\]](#) p. 7.

<sup>231</sup> Media Pluralism Monitor, report on Hungary, on 2022. [\[LINK\]](#) p. 19.

<sup>232</sup> Media Pluralism Monitor, questionnaire, 2023. [\[LINK\]](#)

<sup>233</sup> Question 119 of the Media Pluralism Monitor 2023 questionnaire. [\[LINK\]](#) p. 55. On disproportionality, see also: Gergely Szilvay and Zoltán Veczán: Így készül a lejárató országjelentés – exkluzív belső információk. Mandiner.hu. 5 February 2022. [\[LINK\]](#)

<sup>234</sup> Media Pluralism Monitor, full report, 2022. [\[LINK\]](#) pp. 174–190

<sup>235</sup> Media Pluralism Monitor, report on Hungary, 2021. [\[LINK\]](#) p. 28.

- *"while the NMHH promised to take action against RT and Sputnik (in accordance with the European Council's regulations), Russia-friendly disinformation was rampant, and many government-aligned media channels reportedly embraced shared the same fabricated stories".*

Questions over the consistency of report assessments are raised by the fact that the last country report on Hungary justifies its significantly lower score – by 11 percentage points – in the area of fundamental protection by the fact that legal issues were subjected to a more thorough examination in this particular report. They report that, in the meantime, no change in regulation has been observed to support the increase in risks.<sup>236</sup>

## 5. Factual errors and other deficiencies in the content of media freedom reports

### 5.1. Freedom House rankings

According to the 2011 Freedom of the Press report, *"In Hungary, the conservative government of Prime Minister Viktor Orbán pushed restrictive legislation through parliament and seized control over media regulators [...]."*<sup>237</sup> In doing so, the **report sharply criticises the Mttv. adopted in 2010, mainly because of the provisions on public media and the creation of the NMHH**, which it claims is under government control. The independence of the NMHH from the government is also questioned by Freedom House in its 2012 Nations in Transit report, *"Due to the questionable independence of the Media Council, the NMHH is seen by many as an "arm's-length government agency,"*<sup>238</sup> Several editions of the Freedom on the Net report also questions the independence of the Hungarian media authority.<sup>239</sup>

- In contrast, **the Mttv. clearly states that the NMHH is an independent regulatory body, subject only to the law. Therefore, the members of the Media Council are also subject only to the law and cannot be instructed in their activities.** A two-third majority in the National Assembly does indeed give the government a wider legislative power, but it does not follow that any independent regulatory organ is under the political influence of the government. The mere fact that the law gives the Prime Minister the power to propose the president of an independent regulatory organ does not in itself imply that the independent regulatory organ is acting on the instructions of the Government or the Prime Minister.
- **The statutory rules are also clear as regards the independence of the President of the NMHH, stating that he/she cannot be instructed in the performance of his/her duties or in his/her procedure or his/her decisions concerning the exercise of his/her powers.** In addition, the President may not instruct the Office to take a discretionary decision in respect of the Office's regulatory affairs defined by law.<sup>240</sup>

According to a 2011 Freedom of the Press report by Freedom House, *"The new laws require **journalists to reveal their sources under certain circumstances, and prescribe large fines for unbalanced or "immoral"***

<sup>236</sup> Media Pluralism Monitor, full report, 2022. [\[LINK\]](#) p. 18.

<sup>237</sup> Freedom House: Freedom of the Press 2011. [\[LINK\]](#) p. 9.

<sup>238</sup> Freedom House: Nations in Transit – Hungary 2012. [\[LINK\]](#)

<sup>239</sup> Freedom House: Freedom on the Net 2023 – Hungary. [\[LINK\]](#) Question A5; 2022 [\[LINK\]](#) Question A5 ; 2021 [\[LINK\]](#) Question A5; 2020 [\[LINK\]](#) Question A5.

<sup>240</sup> Section 123 and 111(6) of the Mttv.

reporting. <sup>241</sup> The same supposed powers of the Authority are criticised in the 2012 Nations in Transit report: *"observers have expressed fears that its power to impose steep fines on media outlets."*<sup>242</sup>

- Examining the rules in force at the time of the report's publication, the provisions of Act CIV of 2010 on Freedom of the Press and the Fundamental Rules of Media Content (hereinafter referred to as the **Smtv.**) set out **the rules for the possible disclosure of sources.**<sup>243</sup> The law **allows** journalists to **keep the identity of their sources secret, even in court or in official proceedings.** Only in very limited circumstances, *"In order to investigate a crime, the court has the right – in exceptionally justified cases as defined by law"*, shall a media service provider or its staff be obliged by a court to reveal its source of information.
- In addition, looking at the provisions of the Mttv., the law clearly states that **no fine can be imposed on a service provider who violates the requirement of unbalanced information.**<sup>244</sup>
- Although the provisions of the Smtv. do indeed contain a prohibition on infringing upon public morals while exercising the freedom of the press, neither the NMHH nor the Media Council may initiate ex-officio proceedings in this regard.

The 2013 Freedom of the Press report comments on **developments in relation to Klubrádió** as follows: *"Meanwhile, the (ed. government) critical radio station Klubrádió had yet to regained control of its frequency."*<sup>245</sup> The same criticism is voiced in the 2013 Freedom in the World report, which states: *"Several courts ruled in favor of the station in 2012, but it had yet to regain control of its main frequency at year's end."*<sup>246</sup>

- It is true that the legal proceedings against Klubrádió were not concluded until the end of 2012, but the operation of the station was ensured throughout the proceedings, and its **temporary licence was extended 14 times by the Media Council.**<sup>247</sup> However, this fact is not mentioned in the report.

The 2015 Freedom of the Press report **criticises the provisions of the Advertising Act:** *" Among other problems in Hungary, RTL Klub, one of the two biggest private television stations, was disproportionately affected by an advertising tax."*<sup>248</sup> The introduction of the advertising tax was also heavily criticised in the Nations in Transit report of the same year.<sup>249</sup>

- In March 2021, the **European Court of Justice** also **ruled** in appeal that **the provisions of the advertising tax did not contain selective elements**, as the European Court of Justice held that the initiating party *"(...) the Commission had not demonstrated that the progressive nature of the tax measures at issue entailed conferring a selective advantage on 'certain undertakings or the production of certain goods'."*<sup>250</sup> In other words, according to the interpretation of the European Court of Justice,

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<sup>241</sup> Freedom House: Freedom of the Press 2011. [\[LINK\]](#) p. 9.

<sup>242</sup> Freedom House: Nations in Transit 2012 – Hungary. [\[LINK\]](#)

<sup>243</sup> Paragraphs 6(1)-(2) of the Smtv

<sup>244</sup> Section 181 of the Mttv.

<sup>245</sup> Freedom House: Freedom of the Press 2013. [\[LINK\]](#) p. 8.

<sup>246</sup> Freedom House: Freedom in the World 2013. [\[LINK\]](#) p. 310.

<sup>247</sup> National Media and InfoCommunications Authority: Érdemes volt a jogállami utat végigjárni. [\[LINK\]](#)

<sup>248</sup> Freedom House: Freedom of the Press 2015. [\[LINK\]](#) p. 15.

<sup>249</sup> Freedom House: Nations in Transit 2015 – Hungary. [\[LINK\]](#)

<sup>250</sup> European Court of Justice, press release No 38/21. [\[LINK\]](#)

it could not be established that the advertising tax discriminated against RTL Klub from a tax perspective.

- It is also worth noting that **the progressive advertising tax** was eventually replaced by a flat-rate tax system, which is still in force.<sup>251</sup>

According to the 2017 Freedom in the World report: "Since 2011, media have been required to register with the NMHH, media outlets must register with the National Media and Infocommunications Authority (NMHH), which can revoke licenses for infractions. A Media Council under the NMHH can close outlets or impose fines of up to \$950,000 for failure to register or for airing content that incites hatred."<sup>252</sup> Similarly, the Media Council's power to impose fines has been criticised in multiple Freedom on the Net reports: "If an online news outlet allegedly disobeys the law, the Media Council may oblige it to [...] pay a fine of up to HUF 25 million (\$63,500)."<sup>253</sup>

- The Mttv. does not grant any powers under which radio and television licences can be revoked or media outlets can be closed down.
- It is also incorrect to claim that **the Media Council** would be subject to the NMMH, as it is **an autonomous body with legal personality of the Authority, supervised by National Assembly**.<sup>254</sup>
- The level of the fines imposed by the Authority is determined by the Mttv. and its application is decided by the Authority on a case-by-case basis, considering the nature of the infringement and its possible recurrence. **The rule of law is guaranteed by the possibility of judicial review of the Authority's decisions.** A further factual error is that the maximum amount of the fine is USD 950,000, while the maximum fine amount of HUF 200 million was approximately USD 700,000 at the exchange rate applicable at the date of the report. This maximum amount of fine may only be imposed against media service providers with significant market power; the fine that may be imposed against other media service providers is capped at HUF 50 million.<sup>255</sup>
- It is also worth mentioning that the **highest fine** imposed by **the Media Council on a media service provider** was **HUF 23 million**. The sanction was imposed for three related serious infringements, after the media service provider had classified a studio interview about a homicide in the wrong age category and violated the dignity of the victim and its relatives by organising a prize draw during the broadcast. The media service provider also violated a legal provision prohibiting the self-serving and damaging portrayal of persons in a humiliating and vulnerable situation, by presenting the victim's mother in a "vulnerable state of mind due to her heightened emotions" for self-serving purposes without any added informational value.<sup>256</sup> The media service provider appealed against the fine imposed, but it was upheld by both the Budapest-Capital Administrative and Labour Court<sup>257</sup> and the Budapest-Capital Regional Court.<sup>258</sup>

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<sup>251</sup> Section 5 of Act XXII of 2014 on advertising tax

<sup>252</sup> Freedom House: Freedom in the World 2017. [\[LINK\]](#)

<sup>253</sup> Freedom House: Freedom on the Net 2023 - Hungary [\[LINK\]](#) Question B3; 2022 [\[LINK\]](#) Question B3; 2021 [\[LINK\]](#) Question B3; 2020 [\[LINK\]](#) Question B3; 2019 [\[LINK\]](#) Question B3; 2018 [\[LINK\]](#) Question group B ; 2017 [\[LINK\]](#) Questiongroup B; 2016 [\[LINK\]](#) Questiongroup B.

<sup>254</sup> Section 123(1) of the Mttv.

<sup>255</sup> Section 187 of the Mttv.

<sup>256</sup> Decision No 169/2013 (I. 30.) of the Media Council. [\[LINK\]](#)

<sup>257</sup> Judgment of the Administrative and Labour Court of Budapest. [\[LINK\]](#)

<sup>258</sup> Judgment of the Budapest-Capital Regional Court. [\[LINK\]](#)

- At the same time, the largest fine ever imposed on an online news outlet was only HUF 250,000 only a fraction of the amount mentioned by Freedom on the Net reports.

