

Hungary

	2014	2015		
Internet Freedom Status	Free	Free	Population:	9.9 million
Obstacles to Access (0-25)	5	4	Internet Penetration 2014:	76 percent
Limits on Content (0-35)	8	9	Social Media/ICT Apps Blocked:	No
Violations of User Rights (0-40)	11	11	Political/Social Content Blocked:	No
TOTAL* (0-100)	24	24	Bloggers/ICT Users Arrested:	No
			Press Freedom 2015 Status:	Partly Free

* 0=most free, 100=least free

Key Developments: June 2014 – May 2015

- Following large protests in November 2014, the government decided to withdraw a proposal introducing a new tax that would have charged internet service providers per GB of data transferred, a fee which likely would have been passed on to consumers (see **Availability and Ease of Access**).
- In January 2015, a court ordered the blocking of an article from the far-right website Kuruc.info (see **Blocking and Filtering**).
- Internet access continues to expand in Hungary, reaching an internet penetration rate of 76 percent in 2014 (see **Availability and Ease of Access**).

Introduction

Access to the internet in Hungary continues to expand, despite government policies and judicial decisions over the past few years that have threatened to impose restrictions on access and online content. In late October 2014, the Orban administration issued a proposal to tax internet service providers (ISPs) per gigabyte (GB) of data transferred. Many assumed that ISPs would pass on this fee to consumers, which could potentially inhibit or discourage users from accessing more data-heavy websites and applications. Following significant protests, the government withdrew the proposal, but signaled that it intended to revisit the issue later in 2015.

In the past, the government has refrained from blocking online content, other than illegal gambling websites, despite persistent calls to ban the far-right website Kuruc.info, a site that frequently features xenophobic, anti-Semitic, and other hate speech content. This year, a court issued an order to delete, or make “inaccessible,” an article on the website denying the Holocaust. Since the website is hosted on servers in the United States and the court could not force the deletion of the content, the court subsequently decided that the article should be blocked within Hungary.

Since 2010, the conservative Hungarian Civic Union (Fidesz) and its ally, the Christian Democratic People’s Party (KDNP) have executed a major overhaul of Hungarian legislation, including new laws regulating the media (including online media outlets and news portals) and new civil and penal codes,¹ causing significant concern among civil liberties advocates and the international community more broadly.² The established regulatory authority, the National Media and Infocommunications Authority (NMHH) and its decision-making body, the Media Council, were created to oversee the mass communications industry, with the power to penalize or suspend outlets that violate stipulations of the media regulations. In April 2011, the national assembly adopted a new constitution, the Fundamental Law of Hungary, which includes a provision concerning the supervision of the mass communications industry and the media as a whole. The parliament also created the National Agency for Data Protection, whose independence has been called into question due to the political appointment process of the agency’s leadership.

Immediately after the 2010 media laws were passed, Hungary came under fierce criticism from the international community, as the laws were deemed incompatible with the values of the European Union. Despite the modifications to the media laws in May 2012 based on the ruling of the Hungarian Constitutional Court in December 2011, members of the Organization for Security and Co-operation in Europe (OSCE) and the Council of Europe have argued that the laws remain unsatisfactory, and that unclear provisions and the significant power given to the NMHH continue to threaten media freedom.³ In January 2013, the Council of Europe welcomed the results of the dialogue with the Hungarian government about media regulation,⁴ while domestic nongovernmental organizations (NGOs) expressed their continued concerns to the Secretary General of the Council of Europe.⁵

1 Act V of 2013 on the Civil Code and Act C of 2012 on the Penal Code.

2 Act CIV of 2010 on the Freedom of the Press and the Fundamental Rules of Media Content, <http://bit.ly/1hbKJBW>; Act CLXXXV of 2010 on Media Services and on the Mass Media, <http://bit.ly/197GmZJ>.

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

4 Council of Europe, “Secretary General welcomes changes to Hungarian laws on media and judiciary,” news release, January 29, 2013, <http://bit.ly/1LkX6hW>.