According to the 2020 Nations in Transit report, *"the Media Council [...] plays a key role in content regulation."*<sup>259</sup>

- While the Media Council does play a major role in content regulation, it **acts primarily as an executive and law enforcement body, with powers only to give an opinion on regulatory matters**. It also seeks to promote compliance by content providers and the interpretation of content provisions through non-binding recommendations.
- In addition, **the Media Council monitors media content in accordance with the law**, which only imposes content limits on media that are common in Europe.

In the 2021 Nations in Transit report, Freedom House **mentions the criminalization of scaremongering** as *"an amendment to the Criminal Code was passed that punishes with imprisonment those who spread falsehoods or distorted facts that could alarm the public during a state of emergency, or information that inhibits successful defense against the pandemic. The amendment's ambiguous formulation had a chilling effect on journalists and their sources, triggering self-censorship."*<sup>260</sup> A similar view was expressed in the 2023 Freedom in the World report, which found that the provision of the law on scaremongering *"ultimately challenged journalists' ability to secure reliable information, as many individuals, especially health care workers, feared retaliation if they provided information publicly."*<sup>261</sup>

- The report does not mention the fact that **it is illegal to spread fake news in many EU countries**, such as Malta, France or Lithuania. Moreover, Maltese law deals with the offence of scaremongering as a criminal offence, similar to the Hungarian legal system.<sup>262</sup>
- The Constitutional Court also examined the regulation, stating that Section 337 of the Btk. on the **circumstances of committing the offence of scaremongering are very specific**. In its Decision 15/2020 (8 July) AB<sup>263</sup> [46], the Court of Justice stated that a criminal offence **can only be committed intentionally**, i.e. if the perpetrator is aware that *"the fact he asserts is untrue or has significantly distorted the real fact."* In paragraph [47] of the decision, the Constitutional Court itself draws the conclusion that *"Section 337 (2) of the Criminal Code cannot be applied to the content of public debates in general either. The measures of public authorities can be subject to criticism."* Finally, in paragraph [49] of the above decision, the Constitutional Court reiterates that **the purpose of the legislation is not to hinder certain public debates, given that false communications do not contribute to the development of democratic public opinion**: *"Section 337 (2) of the Criminal Code does not contain a restriction on public debates. The Fundamental Law links freedom of expression to freedom and diversity of the press and to the free dissemination of information necessary for the formation of democratic public opinion. False communication alone does not contribute to this, although its refutation already does. Section 337 (2) of the Criminal Code does not in itself prohibit the expression of an opinion concerning the assessment of the special legal order or the measures taken. In the public*

<sup>259</sup> Freedom House: Nations in Transit 2020 – Hungary. [\[LINK\]](#)

<sup>260</sup> Freedom House: Nations in Transit 2021. [\[LINK\]](#)

<sup>261</sup> Freedom House: Freedom in the World 2023 – Hungary. [\[LINK\]](#)

<sup>262</sup> Ronan Ó Fathaigh – Natali Helberger – Naomi Appelman: The perils of legally defining misinformation. [\[LINK\]](#) Policyreview.info.

<sup>263</sup> Decision 15/2020 (VII. 8.) AB of the Constitutional Court. [\[LINK\]](#)

discourse, a position can be freely expressed on the issues raised in the complaint concerning what constitutes the debate between experts and lay people, whether certain measures are justified or what facts should be communicated to the public. Section 337 (2) of the Criminal Code does not prohibit this in itself, but the **expression of an opinion based on knowingly false (or distorted) facts** which, taking into account the place and time of the commission and, in particular, the manner of the commission, may obstruct the defence due to its effect on the audience." It is clear from the Constitutional Court's decision that **the purpose of the legislation is not to silence the press**, as members of the **press** could only be subject to this provision if **they deliberately misrepresented facts**.<sup>264</sup>

Both the 2022 and 2023 Freedom in the World reports reported that **Klubrádió's broadcasting licence had been revoked by the Media Council**, forcing the station to provide content online.<sup>265</sup> A similar claim is made in the 2021 edition of the Freedom on the Net.<sup>266</sup>

- Looking at the case of Klubrádió, the **reason for the termination of its terrestrial broadcasting is not that the Media Council "withdrew its licence"**, but that its seven-year term, as defined by law and the public contract, expired on 14 February 2021. Renewal without tendering is an exceptional possibility that is only possible if the objective conditions laid down by law are met. However, in the case of Klubrádió, these conditions were not factually met. Klubrádió had repeatedly and several times engaged in unlawful conduct, which precluded the possibility of an automatic extension of the station's frequency.<sup>267</sup>
- Nevertheless, **Klubrádió Zrt. was guaranteed participation in the tender for the frequency**, and the evaluation categories included, among others, media service experience, for which extra points were awarded in view of its previous operation on Budapest 92.9 MHz. The tender for the frequency was ultimately unsuccessful, as the Media Council did not consider the economic adequacy of Klubrádió Zrt. to be established, given that "*examination of the public company data that an involuntary de-registration procedure can be initiated against Klubrádió at any time due to its unlawful financial management lasting several years. According to the fundamental and general principles of the domestic and European tendering practice for media services, a company in an uncertain and unlawful economic situation is not suitable for operating a radio frequency of limited availability.*" The Media Council also ruled that Klubrádió Zrt.'s tender also contained substantial programming errors.<sup>268</sup> The station appealed again to the courts. At the end of the proceedings, the **Curia accepted the argument of the Media Council, considering its position to be lawful**.<sup>269</sup>

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<sup>264</sup> Decision 15/2020 (VII. 8.) AB. [\[LINK\]](#)

<sup>265</sup> Freedom House: Freedom in the World 2023 – Hungary. [\[LINK\]](#)

<sup>266</sup> Freedom House: Freedom on the Net 2021 – Hungary. Question A5. [\[LINK\]](#)

<sup>267</sup> NMHH: Elérhető a Budapest 92,9 MHz rádiós médiaszolgáltatási lehetőség frekvenciaterve. [\[LINK\]](#)

<sup>268</sup> NMHH: Eredménytelen a Budapest 92,9 MHz frekvenciára kiírt pályázat. [\[LINK\]](#)

<sup>269</sup> Curia information notice – Final judgment in the frequency tender of Klubrádió. [\[LINK\]](#)

The Freedom on the Net reports **note, with a critical tone that Hungarian legislation** (referring to Section 4(3) of the Smtv.) **allows for the restriction of press freedom in the defence of public morals, while not defining the concept of public morals.**<sup>270</sup>

- The **concept of public morals is not defined by legal systems or sources of international law**, but the European Convention on Human Rights, to which Hungary is a party, explicitly allows in its Article 10(2), for restrictions on freedom of expression in order to protect morals.<sup>271</sup>
- **In fact, it is not possible to restrict the freedom of the press in Hungary on the basis of the general principle of the protection of public morals, since the referenced provision of the Smtv. is "a declarative rule that does not create any specific legal obligation, and therefore the Media Council has no power to supervise content that violates public morals".** The protection of minors can be derived from public morals, but this is already contained in specific provisions (Sections 9 and 19 of the Mttv.). The Constitutional Court's Decision 165/2011 (XII. 20.) AB also stated that "*the principles contained in Section 4 of the Smtv. cannot be the basis for regulatory supervision as a result of the regulations*".<sup>272</sup>

Freedom on the Net reports, citing a 2019 study by Mérték Media Monitor, that **41.3 percent of the online media market and 79.3 percent of the total media market is under pro-government influence.**<sup>273</sup>

- The cited study reveals that its authors **examined only four leading online news sites** (24.hu, origo.hu, index.hu and 444.hu), which the Freedom House report misleadingly describes as the entire online media market.
- The **41.3 percent share** quoted in the study by Mérték Media Monitor **actually represents the share of origo.hu's 2018 revenue in the total revenue of the four sites under review.**
- The same **narrow approach is applied to other areas of the media market**, with a total of 18 print, 5 radio and 5 television media taken into account in the calculation. The 79.3 percent government party share is calculated by adding the public media's budget. Therefore, the **calculations** and, in particular, the associated interpretation of Freedom House, are **misleading**.
- It is also worth noting that the exclusive consideration of turnover is also simplistic. A later analysis by Mérték Media Monitor and Medián includes a survey on the readership of online news sites, which shows that, **in 2018, 19 percent of all readers read origo.hu at least once a week, while the same figure was 20 percent for index.hu, 16 percent for 24.hu, and 11 and 10 percent for hvg.hu and 444.hu, respectively.**<sup>274</sup>

The 2020 and 2021 **Freedom on the Net** reports refer to an allegation in a report by the NGO Article 19, which **criticises the Media Council's sanctioning powers.** According to the report, "*the Media Council*

<sup>270</sup> Freedom House: Freedom on the Net 2022 – Hungary. [\[LINK\]](#) Question B3, 2021. [\[LINK\]](#) Question B3, 2020. [\[LINK\]](#) Question B3, 2019. [\[LINK\]](#) Question B3, 2018. [\[LINK\]](#) Group B, 2017. [\[LINK\]](#) Question group B, 2016. [\[LINK\]](#) Question Group B, Freedom on the Net, full report, 2015. [\[LINK\]](#) p. 368., 2014. [\[LINK\]](#) p. 363., 2013. [\[LINK\]](#) p. 328., 2012. [\[LINK\]](#) p. 224.

<sup>271</sup> András Koltay (2019): A közérkölcös védelme. In Koltay András., Magyar és európai médiaajog. Wolters Kluwer Hungary, Budapest, p. 309, Article 10(2) of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950. See Act XXXI of 1993 on the proclamation of the Convention: [\[LINK\]](#)

<sup>272</sup> Ibid. p. 314, Decision of the Constitutional Court No 165/2011 (XII. 20.) AB. [\[LINK\]](#)

<sup>273</sup> Ágnes Urbán (2019): Mérték Media Monitor. Soft censorship 2018. Mérték Füzetek18, pp. 51–57. [\[LINK\]](#) Freedom House: Freedom on the Net 2019 – Hungary. [\[LINK\]](#) Question B6, 2020. [\[LINK\]](#) Question B5, 2021. [\[LINK\]](#) Question B5, 2022. [\[LINK\]](#) Question B5.

<sup>274</sup> Andre Hann, Klára Megyeri, Gábor Polyák, Ágnes Urbán (2020): Megfertőzött médiarendszer. A politikai tájékozódás forrásai Magyarországon 2020, Figure 37. [\[LINK\]](#) p. 31.

*operates with unclear provisions and can impose high fines, which could lead to uncertainty, fear and self-censorship among journalists". According to Article 19, "daily or a weekly publication could go bankrupt due to these sanctions".<sup>275</sup>*

- Contrary to the assertion of the cited analysis by Article 19, **the Mttv. clearly states that**, when applying a legal sanction, **the Media Council shall act in accordance with the principles of gradualness and proportionality**, and must take into account the gravity and repetition of the infringement, including all circumstances of the case and the objective of the legal sanction.
- **The analysis also misrepresents the fines that can be imposed**, since, contrary to what they claim, a HUF 200 million fine cannot be imposed on television and radio broadcasters in general, but only on media service providers with significant market power and media service providers affected by the rule on limiting media market concentration.
- Furthermore, contrary to their claims, **there is no real risk of media market players going bankrupt because of the Media Council's fines**. It is also not true that fines would lead to self-censorship that would restrict the freedom of the press, since fines can only be imposed for the reasons laid down in the legislation.<sup>276</sup>

The **Freedom on the Net** reports repeatedly states critically that *"there are several laws that could potentially be misused to penalize legitimate online activities. The Hungarian criminal code bans humiliation of national symbols (the national anthem, flag, and coat of arms), dissemination of totalitarian symbols (the swastika and the red star), denial of the sins of National Socialism and communism, and public scaremongering through the media."*<sup>277</sup>

- **With regard to the statutory elements of blasphemy of national symbols, the Constitutional Court** in its Decision 13/2000 (V. 12.) took a stand in favour of increased and special protection of national symbols, **stating that these statutory elements were constitutional** and that *"national symbols had a force of preserving and maintaining the idea of sovereignty even in times of loss or limitation of independent statehood."*<sup>278</sup>
- The Constitutional Court also **confirmed the constitutionality of the open denial of nazi crimes and communist crimes**, stating *"that the denial of the crimes of national socialist and communist regimes is an abuse of freedom of expression that seriously offends the dignity not only of the community of victims, but also of the citizens committed to democratic values"*.<sup>279</sup>
- The statutory elements of the **use of symbols of totalitarianism** do not prohibit the use of totalitarian symbols in general, but **only acts against the use of these symbols in a way that disturbs public peace**, limiting their applicability and solving the constitutional problems that had arisen earlier.<sup>280</sup>

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<sup>275</sup> Article 19: Hungarian media laws Q&A. August 2011. [\[LINK\]](#) pp. 5-6.; Freedom House: Freedom on the Net, full report, 2015 [\[LINK\]](#) p. 372., 2014. [\[LINK\]](#) p. 368., 2013. [\[LINK\]](#) op. 329., 2012. [\[LINK\]](#) p. 224., Freedom on the Net, 2016 – Hungary. [\[LINK\]](#) Question Group A. 2017. [\[LINK\]](#) Question Group A. 2018. [\[LINK\]](#) Question group A. 2019. [\[LINK\]](#) Question B6. 2020. [\[LINK\]](#) Question B6, 2021. [\[LINK\]](#) Question B6.

<sup>276</sup> Sections 185 to 187 of the Mttv.

<sup>277</sup> Freedom on the Net 2023 – Hungary. [\[LINK\]](#) Question C2.; 2022. [\[LINK\]](#) Question C2; 2021. [\[LINK\]](#) Question C2 ; 2020 [\[LINK\]](#) Question C2.; 2019. [\[LINK\]](#) Question C2.

<sup>278</sup> 13/2000. (V. 12) AB határozat, Section IV [\[LINK\]](#)

<sup>279</sup> 16/2013 (VI. 20.) AB határozat, paragraph [50] [\[LINK\]](#)

<sup>280</sup> András Koltay: A gyűlöletbeszéd tilalma és a társadalmi közösségek védelme a gyűlölködéssel szemben. In: András Koltay: Magyar és európai médiajog. Wolters Kluwer Hungary. Budapest, pp. 268–269



- **By criminalising incitement against a community, the legislator has met an EU requirement.** The Framework Decision 2008/913/JHA of the Council of the European Union requires Member States to criminalise incitement to hatred.<sup>281</sup>

It should be noted that the above offences are very rare in Hungary, but all of them are in line with both EU rules and the case law of the European Court of Human Rights. Several reports of Freedom on the Net notes that **the Hungarian regulation obliges communications service providers to provide data to the authorities. According to the organisation the process is not sufficiently transparent.**<sup>282</sup>

Although the report does not define precisely to which provisions of Act C of 2003 on Electronic Communications (Electronic Communications Act) it refers to, **the legal provisions relating to the provision of data by electronic communications service providers clearly and transparently describe in which cases and in connection with which tasks the Authority may oblige the service provider to provide data.** A decision imposing such an obligation may be challenged by the provider by way of an action with suspensive effect.<sup>283</sup>

## 5.2. Reporters Without Borders

The 2014 regional report continues to **criticise the provisions of the Mttv.** in Hungary, which *"introduced fines for the creators of content that is not "balanced" – a concept deliberately left vague – and established a dangerous media regulatory authority with statutory links to Fidesz, the conservative ruling party.*"<sup>284</sup>

- When the report was prepared, Section 181 of the Mttv. regulated the proceedings in case of infringement of the obligation of balanced information. According to the law, even if the media service provider had indeed violated the requirement of balanced information, the legal consequences stipulated in Sections 186 and 187 of the Mttv., contrary to the report's claim, could not be applied to it, meaning that **no fine could be imposed on the infringer.**
- It is important to note that the **requirement of balanced information** was already present in **Hungarian media law before 2010** and is a requirement in almost all EU Member States. Decision 1/2007 (I. 18.) AB considered the obligation of balance imposed on media service providers to be constitutional, considering that *"(a) following the rapid development of broadcasting technology, information monopolies primarily pose the risk of the emergence of 'monopolies of opinion', and therefore the Constitutional Court accepts the maintenance of pluralism of opinion as a legitimate objective. To achieve this objective, the requirement of balance limits the broadcaster's editorial freedom.*"<sup>285</sup>
- Reporters Without Borders has published its position in the report presumably without any specific knowledge of the legislation, as the **NMHH can only carry out the above procedure upon request**, which is explicitly stated in the legislation. Therefore, it is clear that the **objective of the legislation was far from sanctioning the press critical of the government**, since the Media Act expressly states

<sup>281</sup> Article 1(1) of Council Framework Decision 2008/913/JHA. [\[LINK\]](#)

<sup>282</sup> Freedom House: Freedom on the Net 2023 – Hungary. [\[LINK\]](#) Question C6.; 2022. [\[LINK\]](#) Question C6.; 2021. [\[LINK\]](#) Question C6.; 2020. [\[LINK\]](#) Question C6.; 2019. [\[LINK\]](#) Question C6.

<sup>283</sup> Act C of 2003 on Electronic Communications (Electronic Communications Act), Section 47

<sup>284</sup> Reporters Without Borders: Europe – Central Asia 2014 – European Union and Balkans. [\[LINK\]](#)

<sup>285</sup> Decision 1/2007 (I. 18.) AB. [\[LINK\]](#)

that " *The Authority shall not have the right to institute proceedings ex officio in case of infringement of the obligation of balanced coverage.*"<sup>286</sup>

- In relation to the criticism of the Media Council, it is important to point out that, according to the guarantees set out in the Mttv. "*The Media Council and its members shall be solely subject to laws and may not be instructed with respect to their activities.*"<sup>287</sup> **The election of the members of the Media Council and the operation of the body are protected by special procedural guarantees**, as its members are elected by the National Assembly, and strict conflict of interest rules are laid down to ensure the Media Council's influence-free operation.

A regional report issued in 2014 **criticised the lengthy process for the renewal of the broadcasting licence of Klubrádió**. Reporters Without Borders referred to the procedure surrounding the broadcasting license of Klubrádió as "*in the witchhunt against independently reported news*", claiming that "*the new Media Council, refused to renew its licence, despite its years of existence and hundreds of thousands of listeners, and reassigned its frequency to an unknown station. After a major campaign in support of the station and several court rulings, the Media Council finally gave Klubradio a long-term licence in March 2013.*"<sup>288</sup>

- **Even though the Media Council** did not originally declare Klubrádió the winner of the tender, **it extended Klubrádió's temporary media broadcasting licence 14 times, ensuring the continuous and uninterrupted operation of the radio until the legal proceedings were concluded**. Following the Court's decision, the Media Council immediately took the necessary steps to announce the winner of the successful tender. This decision was sent in the usual way to the media company that operates Klubrádió, which won the case in accordance with the court's rulings.<sup>289</sup>

The **2020 regional report** criticises Hungary for criminalising scaremongering. According to the report, "*Anyone convicted of publishing fake news faces a prison term of up to five years. This provision gives Hungarian courts and the political authorities another means of putting pressure on independent media.*"<sup>290</sup>

- As already mentioned above, reflecting on the Freedom House report Nations in Transit 2021, **there are European examples** of (criminal) legal sanctions for the dissemination of fake news, and **the Constitutional Court** in its decision 15/2020 (8 July) AB **deemed** the relevant provision of the Criminal Code **compatible with the Fundamental Law**.

The 2021 regional report states as a fact that "*Independent media outlets censored by Viktor Orbán's government include [...] Klubrádió, a radio station that was stripped off its broadcast frequency on a minor administrative pretext.*"<sup>291</sup> A similar criticism is made in the current review available on the website, which states that "*in 2021, the agencies arbitrarily banned the last major independent radio station, Klubrádió, from airing.*"<sup>292</sup>

- As already explained in the case of Freedom House (see Section 5.1), it is untrue that Klubrádió lost its broadcasting licence on a minor administrative pretext, as a victim of government censorship, since it

<sup>286</sup> Section 181 (1) of the Mttv.

<sup>287</sup> Section 123 of the Mttv.

<sup>288</sup> Reporters Without Borders: Europe – Central Asia 2014 – European Union and Balkans. [\[LINK\]](#)

<sup>289</sup> National Media and Infocommunications Authority: Erdemes volt a jogállami utat végigjárni. [\[LINK\]](#)

<sup>290</sup> Reporters Without Borders: Europe – Central Asia 2020. [\[LINK\]](#)

<sup>277</sup> Reporters Without Borders: Europe – Central Asia 2021. [\[LINK\]](#)

<sup>292</sup> Reporters Without Borders: Country fact-file: Hungary. [\[LINK\]](#)

violated the legal provisions applicable to it on several occasions between 2014 and 2021.<sup>293</sup> In addition, Klubrádió had been offered the opportunity to participate in the tender for the frequency, but – for the reasons described above – the tender was unsuccessful.<sup>294</sup> The station appealed again to the courts. At the end of the proceedings, the **Curia accepted the argument of the Media Council, considering its position to be lawful.**<sup>295</sup> However, all these arguments are completely ignored in the report.