5 Standards Media Monitor, “Letter of Hungarian NGOs on Media Legislation to Mr. Thorbjørn Jagland, Secretary General, Council of Europe,” February 4, 2013, <http://bit.ly/197GoRm>.

Obstacles to Access

Access to the internet in Hungary is relatively free, with an internet penetration rate of over 75 percent. However, in late 2014 the Orban administration issued a controversial proposal to include an internet tax in the 2015 government budget, which would have charged internet service providers a small fee per gigabyte of data transferred. The proposal was withdrawn after large protests erupted over the issue. A national consultation was introduced online about the question of taxing internet use,⁶ and its results are intended to serve as a basis for recommendations for internet-related policy changes in September 2015.⁷

Availability and Ease of Access

According to the International Telecommunication Union (ITU), internet penetration in Hungary stood at over 76 percent in 2014, compared to 73 percent in 2013 and just 62 percent in 2009.⁸ The National Media and Infocommunications Authority of Hungary (NMHH) reported in December 2014 that there were over 2.4 million broadband internet subscriptions, in a country of less than 10 million inhabitants.⁹ According to a 2014 Eurobarometer survey, only 51 percent of Hungarian households had an internet connection.¹⁰

Dial-up internet service is not widely used. The NMHH recorded a mobile phone penetration rate of about 117 percent and over 4.1 million mobile internet subscriptions in the past year.¹¹ In 2014, only 22 percent of the population had never used the internet, a decrease from 52 percent in 2006. The Eurobarometer survey also found that 84 percent of Hungarian respondents considered price to be the most important factor when subscribing to an internet service provider (ISP).¹²

There are geographical, socioeconomic, and ethnic differences in Hungary's internet penetration levels, with lower access rates found among low-income families and in rural areas. According to the 2014 data from the TNS Hoffmann research company, internet penetration was over 82 percent among the employed but only 52 percent among those who were unemployed. Also, internet penetration differs between those living in the capital and in the countryside.¹³ There is no new data on the internet penetration level among the Roma community, the country's largest ethnic minority, though in the past this group has had lower-than-average levels of internet access.¹⁴

The National Core Curriculum for 2013 drastically decreased the number of IT classes in primary and

6 The website can be found at: InternetKon, accessed May 8, 2015 <https://www.internetkon.hu/english/>.

7 Magyarország Kormánya, "Elindult az internetről szóló nemzeti konzultáció," [The national consultation about internet is launched] news release, February 3, 2015, <http://bit.ly/1zylrJT>.

8 International Telecommunication Union, "Percentage of individuals using the Internet," 2008 & 2013, accessed February 25, 2015, <http://bit.ly/1FDwW9w>.

9 National Media and Infocommunications Authority Hungary, *Flash report on landline service*, December 2014, <http://bit.ly/1a9XYXp>.

10 European Commission, *E-Communications and Telecom Single Market Household Survey*, Special Eurobarometer 414, March 2014, 40, <http://bit.ly/1jSSk0O>.

11 National Media and Infocommunications Authority Hungary, *Flash report on mobile internet*, January 2014, <http://bit.ly/1VJbhnK>. The International Telecommunication Union similarly estimated the mobile penetration rate at 118 percent for 2014.

12 *E-Communications and Telecom Single Market Household Survey*, 93.

13 TNS-Hoffmann Kft. Media Sector TGI 2014/1–4 quarters.

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

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secondary schools, despite protests from IT teachers, potentially further increasing the digital divide among social groups, as children coming from low-income families may not have access to computers and other digital devices in their homes.¹⁵ The poor IT infrastructure of public schools further increases the digital divide.¹⁶

A proposed tax on internet usage in late 2014 sparked widespread protests in Hungary, which eventually led to the Orban administration's withdrawal of the proposal.¹⁷ The tax would have involved charging ISPs approximately 150 forints (US\$0.61) per GB of data, a fee which likely would have been passed on to consumers. During his speech withdrawing the proposal, Orban hinted at the possibility of reintroducing the idea of taxes and other regulations on the internet in early 2015, although so far no proposals have been formally introduced.