According to the latest country fact-file of Hungary, available on the website, **the media regulatory institutions are fully under the control of the governing party.**<sup>296</sup>

- It is a significant factual error that the **NMHH** would be under the control of any party, since **its independence and its subjection to laws only are explicitly mentioned in the provisions of Section 109 of the Mttv.**

### 5.3. Media Pluralism Monitor

A **recurring claim** in the reports on Hungary is that the **independence of the Media Council is questionable**, explaining that "*The independence of the Media Authority and the Media Council are formally specified in the Media Act. However, the appointment procedures do not provide adequate legal safeguards for independence.*" The reports refer to "*government power over the Media Council*".<sup>297</sup>

- As already indicated in section 5.1, the **NMHH is an independent regulatory body subject only to the law.** Furthermore, the members of the Media Council are also subject only to the law and cannot be instructed in their activities. The mere fact that the law gives the Prime Minister the power to make proposals on the personnel of an organisation does not in itself imply that the organisation is under the control of the government.<sup>298</sup>

According to the reports on 2014 and 2016, **the Mttv. does not ensure the enforcement of the anti-concentration rules and does not provide for the possibility to take action if the media service provider exceeds the thresholds set by the law.**<sup>299</sup> They state that "*The 2010 Media Act contains provisions limiting both horizontal and vertical concentration. However, the law does not specify clear remedies in cases in which an operator exceeds these thresholds.*".<sup>300</sup>

- **In contrast, the Mttv. lays down clear rules on the NMHH's procedural options** in the event that a **media service provider with significant market power violates the law or the Authority's decision**, for example, "*exceeding thresholds*", as the report puts it. The NMHH can monitor the enforcement of the law and its own decisions and apply the legal sanctions provided for by law in the framework of official supervision. It can also impose heavier fines for media service providers with significant market power.<sup>301</sup>

<sup>293</sup> NMHH's public response to the European Commission. [\[LINK\]](#)

<sup>294</sup> Eredménytelen a Budapest 92,9 MHz frekvenciára kiírt pályázat. [\[LINK\]](#)

<sup>295</sup> Curia information notice – Final judgment in the frequency tender of Klubrádió. [\[LINK\]](#)

<sup>296</sup> Reporters Without Borders: Country fact-file: Hungary. [\[LINK\]](#)

<sup>297</sup> Media Pluralism Monitor, report on Hungary, on 2016. [\[LINK\]](#) pp. 5-6, on 2017. [\[LINK\]](#) p. 7., on 2018-2019. [\[LINK\]](#) p. 11., on 2020. [\[LINK\]](#) pp. 11-12, on 2021. [\[LINK\]](#) p. 14., Media Pluralism Monitor, full report, on 2014. [\[LINK\]](#) p. 106. A similar assessment can be found in the country report on 2022: see Media Pluralism Monitor, full report, on 2022. [\[LINK\]](#) p. 17.

<sup>298</sup> Section 123 and 111(6) of the Mttv.

<sup>299</sup> Media Pluralism Monitor, full report, on 2014. [\[LINK\]](#) p. 107.

<sup>300</sup> Media Pluralism Monitor, report on Hungary, on 2016. [\[LINK\]](#) p. 7.

<sup>301</sup> Section 167 and 185 to 187 of the Mttv.

- In **addition**, under the Mttv., the **Hungarian Competition Authority is required to obtain the approval of the Media Council in the case of merger proceedings involving media content providers**. If the Media Council denies its consent, the Competition Authority is also bound by the decision.<sup>302</sup>

The Media Pluralism Monitor's report covering 2020 says that **the Media Council accepted the decision of the Competition Authority in the case of the Central European Press and Media Foundation (KESMA) despite the fact that it could have had the power to block the process**. The 2019 special report, which specifically **examines the creation of the KESMA**, states that the **criticism of the Media Council's independence** is reinforced by the **fact that the Media Council did not investigate the creation of the KESMA**.<sup>303</sup>

- **As opposed to this, the Media Council was not able to investigate the transaction**. The referenced case could not be investigated by the Hungarian Competition Authority either, since the Government, in its Decree 229/2018 (XII. 5.), classified the transaction as being of national strategic importance in the public interest.<sup>304</sup>
- **The Media Council has the possibility to examine concentrations** in the media market as a special authority, in the context of the **merger investigations carried out by the Competition Authority**. The essence of the case is that **no such procedure could have taken place**. So, by definition, **the Media Council was not in a position to consider the intervention**.<sup>305</sup>

The country report covering 2022 **criticises the role of the Media Council in the competition procedure for media companies**. In the context of the Media Council's decisions as special authority to grant consent, they explain: *“A particularly risky group of cases are the the decisions of the authorities on media mergers. In these cases, it has become a regular practice for the Media Council to adopt a simplified decision without reasoning, on the grounds that the application is granted in its entirety and that there is no opposing party to appeal. These decisions served the expansion of pro-Fidesz media companies. However, **the decisions are clearly unlawful**. The Authority's position is incorporated in the merger decision of the Hungarian Competition Authority (GVH) and is **binding on the GVH, which cannot deviate from it**. However, according to case law, competition decisions may be challenged by any market player present on the relevant. **The Media Council therefore unlawfully relied on the absence of an opposing party**. It also made an appeal impossible, since the decision did not state the grounds on which it was based.”*<sup>306</sup>

- In this respect, the **Media Council's procedure as a special authority takes place when a notification of a concentration is issued** pursuant to Section 24 of Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices (hereinafter referred to as the Tpvvt.). Pursuant to Section 52 aa) of the Tpvvt., only the entity notifying the concentration, the direct participant to the concentration and the undertaking that the part of undertaking belonged to prior to the concentration may be a client in competition proceedings initiated on the basis of a merger notification. On this basis, **no opposing**

<sup>302</sup> Section 171 of the Mttv.

<sup>303</sup> Media Pluralism Monitor, report on Hungary, for 2020. [\[LINK\]](#) p. 14., for 2018-2019. [\[LINK\]](#) p. 8., Report of the Media Pluralism Monitor assessing some new developments in the Hungarian media market. [\[LINK\]](#) p. 7.

<sup>304</sup> Press release by the Hungarian Competition Authority. 29 January 2020. [\[LINK\]](#)

<sup>305</sup> Article 171 of the Mttv.-

<sup>306</sup> Media Pluralism Monitor, report on Hungary, on 2022. [\[LINK\]](#) pp. 18-19.

party may participate in the competition supervision proceedings that give rise to the procedure of the special authority. Therefore, all this allows the Media Council to take a simplified decision in such cases.<sup>307</sup> It should be noted that, pursuant to Section 55(4) of the Ákr., the decision of the specialist authority may be contested in the framework of the legal remedy against the decision concluding the procedure. **Pursuant to Section 83 of the Tpvvt., the decision of the GVH ending the procedure can be challenged in court.** As the authors of the report point out, under Section 17(a) of Act I of 2017 on the Code of Administrative Court Procedure, market participants present on the relevant market may challenge the GVH's decision. **Therefore, the decisions of the Media Council were taken lawfully and the legal system provides legal remedies for market players.** It is also important to note that, contrary to the report's claim, the **GVH has the possibility to deviate from the position of the Media Council in certain circumstances.** Pursuant to Section 171(4) of the Mttv., *"The official requirement or condition imposed by the Media Council may be applied in a resolution in the merits of a case in accordance with Subsection (3) of Section 30 of the Competition Act. The official assessment of the Media Council shall be binding upon the Gazdasági Versenyhivatal, however, this fact does not prevent the Gazdasági Versenyhivatal from prohibiting a merger from being concluded that is already officially approved by the Media Council irrespective of any condition the Media Council may have imposed, or imposing a condition or an obligation to implement a commitment as defined in Subsection (3) of Section 30 of the Competition Act that the Media Council failed to impose."*

The country report covering 2021 **first states that** *"All business entities operating in Hungary, including media, are required to register with the Court of Registry. This means that every Hungarian business is obliged to disclose its owners, and this information is freely available to anybody."* **However, in the following sentence, contrary to this statement, it is pointed out that** *"There is no special regulation on this issue in the media market, the media companies have to inform the Media Council about any change in their ownership and about their media products; media companies must inform the Media Council of changes in their ownership and media offerings."* The 2020 report makes a similar point, explicitly mentioning the Media Council's activities, which they consider inadequate in this respect.<sup>308</sup>

- The report is clearly contradictory, as it is **not clear why it identifies the absence of a rule that it does not see the need for in its previous statement, since there is adequate legislation on the matter.**
- **In fact, a few lines further down, it again contradicts the above, stating that the legal provisions are inadequate in this respect:** *"Nonetheless, the MPM implementation shows a high risk, as the legal provisions, and the Media Council itself fall short in guaranteeing effective transparency ..."*<sup>309</sup>
- Overall, we can conclude that **the transparency of the ownership structure of market participants is ensured by different laws in Hungary.** As rightly pointed out in the country report, all Hungarian companies are obliged to disclose their owners, and this information is available to anyone in the public register kept by the court of registration. By the way, **Act XLIII of 2021** on setting up and operating the data reporting background relating to the identification obligation of providers of financial and other

<sup>307</sup> Section 81(2) of Act CL of 2016 on the Code of General Administrative Procedure.

<sup>308</sup> Media Pluralism Monitor, report on Hungary, on 2021. [\[LINK\]](#) p. 17., 2020. [\[LINK\]](#) p. 13.

<sup>309</sup> Media Pluralism Monitor, report on Hungary, on 2021. [\[LINK\]](#) p. 17.

services, **mentioned in the country report, has been in force** since 21 May 2021, which is **also intended to increase transparency**.<sup>310</sup>

- An important practical example of a register containing information on the ownership of press products and how to access it is **the database available on the NMHH website, which can be easily searched by the publisher or the founder of each press product**.<sup>311</sup>

The **reports' recurring claim** about the Hungarian media market, including the **commercial television market, is that "the Fidesz government has a dominant footing over the commercial TV and radio markets** ...<sup>312</sup>

- The Media Pluralism Monitor's report covering 2021 contains an internal contradiction in this respect, naming TV2 as part of the *"government-supportive media empire"* and the second largest commercial channel, while the market-leading commercial channel RTL is recognised as a media independent of the government. The question arises as to **how the government can dominate the commercial television market if the market leader** in this sector is **itself considered by the report to be independent of the government**.
- Furthermore, **in the case of** another commercial channel, **ATV, the report itself states that "Despite being captured, the outlet still employs a number of journalists who are critical of the government (one of the channel's talk show hosts, for example, joined the campaign team of opposition PM-candidate Péter Márki-Zay)**.<sup>313</sup>

**Both the reports covering 2020 and 2021 state that "In Hungary no law guarantees the protection of journalists, their rights and duties depend on the fundamental rights and on media regulation. The Hungarian law does not include any regulation against the online harassment of journalists."**<sup>314</sup>

- **In contrast, the protection of journalists is guaranteed by several laws in Hungary.** The rights and obligations of journalists **are declared in Articles 6 to 8 of the Smtv.**, which guarantee them the **protection of information sources** (Article 6 of the Smtv.), editorial and journalistic **freedom** (Article 7 of the Smtv.), and **special cases of exemption from violations** committed in the course of their work (Article 8 of the Smtv.). This is supplemented by the provisions of the Code of Criminal Procedure (hereinafter referred to as the Be.), which **contains the cases of exemption from the obligation to testify as a journalist** (Section 174 of the Be.).
- It should also be mentioned that, since 2007, Hungarian criminal law **has regulated the crime of harassment** (Article 222 of the Btk.), in which case the victim – whether a journalist or not, or whether the act is committed online or in any other form – can file a complaint and request the members of the investigating authority to prosecute the perpetrator according to the general rules.

The reports **have criticised Hungary in respect of the freedom of expression** in several years. However, according to the statement, which also appeared in the annual reports covering 2016 and 2017, *"journalists in*

<sup>310</sup> Act XLIII of 2021 on setting up and operating the data reporting background relating to the identification obligation of providers of financial and other services.

<sup>311</sup> The register is available on the NMHH website. See: [\[LINK\]](#)

<sup>312</sup> Media Pluralism Monitor, report on Hungary, on 2016. [\[LINK\]](#) p. 8., on 2021. [\[LINK\]](#) p. 210.

<sup>313</sup> Media Pluralism Monitor, report on Hungary, on 2021. [\[LINK\]](#) p. 21.

<sup>314</sup> Media Pluralism Monitor, report on Hungary, on 2021. [\[LINK\]](#) p. 12., on 2020. [\[LINK\]](#) p. 8.

Hungary are bound by criminal and civil defamation and libel laws " and " Under the criminal code, media are subject to increased punishments and liability for offences ... this has an acute chilling effect on the media"<sup>315</sup> Similar criticisms are made in the country report on 2021.<sup>316</sup>

- **The claim is proven to be unsubstantiated by the reporting questionnaire's own guidance**, which takes Article 10 of the European Convention on Human Rights<sup>317</sup> as its starting point. Clause 2 of the Convention explicitly states that "*the protection of the reputation or rights of others*" is an accepted purpose for restricting the freedom of expression.<sup>318</sup> Therefore, the Hungarian legislation on the restriction of freedom of expression referred to in the report on 2021 is not contrary to the European Convention on Human Rights, and the criticism of the Media Pluralism Monitor, which uses it as a benchmark, is not justified.
- **In fact**, following the publication of the above-mentioned reports, **on 23 May 2023, the National Assembly adopted an even more favourable regulation for journalists by removing the possibility of criminal prosecution of journalists for defamation and insult**, which the report had criticised, except in cases where the act is aimed at an obvious and seriously derogatory denial of the human dignity of the aggrieved party. Under the new provisions, which entered into force on 2 June 2023, a person who commits an act "*in the context of the free discussion of public affairs through a press product or media service it shall not be punishable on the grounds of defamation, provided that the act is not aimed at an obvious and seriously derogatory denial of the human dignity of the aggrieved party.*" " will not be punished for defamation or insult.<sup>319</sup> The report on 2022, published in June 2023, indicates that the change in legislation could have an impact on the risk result in the following year.<sup>320</sup>
- **In addition, the evaluation does not describe the limitation of personality rights of public figures** in relation to this issue.<sup>321</sup> In Hungary – as in few other European countries –, the limited protection of the reputation and honour of public figures has been weakened, because the open discussion of public affairs is, up to a certain limit, more important than the protection of the public figures' personality rights.<sup>322</sup>

<sup>315</sup> Media Pluralism Monitor, report on Hungary, on 2016. [\[LINK\]](#) pp. 4-5, for 2017. [\[LINK\]](#) p. 6.

<sup>316</sup> Media Pluralism Monitor, report on Hungary, on 2021. [\[LINK\]](#) pp. 11-12.

<sup>317</sup> Media Pluralism Monitor, full report, on 2016. p. 10. [\[LINK\]](#)

<sup>318</sup> Article 10(2) of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950. See Act XXXI of 1993 on the proclamation of the Convention: [\[LINK\]](#)

<sup>319</sup> Sections 226(3) and 227(3) on Act C of 2012 on the Criminal Code.

<sup>320</sup> Media Pluralism Monitor, report on Hungary, on 2022. [\[LINK\]](#) p. 12.

<sup>321</sup> Section 2:44 of Act V of 2013 on the Civil Code.

<sup>322</sup> According to the literature, "*...the limited protection of the personality rights of public figures is justified by the efficiency of the functioning of the democratic order, the need to conduct community debates ... There are few European states where there is a codified – statutory – rule providing for limited protection of the reputation and honour of public figures, or for the different application of certain procedural rules in related cases. In Hungary, however, the Constitutional Court has established the constitutional framework for the application of the general criminal law provisions on the protection of personality almost with the intention of creating a norm. ... [the] new Hungarian Civil Code (Act V of 2013) is unique in Europe in explicitly providing for a reduced level of protection of the personality rights of public figures in a general general clause.*" András Koltay: A Közéleti szereplők hírnév- és becsületvédelme Európában. Áttekintő vázlat. In: Quaerendo et Creando: Ünnepi kötet Tattay Levente 70. születésnapja alkalmából. Universitatis Catholicae de Petro Pázmány Nominatae Facultas Iuris et Scientiarum Politicarum - Xenia. Szent István Társulat, Budapest, pp. 328-329, 331. [\[LINK\]](#)

According to the evaluation report covering 2021, "*Article 11 of the Hungarian media law guarantees the existence of the Public Service Media, but universal access is not specified.*"<sup>323</sup> The reports for 2016, 2017, 2018-2019 and 2020 include similar statements.<sup>324</sup>

- **In contrast, the Mttv. (Sections 74-75) explicitly stipulates the obligation broadcasters to transmit public service media services, and even stipulates that – with the exception of media service distribution performed by means of broadcasting transmission – they must do so free of charge.** The law also stipulates that "*The broadcaster shall not be allowed to request an additional fee from subscribers in excess of the costs of access related to ensuring such access to media services.*" and that "*The public service media service provider shall not demand any consideration from the broadcaster for the distribution of such media services.*"
- **Moreover, when defining the purpose of public service media, the legislator declared in the first place that its tasks include to provide media services which are comprehensive in both the social and the cultural sense, aiming to address social classes, culturally distinct groups and individuals to the extent possible** [Section 83(1)a) of the Mttv.], i.e. it formulates the requirement of universal access from the content side.
- We also note that, even if the claim were true, it would have no practical significance according to the report, since the document itself states that public service media are accessible to more than 99 percent of the population.<sup>325</sup>
- **In the most recent report, published in 2023, the authors no longer criticise the requirement of universal access.** On the contrary, they point out that "*The must-carry rules ensure a secure and prominent place for public service television channels on all platforms, including DVB-T.*"<sup>326</sup>

According to the report covering 2021, "*The government did not provide subsidies to news media in the context of the pandemic*", and the report covering 2020 says: "*The Hungarian state did not provide extraordinary subsidies to help media companies, except that the Media Authority let off the media content service fee for the audiovisual sector.*"<sup>327</sup>

- **The report covering 2021 does not describe the waiving of the media service fee, while the 2020 study itself recorded the fact of its waiving, although it trivialised its importance.** Meanwhile, media1.hu, an online media market portal critical of the government, also calls the measure "*a substantial help*".<sup>328</sup> **In addition, the Media Council's subsidy scheme for radio and television media service providers offering non-refundable subsidies for the production of news programmes, public service magazine programmes and thematic magazine programmes continued to be popular among applicants during the period under review.**<sup>329</sup>

<sup>323</sup> Media Pluralism Monitor, report on Hungary, on 2021. [\[LINK\]](#) p. 15.

<sup>324</sup> Media Pluralism Monitor, report on Hungary, on 2016. [\[LINK\]](#) p. 6., on 2017. [\[LINK\]](#) p. 7., on 2018-2019. [\[LINK\]](#) p. 11., on 2020. [\[LINK\]](#) p. 12.

<sup>325</sup> See: Media Pluralism Monitor, report on Hungary, on 2020. [\[LINK\]](#) p. 12.

<sup>326</sup> Media Pluralism Monitor, report on Hungary, on 2022. [\[LINK\]](#) p. 19.

<sup>327</sup> Media Pluralism Monitor, report on Hungary, on 2020. [\[LINK\]](#) p. 15., on 2021. [\[LINK\]](#) p. 7.

<sup>328</sup> Dániel Szalay: Koronavírus: Elengedik a kereskedelmi rádiók és tévék esedékes médiaszolgáltatási díját. Media1.hu. 18 April 2020. [\[LINK\]](#) For the waiving of the media service fee as an emergency measure in connection with the coronavirus epidemic, see Section 8 of Government Decree 132/2020 (IV. 17.) Korm. and Section 1 of Government Decree 165/2021. Korm., and then Section 2 of Government Decree 271/2021 (V. 21.). The exemption was granted until the end of the quarter in which the emergency ended.

<sup>329</sup> NMHH report. 19 November 2021. [\[LINK\]](#)



The report covering 2014 **cites an amendment to the Fundamental Law restricting the publication of political advertisements during campaign periods as a case of obstructing the freedom of expression.**<sup>330</sup>

- The authors are presumably referring to the Fourth Amendment to the Fundamental Law adopted in March 2013, which incorporated into the Fundamental Law the section of the Electoral Procedure Act previously annulled by the Constitutional Court (Decision 1/2013 (I. 7.) AB). This provision limited the publication of political advertising during the campaign period to the public service media. However, **the report fails to mention that the Fifth Amendment to the Constitution changed the controversial provision** allowing the publication of political advertising in commercial media **as early as September 2013.**<sup>331</sup>

**According to the report covering 2014, there is no formal procedure for setting the budget of the MTVA.**<sup>332</sup>

- In contrast, Section 136 (4) of the **Mttv.** provides for a **public service contribution to be paid by the Hungarian State** to MTVA on a **normative basis**. The contribution is the **main source of MTVA's revenue** – 85 percent of the 2022 revenue estimate –, **meaning that its annual amount essentially determines the Fund's budget**. The annual amount of the public service contribution was set by the legislator at HUF 1,350 per household per month, based on the number of households using a set capable of receiving linear audiovisual media services, subject to indexation according to the consumer price index of the previous year. It is worth noting that the law also contains a list of other possible sources of revenue for the Fund.<sup>333</sup>

The report covering 2014 **portrays the advertising tax as a political tool**, primarily as a **tax policy threat against RTL Klub**. The 2018-2019 report again refers to this issue: *"The remaining independent media is often the target by campaigns, threatened by taxation policies and controlled by state advertising."*<sup>334</sup>

- By contrast, **the Hungarian advertising tax** to which the finding is presumably referring has subsequently **been found by the European Court of Justice to be in line with European law**, stating that its application did not confer a selective advantage on businesses.<sup>335</sup> In addition, it can be said that **the progressive advertising tax was eventually replaced by a flat-rate system**, which is still in force.

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The report covering 2022 states that *"There is no law prohibiting advertorials or other forms of disguised advertisement"*.<sup>337</sup>

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<sup>330</sup> Media Pluralism Monitor, full report, on 2014. [\[LINK\]](#) p. 103.