Restrictions on Connectivity

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

ICT Market

The ICT market in Hungary lacks significant competition, with over a third of the market belonging to Magyar Telekom. Three ISPs control over two-thirds of the total fixed broadband market.²³ UPC was the first company to enable home routers to serve as Wi-Fi hotspots, at the same time entering the mobile phone market in the country.²⁴ There are three mobile phone service providers, all privately owned by foreign companies.²⁵ The existence of only three mobile phone service providers (in

15 Tamás Papós, "Esélytelen diákok és 1 Mbit-es internet a magyar iskolákban," [Chanceless students and 1Mbit internet at Hungarian schools] *Hvg.hu*, October 3, 2013, <http://bit.ly/1RxESuy>.

16 European Schoolnet and University of Liege, "Survey of schools: ICT in education, Country profile: Hungary," November 2012, <http://bit.ly/1VN56J>.

17 Rick Lyman, "Hungary Drops Internet Tax Plan After Public Outcry," *New York Times*, October 31, 2014, <http://nyti.ms/1zmv8Nv>.

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

19 rentIT Kft., "Magyarország internetes infrastruktúrája" [Hungary's internet infrastructure] January 29, 2010, <http://bit.ly/1N38PRq>.

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

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

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

23 These major internet service providers are: Telekom with a 35.8 percent market share, UPC 21.9 percent, and DIGI 14.2 percent. See National Media and Infocommunications Authority Hungary, *Flash report on landline service*, December 2014, <http://bit.ly/1a9XYXp>.

24 "UPC Hungary launches voice/data MVNO and national free Wi-Fi service," *TeleGeography*, November 14, 2014, <http://bit.ly/1ME8fJ0>.

25 The three mobile phone companies are: Telekom with a 46.82 percent market share, Telenor 30.48 percent, and Vodafone 22.7 percent. See National Media and Infocommunications Authority Hungary, *Flash report on mobile internet*, January 2014, <http://bit.ly/1VJbhnK>.

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addition to the resellers that use the networks of the three major mobile phone service providers) has created a relatively stagnant market in terms of mobile internet network expansion.

The government levied two special taxes on the telecommunication industry in 2010, both of which triggered infringement proceedings in the European Union in 2012. Both proceedings were ultimately withdrawn,²⁶ and the government withdrew the special tax levied in 2010. To counterbalance the budgetary loss, another tax was introduced in mid-2012 on mobile phone calls and text messages (a maximum of \$3 monthly for individual subscribers).²⁷ All mobile service providers have since raised their prices.²⁸

Regulatory Bodies

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

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

With the adoption of the Fundamental Law of Hungary, which entered into force in January 2012, the governing parties prematurely ended the six-year term of the well-functioning Data Protection Commissioner, replacing the former office with the National Agency for Data Protection. The head of the new agency is appointed by the president of the republic based on the suggestion of the prime minister for a nine-year term and can be dismissed by the president based on the suggestion of the prime minister on potentially arbitrary grounds,³² calling into question the independence of the agency. In 2014, the Court of Justice of the European Union ruled that Hungary failed to fulfill its obligations derived from EU law due to the early termination of the term of the Data Protection Commissioner.³³

26 European Commission vs. Hungary, Case C-462/12, November 22, 2013; and "EC drops suit over Hungary telecoms tax," *Politics*, September 27, 2013, <http://bit.ly/1QdD20V>.

27 Andras Gergely, "Hungary Phone Tax Burden May Affect Magyar Telekom Dividend," *Bloomberg Business*, May 10, 2012, <http://bloom.bg/1G2ceQG>.

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

29 Act CLXXXV of 2010, art. 124.

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

31 Krisztina Nagy, *Regnum Marianum: Media Council redraws the radio market*, November 2012–July 2013, Mertek Media Monitor, September 18, 2013, <http://bit.ly/1WR2GfR>.