<sup>331</sup> Fourth Amendment to the Fundamental Law of Hungary (25 March 2013) [\[LINK\]](#), Decision 1/2013 (I. 7.) of the Constitutional Court [\[LINK\]](#), Fifth Amendment to the Fundamental Law of Hungary [\[LINK\]](#) (26 September 2013)

<sup>332</sup> Media Pluralism Monitor, full report, on 2014. [\[LINK\]](#) p. 107.

<sup>333</sup> Paragraphs (3) and (4) of Section 136 and Annex 4 of the Mttv., as well as Annex 4 of Act CXXVII of 2021 on the National Media and Infocommunications Authority's unified budget for 2022.

<sup>334</sup> Media Pluralism Monitor, full report, on 2014. [\[LINK\]](#) p. 110. Media Pluralism Monitor report on Hungary, on 2018-2019. [\[LINK\]](#) p. 15.

<sup>335</sup> Judgment in Case C-562/19 P Commission v Hungary. Press release of the Court of Justice of the European Union No 38/21. [\[LINK\]](#)

<sup>336</sup> Section 5 of Act XXII of 2014 on advertising tax

<sup>337</sup> Media Pluralism Monitor, report on Hungary, on 2022. [\[LINK\]](#) p. 24.

- **In contrast**, Section 20 (3) of the Smtv. expressly states that "*Surreptitious commercial communication shall be prohibited in media content.*", and advertising is considered a commercial communication under the Act. In fact, **the Hungarian legal order applies even stricter regulation than the requirements of EU Directive 2010/13 on audiovisual media services** (the AVMS Directive). The concept used in the Directive implies that the presentation of the communication is intended by the media service provider to serve advertising purposes.<sup>338</sup> In contrast, the Hungarian legislation "*focuses on a higher level of consumer protection and, while respecting the fundamental rule of objective liability, does not provide any excuse for media content providers and only examines the published content when assessing the surreptitious commercial communication*".<sup>339</sup>

In the report covering 2016, they state that "*independent media exist, however these are mainly small online outlets and investigative reporting NGOs that are supported by crowd-sourced and international funds.*"<sup>340</sup>

- It is **untrue** to say that the segment of the media that define themselves as independent are mostly small online outlets. The readership data of the Mérték Media Monitor study, which is also cited by the report several times, shows that, **in 2016, the top 5 most read websites included index.hu** (which was then still written by the editorial team that later founded telex.hu), **hír24.hu, hvg.hu and 444.hu.**<sup>341</sup>

The report evaluating the 2018-2019 period states that "*on 21 December 2019 one of the oldest community radio in Hungary, the Civil Radio was closed down after 24 years of existence, because the Media Authority did not give them the license to broadcast.*"<sup>342</sup> In the report on the year 2022 states regarding the case, that Civil Rádió was "*excluded from renewal due to repeated minor data-related infringements*".<sup>343</sup>

- The **report does not explain the legal background of the decision**, which was explained in detail in the Media Council's decision to reject the application for renewal of its media service licence. In its decision, the Media Council stated that, **under the Mttv.**, the renewal of a media service licence without a new tender is excluded if the media service provider has been condemned by the Media Council for serious or repeated infringements during its operation. It should be noted that the previous media legislation, i.e. Act I of 1996 on Radio and Television Broadcasting already contained a provision (Section 107 (3)) under which the broadcasting licence could not be renewed if the right holder repeatedly breached the broadcasting contract. As Civil Rádió had previously been subject to several infringement decisions, against which it did not appeal, **the Media Council had no discretion to extend its media service licence and had to reject the application.**<sup>344</sup> In this context, the report covering 2022 wrongly states that Civil Rádió was only penalised for failing to meet its data reporting obligations, as it had not previously fulfilled its obligations related to the programme quota.<sup>345</sup>

<sup>338</sup> Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services. Article 1 (j). [\[LINK\]](#)

<sup>339</sup> Tamás Szikora (2021): Smtv. 20. §-ához. In András Koltay, András Lapsánszky (eds.): Nagykommentár a sajtószabadságról és a médiatartalmak alapvető szabályairól szóló 2010. évi CIV. törvényhez

<sup>340</sup> Media Pluralism Monitor, report on Hungary, on 2016. [\[LINK\]](#) p. 11.

<sup>341</sup> Endre Hann, Klára Megyeri, Gábor Polyák, Ágnes Urbán: Megfertőzött médiarendszer. A politikai tájékozódás forrásai Magyarországon 2020. Figure 37. [\[LINK\]](#) p. 31.

<sup>342</sup> Media Pluralism Monitor report on Hungary, on 2018-2019. [\[LINK\]](#) p. 17.

<sup>343</sup> Media Pluralism Monitor, report on Hungary, on 2022. [\[LINK\]](#) p. 18.

<sup>344</sup> Section 48(7) of the Mttv.

<sup>345</sup> Decision No 1202/2019 (X. 8.) of the Media Council of the NMMH. [\[LINK\]](#)

- **They requested a judicial review of the decision** to refuse the renewal of their entitlement, **but** the Curia, as the court of appeal, upheld the judgment of the **Budapest-Capital Regional Court**, which **dismissed the application of the Civil Rádiózásért Alapítvány**.
- It is important to note that, on 7 January 2020, the NMHH registered the permanent online linear media service of the media service provider Civil Rádió, meaning that the Civil Rádiózásért Alapítvány had the possibility to continue its operation. **Following the conclusion of the lawsuit, the Media Council launched a tender** for the use of the Budapest 98.0 MHz media service, **for which** the former media service provider, **the Civil Rádiózásért Alapítvány, did not submit a bid.**

According to the report, which covers the year 2020, **the Media Council "handed, over time, all radio and most television frequencies to government-supporting owners or management"**.<sup>346</sup>

- In contrast, under the Mttv., the Media Council only uses tendering for authorising linear radio media services that use limited resources. In all other cases, only a notification is required.<sup>347</sup> Licensing procedures related to spectrum management are also relevant for radio media services. The **"television frequency" allocation practice** referred to in the report is, therefore, **based on an unfounded observation**. The finding on radio spectrum licensing was examined in the section on subjective opinions.

The country report on 2021 claims that **the NMHH has failed to do all it can to enforce the EU regulation banning Russian television channels**, as the RT (Russia Today) website remains accessible.<sup>348</sup>

- **By contrast, the EU Regulation** on the restriction of the distribution of content broadcasted by certain Russian state-affiliated entities **is a directly applicable EU legal norm**, and such as, it **must be respected by all operators without any specific decision or obligation from the authorities**. Nevertheless, the NMHH **has also specifically called on the only broadcaster whose television offerings included Russia Today** to cease the service, and the Authority **is also monitoring compliance with the regulations ex officio within the scope of its powers**.<sup>349</sup>
- We note that, in its **report examining 2021, Media Pluralism Monitor examines the implementation of an EU regulation adopted in 2022.**

Looking at the year 2021, they claim **that the Media Council has "decided to block the license renewal of one of the country's oldest independent independent community radio stations, the Tilos Rádió."**<sup>350</sup> The report on the year 2022 says that **"Hungarian media regulator attempted to block"** Tilos Rádió from renewing its frequency licence.<sup>351</sup>

<sup>346</sup> Media Pluralism Monitor, report on Hungary, on 2020. [\[LINK\]](#) p. 12.

<sup>347</sup> Section 41 of the Mttv.

<sup>348</sup> Media Pluralism Monitor, report on Hungary, on 2021. (Hungarian version) [\[LINK\]](#) p. 7.

<sup>349</sup> See: Information from the NMHH on content provided by Russian-affiliated organisations banned for distribution in the European Union. 17 April 2023. [\[LINK\]](#), Council Regulation (EU) 2022/350 (1 March 2022) amending Regulation (EU) 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, Council Regulation (EU) 2022/879 (3 June 2022) amending Regulation (EU) 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, Council Regulation (EU) 2022/2474 (16 December 2022) amending Regulation (EU) 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, Council Regulation (EU) 2023/427 (25 February 2023) amending Regulation (EU) 833/2014/EU concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

<sup>350</sup> Media Pluralism Monitor, report on Hungary, on 2021. [\[LINK\]](#) p. 26.

<sup>351</sup> Media Pluralism Monitor, report on Hungary, on 2022. [\[LINK\]](#) p. 35.

- **The report covering 2021 does not explain that the Media Council had no discretion to extend the licence, and had to reject the application,** as Tilos Rádió had previously been subject to several infringement decisions.<sup>352</sup> According to the Mttv., the extension of a media service licence without a new tender is excluded if the media service provider has been condemned by the Media Council for serious or repeated infringements during its operation.<sup>353</sup> As already mentioned in the context of Civil Rádió, it should be noted that the previous media legislation, i.e. Act I of 1996 on Radio and Television Broadcasting already contained a provision (Section 107 (3)) under which the broadcasting rights could not be renewed if the right holder repeatedly breached the broadcasting contract. Following its decision on non-renewal, the Media Council launched a tender procedure for the use of the Budapest 90.3 MHz radio media service with regional area of transmission. Since the Tilos Kulturális Alapítvány was the only bidder in the tender procedure, **the Media Council declared the Tilos Kulturális Alapítvány the winner in its Decision No. 788/2022 (IX. 20.) of 20 September 2022. Therefore, Tilos Rádió was able to continue its radio activities on the previous frequency, with a 10-year media broadcasting licence.**<sup>354</sup> The 2022 report nevertheless concludes that *"the threat of losing a licence contributes to the widespread perception that community media's independence of the state is at least fragile in Hungary"*.<sup>355</sup>

The report on 2021 claims that **the Authority is arbitrarily withdrawing media licences,** *"its licensing and de-licensing decisions have handed, over time, all radio and most television frequencies to government-supporting owners or management."*<sup>356</sup>

- In contrast, **the Mttv. does not grant any powers under which radio and television licences can be revoked,** thus, such decisions could not have been made. The unsubstantiated nature of the comment on the licensing practices for television channels has already been pointed out above.

**Looking at the year 2021, they claim that the Authority allows unbalanced information.** *"Allowing for one-sided, propagandistic news coverage in all public-service radio and television channels is a violation of the Media Act's "balanced coverage" tenet."* They also **criticise the media authority's sanctioning practices,** claiming that the Authority did not impose fines for lack of political balance: *"(...) but these fines were not imposed for lack of political balance (...)"*.<sup>357</sup>

- **In contrast, the Mttv. precludes the Authority from initiating ex officio proceedings for infringement of the obligation of balanced coverage.**<sup>358</sup> Such proceedings can, therefore, be initiated only upon request, and the Authority has no influence on the number of proceedings initiated. **They also wrongly criticise the Authority's practice of imposing sanctions,** since the law does not allow the Authority to impose fines in this type of proceedings.<sup>359</sup>

<sup>352</sup> Decision No 360/2022 (IV. 12.) of the Media Council of the National Media and Infocommunications Authority, press release of the NMHH of 14 April 2022. [\[LINK\]](#)

<sup>353</sup> Section 48 of the Mttv.