32 Act CXII of 2011 on data protection and freedom of information, Section 40, par. 1, 3; Section 45, par. 4–5.

33 Case C-288/12, *Commission v Hungary*, April 8, 2014.

Limits on Content

Over the past few years, revisions to the civil and criminal codes have somewhat altered the regulatory landscape when it comes to online content, including revisions to the penal code in 2013 requiring ISPs to block illegal content if the content is hosted outside of Hungary (meaning the servers are outside Hungarian jurisdiction and the courts cannot force the deletion of the content). There is no sign of the government mandating any systematic filtering of websites, blogs, or text messages, though in 2015 a Hungarian court ordered the deletion of an article based on the new penal code. Online content is somewhat limited as a result of self-censorship, lack of revenue for independent media outlets online, the dominance of the state-run media outlet, and the biased nature of the allocation of state advertisement funds.

Blocking and Filtering

The government does not place any restrictions on access to social media or communication applications. YouTube, Facebook, Twitter, Tumblr, international blog-hosting services, instant messaging, person-to-person communication, and other applications are freely available.

In January 2015, the Metropolitan Court of Justice ordered the far-right website Kuruc.info³⁴ to delete an article denying the Holocaust.³⁵ The stipulation of the penal code is often called the “Kuruc.info law” by experts, as the law was largely drafted to target the infamous website, which is hosted abroad.³⁶ Since the website is hosted outside of Hungarian jurisdiction and therefore cannot be forced to shut down, the prosecutors of district V and XIII of Budapest stated that the article on Kuruc.info would be permanently blocked in May 2015, though the article was still accessible as of June 2015.³⁷

The new penal code, which took effect on July 1, 2013, includes provisions based on which websites can now be blocked in cases of unlawful online content.³⁸ The law stipulates that if the illegal content is hosted on a server located outside of the country, the Hungarian court will issue a query to the Minister of Justice to make the electronic content inaccessible; the minister then passes the query onto the “foreign state,” and if there is no response from that state for 30 days, the court can order domestic ISPs to make the given content inaccessible.³⁹ The NMHH is the authority designated to manage the list of websites to be blocked based on court orders⁴⁰ (or the tax authority in case of illegal gambling), while the operation of the system is regulated by a decree of the NMHH, which enables the authority to oblige ISPs to block the unlawful content.⁴¹ The list, referred to as KEHTA

34 For more about Kuruc.info and attempts to close it down see Borbala Toth, “Online hate speech – Hungary,” 2014, 6–7, <http://bit.ly/1BO6iIT>.

35 Hvg.hu, “Court orders Holocaust denying article on far-right website to be blocked,” *Hungary Today*, January 14, 2015, <http://bit.ly/153Rs1J>.

36 Gábor Polyák, “Végképp eltörölni – Adatszűrés és blokkolás a magyar jogban,” [Erasure – Data filtering and blocking in the Hungarian jurisdiction] *Hvg.hu*, May 17, 2013, <http://bit.ly/1BO61W8>.

37 “Elérhetetlenné tenné a kuruc.info holokamu oldalát az ügyészség,” [Prosecution would make the holo-lie page of kuruc.info inaccessible] *Hvg.hu*, May 27, 2015, <http://bit.ly/1BVUK18>.

38 Act C of 2012, art. 77.

39 Act XXXVIII of 1996 on International Assistance in Criminal Matters, art. 60/H.

40 Act C of 2003 on electronic communication, art. 10, par. 28., art. 159/B.

41 19/2013. (X.29.) NMHH rendelet az egyszerű adatátvitel és hozzáférést biztosító elektronikus hírközlési szolgáltatók és a kereső- és gyorsítótár-szolgáltatók központi elektronikus hozzáférhetetlenné tételei határozatok adatbázisához való kapcsolódásának és a Nemzeti Média- és Hírközlési Hatósággal való elektronikus kapcsolattartás szabályairól. 19/2013 (X.29.) NMHH decree.