<sup>354</sup> Decision No 788/2022 (IX. 20.) of the Media Council of the National Media and Infocommunications Authority. [\[LINK\]](#)

<sup>355</sup> Media Pluralism Monitor, report on Hungary, on 2022. [\[LINK\]](#) p. 35.

<sup>356</sup> Media Pluralism Monitor, report on Hungary, on 2021. [\[LINK\]](#) p. 14.

<sup>357</sup> Media Pluralism Monitor, report on Hungary, on 2021. (Hungarian version) [\[LINK\]](#) pp. 14.

<sup>358</sup> Section 181(1) of the Mttv.

<sup>359</sup> Section 181(5) of the Mttv.

**According to the authors** of the report covering 2021, “(...) *most of the market actors even privately-owned, formally independent outlets are controlled largely by the government, and not by different parties, or business interests.*”<sup>360</sup>

- In this context, it is worth clarifying that the analyses referred to in the Country Report focus on the news and media market, not the media market as a whole. Moreover, **even the research on the news and public media market by Válasz Online, also cited in the report, did not show a clear numerical majority**, estimating the share of significant national media outlets linked to the government at 50%.
- It is also worth noting that **a nuanced picture of the situation of pluralism can be obtained by considering the economic weight and reach (readership, viewership, listenership) of media market players.**

**According to the report covering 2022**, “*older, lower educated and/or rural audiences have less access to critical information, as the media most accessible to (or most widely used by) these groups act as amplifiers of government messages, without any internal pluralism in their content.*”<sup>361</sup> The same conclusion is made, almost word for word, in the report covering 2021.<sup>362</sup>

- The crucial element in assessing media pluralism is to examine the possibility of access to different media sources. The Media Market Report 2023, published by NMHH, **states that the largest proportion of viewers who are informed by a single television news source follow the news programmes of RTL**, which is critical of the government. It also reveals that the channel's news is followed by almost two thirds of the total group of television news viewers on a weekly basis.
- The Nielsen Audience Measurement in the Media Market Report also shows that **RTL News continues to be one of the most watched news programmes.**<sup>363</sup>
- It should also be noted that, in addition to the television and radio platforms mentioned in the report, the use of other types of media (e.g. online platforms) should also be taken into account when assessing the possibility of access to diverse information.

**The report on 2022 covered the Media Council's subsidy programme, stating that “procedures of allocation are not known” and that “there is no information about the criteria regarding the distribution of these funds”.**<sup>364</sup>

- The **Media Council Support Programme**, in contrast, has **its own information website**, where the specific **calls for proposals containing the conditions of application**, the **General Conditions of Application** document, the **relevant legislation** and the **Grant Control Regulations are all accessible.**<sup>365</sup>

<sup>360</sup> Media Pluralism Monitor, report on Hungary, on 2021. [\[LINK\]](#) p. 6.

<sup>361</sup> Media Pluralism Monitor, report on Hungary, on 2022. [\[LINK\]](#) p. 27.

<sup>362</sup> Media Pluralism Monitor, report on Hungary, on 2021. [\[LINK\]](#) p. 21.

<sup>363</sup> NMHH: Media Market Report 2023. [\[LINK\]](#) pp. 160-162.

<sup>364</sup> Media Pluralism Monitor, report on Hungary, on 2022. [\[LINK\]](#) pp. 23 and 35.

<sup>365</sup> National Media and Infocommunications Authority, Media Council Support Programme website. [\[LINK\]](#).

## 6. Subjective opinions included in the media freedom reports

### 6.1. Freedom House

A recurring element in Freedom of the Press reports is that **their claims are not substantiated in any way**, and their sources are not cited, not even footnoted.

- A good example of this is that the report takes it as a fact that the National Authority for Data Protection and Freedom of Information (NAIH) will restrict freedom of information, despite the fact that, in the year covered by the report (2011), this authority had not yet been established.<sup>366</sup> Moreover, the report makes no attempt to explain why it believes that the creation of the NAIH will restrict freedom of information in the future.

According to the Freedom on the Net country reports, *"independent news websites face increasing pressure to conform to progovernment narratives"*.<sup>367</sup>

- The statement can be considered a subjective opinion, since **they do not specify which websites they refer to as independent and the kind of pressure they refer to**.

The Freedom on the Net country reports repeatedly refer to the 2019 study by the European Audiovisual Observatory, which concludes, based on an analysis of the period 2011–2013 by the Mérték Media Monitor, that *"the Media Council's decision-making regarding market entry regulations and frequency tendering has been found biased"*.<sup>368</sup>

- The detailed **rules for the Media Council's tendering procedure for linear media services are set out in Chapter III of Part 2 of the Mttv.**, including the requirement that **calls for tenders must clearly specify "the evaluation criteria and the aspects to be taken into consideration in the evaluation, the categories for evaluating tenders, the quantified evaluation framework allocated to specific evaluation categories, as well as the rules of evaluation serving as the basis for the Media Council's decision on awarding the contract"**.<sup>369</sup> The authors' assertion of **politically motivated tendering practices** must be regarded as **an opinion of political nature** without any concrete cases to support it.

Several Freedom on the Net reports cite a joint report published in 2019 by press freedom organisations, which argues that **the Media Council's decisions "on proposed media mergers have been taken so as to block mergers involving independent media while approving mergers among progovernment media, facilitating the concentration of pro-government ownership"**.<sup>370</sup>

<sup>366</sup> Freedom House: Freedom of the Press 2012. [\[LINK\]](#) p. 7.

<sup>367</sup> Freedom House: Freedom on the Net 2020 – Hungary. [\[LINK\]](#) Question B7, 2021. [\[LINK\]](#) Question B7, 2022. [\[LINK\]](#) Question B7., 2023. [\[LINK\]](#) Question B7.

<sup>368</sup> The independence of media regulatory authorities in Europe. European Audiovisual Observatory. 2019. pp. 57-58. [\[LINK\]](#), Media Council redraws the radio market – Report on the frequency tendering by the Media Council. Measurement Media Monitor. 3 November 2013. [\[LINK\]](#) Freedom House: Freedom on the Net, full report, 2015. [\[LINK\]](#) p. 365, 2014. [\[LINK\]](#) p. 361, 2013. [\[LINK\]](#) p. 327, Freedom on the Net 2020 – Hungary.. [\[LINK\]](#) Question A5, 2021 [\[LINK\]](#) Question A5.,

<sup>369</sup> Section 52 of the Mttv.

<sup>370</sup> International Press Institute, Article 19, Committee to Protect Journalists, European Centre for Press and Media Freedom, European Federation of Journalists, Free Press Unlimited, and Reporters Without Borders: Conclusions Of The Joint International Press Freedom Mission To Hungary 3 December 2019. [\[LINK\]](#) p. 4. Freedom House: Freedom on the Net 2020 – Hungary. [\[LINK\]](#) Question B6, 2021. [\[LINK\]](#) Question B6, 2022. [\[LINK\]](#) Question B6.

- The reports adopt the statement of the referenced report verbatim, without **concrete examples and legal backing**, and can therefore be considered a subjective opinion.

In several reports, Freedom on the Net, referring to the position of the OSCE representative on the 2012 amendment of the Mttv and the Media Council, claims that *"the significant powers given to the NMHH continue to threaten media freedom"*.<sup>371</sup>

- A serious shortcoming of the **reports** is that **strong**, generalised **accusations**, such as the statement made by the OSCE representative, are **communicated without any assessment of their justification**, such as an evaluation of legislation or practical experience.

A Freedom on the Net mentions in several reports, that *„the government and its allies sometimes employ court orders to pressure publishers and content hosts to delete content.”* The 2023 report cites the cases of weekly Magyar Narancs and Forbes and also presents the cases of two well-known individuals: in one case the data subject asked the hosting service providers of internet sites to remove content that was deemed to be infringing and in the other the Curia ruled that the content in question infringed personality rights.<sup>372</sup>

- In two of the examples cited in the 2023 report **the removal of content deemed to be infringing was initiated with an intermediary (hosting) provider, and in the other cases, although court decisions were issued, the report gives the unsubstantiated impression that the courts did not act in accordance with the law.** The courts in Hungary represent a separate branch of power independent of the government, and according to Act CLXI of 2011 on the Organisation and Administration of the Courts (Court Organisation Act), **judges and lay judges are independent, make decisions in accordance with their convictions under the law, and cannot be influenced or instructed** in the context of their judicial activities.<sup>373</sup> **In light of this, the Freedom on the Net finding can be considered a subjective statement.**

According to the Reviving News Media in an Embattled Europe special report, *"media experts also noted that commercial players are more unlikely to place advertising in independent media, for fear of repercussions such as tax investigations."* The report also states that *"In Hungary, higher-level courts tend to favor the government, especially the Constitutional Court."*<sup>374</sup>

- A major shortcoming is that the **above statements** are taken from the **interviews conducted and treated as facts.** However, these serious claims are not supported by any further research or sources.

## 6.2. Reporters Without Borders

In its general analysis for 2011-2012, Reporters Without Borders strongly criticised the introduction of the Mttv., claiming that its enactment *"giving the ruling party direct control over the media."*<sup>375</sup>

<sup>371</sup> OSCE press release. 25 May 2012. [\[LINK\]](#) Freedom House: Freedom on the Net, full report, 2013. [\[LINK\]](#) p. 323, 2014 [\[LINK\]](#) p. 358, 2015 [\[LINK\]](#) p. 362.

<sup>372</sup> Freedom on the Net 2023 – Hungary. [\[LINK\]](#) B2 kérdés.; 2022. [\[LINK\]](#) B2 kérdés.; 2021. [\[LINK\]](#) B2 kérdés.; 2020. [\[LINK\]](#) B2 kérdés.; 2019. [\[LINK\]](#) B2 kérdés.

<sup>373</sup> Act CLXI of 2011 on the Organisation and Administration of the Courts (Court Organisation Act), Section 3

<sup>374</sup> Freedom House: Reviving News Media in an Embattled Europe. [\[LINK\]](#) pp. 6. and 21.

<sup>375</sup> Reporters Without Borders: World Press Freedom Index 2011/2012. [\[LINK\]](#)

- **However, the report does not contain any facts** to support this serious statement, and therefore this statement of the organisation can be considered as a subjective expression of opinion.

In the 2013 general analysis, we again find unsubstantiated statements about Hungary: *"Hungary is still paying the price of repressive legislation that has had a palpable effect on how journalism is practised."*<sup>376</sup>

- Contrary to this claim, domestic **media regulation ensures** – often in several layers – **the basic privileges of journalists and media**, including appropriate source protection guarantees, access rights and editorial freedom.<sup>377</sup> In addition, it is inequitable that a report that is supposed to evaluate a single year criticises a state for events that took place in a previous year.