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(Hungarian acronym for “central electronic database of decrees on inaccessibility”), went into effect on January 1, 2014 with the primary aim of fighting child pornography. However, the blacklist is not public, as only certain institutions (such as the courts, parliamentary committees, the police, etc.) have access to the list of blocked websites.

Online gambling is considered an illegal activity if the tax authority has not authorized the operation of the website.⁴² ISPs had blocked 69 gambling websites as of June 2015;⁴³ however, gambling websites have been known to change their URLs in order to circumvent the blocking system.⁴⁴

Content Removal

Intermediaries are not legally responsible for transmitted content if they did not initiate or select the receiver of the transmission, or select or modify the transmitted information.⁴⁵ Intermediaries are also not obliged to verify the content they transmit, store, or make available, nor do they need to search for unlawful activity.⁴⁶ Hosting providers are required to make data inaccessible, either temporarily or permanently, once they receive a court order stating that the hosted content is illegal.⁴⁷

Nevertheless, the 2010 media laws contain several general content regulation provisions concerning online media outlets, particularly if these outlets provide services for a profit. For example, the media regulation states that print and online media outlets bear editorial responsibility if their aim is to distribute content to the public for “information, entertainment or training purposes,” but that editorial responsibility “does not necessarily imply legal liability in relation to printed press materials.”⁴⁸ The law fails to clarify what editorial responsibility entails and whether it would imply legal liability for online publications. A member of the Media Council claimed that this provision could apply to a blog if the blog were produced for a living.⁴⁹ According to László Bodolai, a lawyer for the news outlet Index.hu and a media law expert, based on a 2015 court decision, bloggers cannot legally be forced to amend or correct content with which someone disagrees; however, lawsuits and damnification fees can apply.⁵⁰

In June 2012, the Supreme Court condemned the publishers of two blogs for defamation committed in comments posted on their sites, regardless of the fact that the comments had been deleted. The Supreme Court ruled that the plaintiff’s reputation was harmed, and that the defendants needed to pay for the legal expenses incurred, even though they were not the original authors of the comments.⁵¹

The implications for legal liability for comments posted online were further substantiated by a judgment of the Constitutional Court in 2014. In May 2014, the Constitutional Court issued a ruling

42 Act XXXIV of 1991 on Gambling, art. 36/g.

43 The list of the National Tax and Customs Administration can be accessed at: <http://en.nav.gov.hu/>.

44 Ajándok Gyenis, “A NAV blokkol, de hiába,” [The tax authority is blocking in vain] *Hvg.hu*, July 29, 2014, <http://bit.ly/1BbkSdu>.

45 Act CVIII of 2001 on Electronic Commerce, art. 8, par. 1.

46 Act CVIII of 2001, art. 7. par. 3.

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

48 Act CIV of 2010, art. 1, par. 6.

49 “Tanácsnokok és bloggerek,” [Members and bloggers] *Mediatanacs-blog*, January 11, 2011, <http://bit.ly/1P33k8F>.

50 László Bodolai, personal communication, March 2, 2015.

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

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stating that the publisher bears responsibility for comments posted on a given website.⁵² Dunja Mijatovic, the OSCE Representative on Freedom of the Media warned that the judgment may curb freedom of expression.⁵³ Similarly, on October 10, 2013, the European Court of Human Rights upheld a decision by the Estonian Supreme Court that ruled that web portals are responsible for all comments posted to their sites. However, the implications of this European decision have yet to be clarified in Hungary.⁵⁴ According to László Bodolai, the courts' rulings shows that if a comment is posted below an article (i.e., edited content), then it might be considered unlawful, but if the comment is posted on a forum, then it cannot be considered unlawful.⁵⁵