Once again, the 2021 report makes a highly subjective claim about the state of press freedom in Hungary, which is difficult to substantiate on the basis of domestic legislation: *"Viktor Orbán managed to complete his country's adaptation of an alternative European model that dispenses with press freedom altogether."*<sup>378</sup>

- **Freedom of the press** in our country is **guaranteed by** the highest legal source, the **Fundamental Law**. Given, among other things, that many news sources considered critical of the government, such as RTL, are among the dominant players in the market segment, it is difficult to support a professional claim that press freedom has been abolished in our country.

Reporters Without Borders has had some harsh words for the Hungarian Prime Minister in recent years. In the latest country-fact file, they even called him a *"press freedom predator"*,<sup>379</sup> in a previous report, they said that *"Hungary fell 17 rungs to 40th place after adopting a law giving the ruling party direct control over the media"*.<sup>380</sup>

- Such **publicist-style, sensationalist statements** clearly indicate that **Reporters Without Borders' reports are not necessarily prepared with scientific rigour**, with the aim of objectively examining and evaluating the countries.

### 6.3. Media Pluralism Monitor

The Media Pluralism Monitor covering 2018-2019, **portrayed the Hungarian media situation as a pan-European threat**: *"The government's media machinery now has businesses interests in London, Slovenia, Macedonia, and has good relationships with alternative news organizations in France, Germany and Italy. Therefore the Hungarian media environment can pose high risks to media pluralism in Europe too."*<sup>381</sup>

- It can be considered a **highly exaggerated political statement** that the *"Hungarian media environment"* would pose a threat at European level, simply because Hungarian media market players and entrepreneurs do business in the media sector in other European countries. This finding is **not relevant** for the assessment of media pluralism in Hungary, and is itself **unsubstantiated** without

<sup>376</sup> Reporters Without Borders: World Press Freedom Index 2013. [\[LINK\]](#)

<sup>377</sup> Annamária Dobrotka-Mayer - András Koltay (2019): Az újságírók és a média privilégiumai. In Koltay András., Magyar és európai médiajog. Wolters Kluwer Hungary. Budapest 2019. pp. 495-504.

<sup>378</sup> Reporters Without Borders: Europe – Central Asia 2021. [\[LINK\]](#)

<sup>379</sup> Reporters Without Borders: Hungary. [\[LINK\]](#)

<sup>380</sup> Reporters Without Borders: General analysis 2011-2012. [\[LINK\]](#)

<sup>381</sup> Media Pluralism Monitor report on Hungary, on 2018-2019. [\[LINK\]](#) p. 20.



substantial analysis of the impact of individual media market deals on the media market in a particular country.

The Media Pluralism Monitor's reports repeatedly express general criticism of the Media Council's media licensing practices, particularly with regard to radio frequency management. According to reports, *"Community radio licensing has been highly politicised since 2010, due to NMHH's tendering practices which have generally favored outlets that provide government-friendly, conservative and/or religious programming"*.<sup>382</sup>

- In contrast, the detailed **rules for the Media Council's tendering procedure for linear media services are set out in Chapter III of Part 2 of the Media Act**, including the requirement that **calls for tenders must clearly specify "the evaluation criteria and the aspects to be taken into consideration in the evaluation, the categories for evaluating tenders, the quantified evaluation framework allocated to specific evaluation categories, as well as the rules of evaluation serving as the basis for the Media Council's decision on awarding the contract"**.<sup>383</sup> In the absence of cases to support it, the authors' assertion of politically motivated tendering practices **can be regarded as a subjective statement of opinion**.
- It is also noteworthy that the **authors argue that radio spectrum allocation has been politicised since 2010, even though public debates about spectrum allocation had included critical voices even before 2010**. The 2014 report itself refers to the ORTT's (National Radio and Television Board) controversial 2009 procedure on the frequencies of two national commercial radio stations.<sup>384</sup>

According to the report on 2018-2019: *"The decisions of the Media Council are often questionable and dubious, serving particular media politics of the government. In these terms we can say that the Media Council is ineffective to enforce some of the most important aspects of the Media Act 2010, but highly effective in enforcing the government's will."* They also write: *"(...) the many times politically motivated decisions by the regulators and the courts (...) create an atmosphere for chilling mechanisms and fear."*<sup>385</sup>

- In other places, the reports at least attempted to justify their claims questioning the independence of the Media Council by challenging the appointment and election rules. Our comments on this are set out in the section about factual errors. The **sentences quoted** here, on the other hand, **are subjective expressions of a political nature**.

Analysing the years 2018-2019, they explain: *"If we see accross Europe, similar tendencies can be observed. Old and new political parties, movements and subcultures on the left and on the right abuse freedom of expression and freedom of press to promote authoritarian and totalitarian ideas similar to what the Hungarian government does promote."*<sup>386</sup>

- The statement about the promotion of authoritarian or totalitarian ideas can be considered **a political expression of opinion that is difficult to reconcile with a professional evaluation of media pluralism**.

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<sup>382</sup> Media Pluralism Monitor, report on Hungary, on 2016. [\[LINK\]](#) p. 10., on 2017. [\[LINK\]](#) p. 12., on 2018-2019 [\[LINK\]](#) p. 17., on 2020 [\[LINK\]](#) p. 20., on 2021 [\[LINK\]](#) p. 26., Media Pluralism Monitor, full report, on 2014. [\[LINK\]](#) p. 104. A similar assessment can be found in the country report on 2022: see Media Pluralism Monitor, report on Hungary, on 2022. [\[LINK\]](#) p. 35.

<sup>383</sup> Section 52 of the Mttv.

<sup>384</sup> Media Pluralism Monitor, full report, on 2014. [\[LINK\]](#) p. 105.

<sup>385</sup> Media Pluralism Monitor report on Hungary, on 2018-2019. [\[LINK\]](#) pp. 11 and 15.

<sup>386</sup> Media Pluralism Monitor report on Hungary, on 2018-2019. [\[LINK\]](#) p. 20.

In their analysis of the year 2021, the authors state that *"it is important to note that (...) the **new head of the media authority was appointed shortly before the parliamentary elections of 2022** (as his predecessor resigned in 2021, before the end of his mandate), thus ensuring that the majority of the government of the time could decide on his person"*. Later, this statement was repeated: *" In October 2021, the President of the Media Authority and its Media Council, Monika Karas resigned one year early, so that a successor can be appointed by the Fidesz parliamentary majority prior to the election in 2022."*<sup>387</sup> The report on 2022 makes a similar point.<sup>388</sup>

- **Therefore, the reports include speculation of a political nature**, without any factual basis. Their political narrative is recurrently implied in the report and referred to as a *"significant event"*. The issues relating to the election of the President of the NMHH and the Media Council and the members of the Media Council are analysed in the chapter on the factual errors.

Citing the results of an international investigative project, the authors of the report covering 2021 conclude that the Hungarian **authorities have committed illegal acts using the Pegasus spy software**. This finding is echoed later in the report, when it is written that *"Hungarian authorities had used the Pegasus spy software to hack into the phones of investigative or political journalists."* Later, they add that *"over the surveillance of journalists, officials, politicians and critics of the government (Vaski, 2021), ... the media authority remained silent."*<sup>389</sup>

- In relation to the comment on the Media Authority, it can be concluded that it is **beyond the legal competence of the NMHH to judge the legality of authorising alleged secret surveillances**.

## 7. Closing words

- As we stressed in our Foreword, the NMHH supports balanced reports, based on professional, verified facts and balanced views, which assess the situation of countries, including Hungary, with regard to media freedom and pluralism.
- However, we have highlighted a number of methodological and content concerns about the reports presented above that prevent the evaluated documents from meeting these expectations.
- The reports are further unbalanced by the fact that the criteria for the selection of the persons involved in their preparation are not sufficiently clear. This can be inferred from the fact that the authors of the reports are typically individuals or staff members of organisations that are one-sidedly critical of the Hungarian media situation. Approaches and professional opinions that differ from their position are not included in the documents.
- While the Media Pluralism Monitor expresses its intention to address the risks arising from the lack of pluralism by setting up an external expert group, it does not seem to have succeeded in this respect. Any dissenting opinions from external experts can be ignored by the country team, and are not presented in the text reports.
- The one-sidedness of the reports' use of resources is criticisable. A glaring example is the Freedom in the World report, which since 2015 refers to Politics.hu as the only Hungarian source. The site was

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<sup>387</sup> Media Pluralism Monitor, report on Hungary, on 2021. (Hungarian version) [\[LINK\]](#) pp. 10 and 13.

<sup>388</sup> Media Pluralism Monitor, report on Hungary, on 2022. [\[LINK\]](#) p. 17.

<sup>389</sup> Media Pluralism Monitor, report on Hungary, on 2021. [\[LINK\]](#) pp. 9, 14 and 20.

suspended indefinitely at the beginning of 2018 and only became available again years later, although it was listed as a resource in the report during this period.

- The lack of coherence between the numerical scores and the textual reports may also be criticised. The Media Pluralism Monitor reports typically do not provide a satisfactory explanation of the numerical results in the accompanying textual evaluations. The same textual justification is used several times in the reports for different years and the risk values to be substantiated are also different. For example, the text of the reports for 2016 and 2017 is almost identical, while the risk scores differ significantly in some places. In the case of the indicator on access to media for minorities in the report on 2017, this had the absurd consequence that the high risk rating of 75% was accompanied by almost the same textual justification as in 2016, when the same risk rating was as low as 25%.
- It is a worrying practice that, in many cases, reports include events outside the period under review. The Media Pluralism Monitor, for example, in its report evaluating the year 2021, wrongly criticises the NMHH's activities in relation to the implementation of an EU regulation on the banning of certain Russian channels adopted in 2022. Another example is Freedom of the Press, which, in 2011, predicted that the National Authority for Data Protection and Freedom of Information, established the following year, on 1 January 2012, would restrict freedom of information.
- The reports contain factual errors in several places, some of which are described above. In its latest report, published in June 2023, the Media Pluralism Monitor, for example, states that "*there is no law prohibiting surreptitious advertising or other forms of surreptitious advertising*", while the law on freedom of the press and media clearly prohibits the publication of such media content. Mistakes like these reduce the possibility of a credible peer review of media regulation.
- A further problem is the recurrent subjective opinions in evaluations, which erode the objectivity of evaluations intended to be of professional quality. The 2021 Reporters Without Borders report speaks of a complete lack of press freedom, while the Media Pluralism Monitor's report on 2018 and 2019 accuses the promotion of authoritarian and totalitarian ideas and explains that "*the Hungarian media environment already poses a great threat to media pluralism in Europe.*"
- In order to ensure that the reports of Freedom House, Reporters Without Borders and the Centre for Media Pluralism and Freedom provide a more professionally informed and balanced assessment of the situation of media freedom in Hungary, we recommend that the constructive critical considerations outlined above are taken into account.