The 2010 media laws stipulate that media content—both online and offline—may not offend, discriminate or “incite hatred against persons, nations, communities, national, ethnic, linguistic and other minorities or any majority as well as any church or religious groups.”⁵⁶ Further, the law states that constitutional order and human rights must be respected, and that public morals cannot be violated.⁵⁷ However, the law does not define the meaning of “any majority” or “public morals.” If a media outlet does not comply with the law, the Media Council may oblige it to “discontinue its unlawful conduct,” publish a notice of the resolution on its front page, and/or pay a fine of up to HUF 25 million (approximately \$93,000).⁵⁸ If a site repeatedly violates the stipulations of the media regulation, ISPs can be obliged to suspend the site’s given domain, and as a last resort, the media authority can delete the site from the administrative registry.⁵⁹ Any such action can be appealed in court, although the 2011 overhaul of the judiciary calls into question the independence of the court system.

Media, Diversity, and Content Manipulation

The online media environment in Hungary is relatively diverse, though there are financial concerns regarding the allocation of advertising and political pressures to self-censor with regard to certain topics.

A series of interviews conducted among journalists in 2014 by Mérték Media Monitor revealed the persistence of self-censorship in Hungary due to political and economic pressures. Over 50 percent of the respondents reported experiencing restraints on press freedom due to political and economic pressure. They further reported these pressures tend “to manifest themselves in requests to conceal certain issues or names, or to compile their reports in a way that fails to properly reflect reality,” with 30 percent of respondents reportedly practicing self-censorship to avoid consequences at work.⁶⁰ The report notes that pressure is exerted by members of the elite political class and oligarchs “cracking down” on independent journalism efforts with a variety of tools, such as changes in ownership structure, financial and political pressure, and official and legal instruments.⁶¹

52 Benjamin Novak, “Constitutional Court limits freedom of expression in Hungary,” *Budapest Beacon*, June 3, 2014, <http://bit.ly/1hu66oU>.

53 OSCE, “Ruling of Hungarian Constitutional Court can further curb freedom of expression, warns OSCE media freedom representative,” press release, May 29, 2014, <http://www.osce.org/fom/119216>.

54 European Court of Human Rights, Case of Delfi AS v. Estonia, Judgement, accessed April 12, 2014, <http://bit.ly/1hu6n1r>.

55 László Bodolai, personal communication, March 2, 2015.

56 Act CIV of 2010, art. 17.

57 Act CIV of 2010, art. 16, and art. 4, par. 3.

58 Act CLXXXV of 2010, art. 186, par. 1, 187, par. 3. bf.

59 Act CLXXXV of 2010, art. 187, par. 3. e, 189, par. 4.

60 Attila Mong, et. al, *Gasping For Air: Soft Censorship in the Hungarian Media in 2014*, Mérték Media Monitor, January 2015, 21, <http://bit.ly/1EdMa30>.

61 Attila Mong, et. al, *Gasping For Air: Soft Censorship in the Hungarian Media in 2014*, 26–27.

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Soon after the 2010 parliamentary elections, state advertising funds were partially or completely withdrawn from some newspapers, allegedly for political reasons, while others multiplied their revenues from such state sources.⁶² Additionally, private advertisers tend to advertise where state companies do, meaning that some media outlets (those generally critical of the government) are “bleeding out.”⁶³ The concentration of state advertisement spending further increased for 2015, with the internet being the only exception, where the trend of biased distribution of state advertisement funds is not visible.⁶⁴ There is currently no comprehensive data to determine the level of political influence over advertisements in cases of online media specifically.⁶⁵ Stop.hu, a website close to the opposition Socialist party, was forced to start making reductions in staff in July 2013 partly due to the fact that, according to the manager, many businesses would not consider advertising on their site because the content is critical of the government.⁶⁶

In June 2014, Gergo Saling, the editor-in-chief of the online media outlet Origo.hu, was dismissed following the publication of a series of articles critical of the government, including one that revealed a possible abuse of public funds by the undersecretary of the prime minister. The dismissal raised suspicions that the government, which has extensive ties to Deutsche Telekom, the owner of Origo.hu through the subsidiary Magyar Telekom (MT), had pressured the parent company to fire the editor. The news outlet 444.hu reported that the Hungarian government asked Magyar Telekom to “either reign in Origo or let it go.”⁶⁷ Following Saling’s termination, several members of the editorial board resigned in protest. Origo.hu announced that the editor-in-chief left the company through a mutual agreement.

The introduction of the advertisement tax, which media outlets pay based on their revenues from advertisement, is also a burden for some media outlets, particularly smaller online media ventures.⁶⁸ In May 2015, the tax was converted from a progressive tax into a flat tax,⁶⁹ as the European Commission started investigating whether the tax harms competition rules.⁷⁰

Despite reports of self-censorship and the challenge of maintaining financial viability, online media outlets have become a tool to scrutinize public officials. For instance, starting in January 2012, Hvg.hu, an online news portal whose content is mostly separate from the printed business weekly *HVG*, published a series of articles on how the then-president of the republic plagiarized his doctoral dissertation. Although he denied any wrongdoing, Pál Schmitt resigned in April 2012.⁷¹ Some online media outlets, particularly *Atlatzo.hu*, have made repeated requests for public data from public

62 Annamária Ferenczi, “Kormányzati intézmények és állami cégek médiaköltései Magyarországon, 2003-2011: Leíró statisztikák és megfigyelések” [Government Advertising Incomes in the Hungarian Media, 2003-2011: Descriptive statistics and observations.] BCE Corruption Research Center, 2012.

63 Kim Lane Scheppele, “Hungary’s free media,” *The Conscious of a Liberal* (blog), *New York Times*, March 14, 2012, <http://nyti.ms/zdrDTE>.

64 Attila Mong, et. al, *Gasping For Air: Soft Censorship in the Hungarian Media in 2014*, 30–31.

65 Attila Bátorfy, journalist of *Kreativ.hu* authored an in-depth analysis of public funds moving to private hands via media advertisements between 2010–2014. “Hogyan működött Orbán és Simicska médiabirodalma?” [How did the media empire of Orbán and Simicska work?] *Kreativ*, February 18, 2014, accessed March 7, 2015, <http://bit.ly/1EZM9yM>.

66 “Leépítés a Stop.hu-nál,” [Redundancies at Stop.hu] *Index*, July 4, 2013, <http://bit.ly/1VIPIDY>.

67 “Deutsche Telekom, Hungarian government collude to silence independent media,” *444*, June 5, 2014, <http://bit.ly/1hClHm6>.

68 Act XXII of 2014 on the advertisement tax.

69 Pricewaterhouse Coopers, “Changing advertising tax rates,” May 27, 2015, <http://pwc.to/1MEwHKp>.

70 “State aid: Commission opens in-depth investigation into Hungarian advertisement tax,” European Commission, March 12, 2015, <http://bit.ly/1b5b88P>.

71 Palko Karasz, “Hungarian President Resigns Amid Plagiarism Scandal,” *New York Times*, April 2, 2012, <http://nyti.ms/1QdGyZ3>.

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institutions for the purposes of investigative reporting. This independent media outlet has continuously published lists of public fund misuse by politicians, though such efforts have resulted in few consequences given the publication's limited reach.⁷²

Since 2011, the state-owned Hungarian News Agency (MTI) has had a virtual monopoly on the news market, as media outlets that have been impacted by the economic crisis tend to republish MTI news items, most of which are available to other news outlets free of charge. During its overhaul, MTI became integrated into the system of public service broadcasting, led by the media authority. The media laws oblige MTI to produce news bulletins for public service broadcasters and edit their joint news portal.⁷³ In late 2014, due to yet another modification of the media laws, the state media became further centralized, as the public service radio and television (both MTV and Duna TV) and MTI merged into the entity of Duna TV.⁷⁴ An analysis of the Hungarian public service broadcasters' news bulletins in 2013 indicated that they "tend to select and to frame the news in a way that is favorable to the incumbent center-right government."⁷⁵

Although MTI has a major effect on traditional and online content, the online media landscape is still relatively diverse. Most civil society organizations have websites, and an increasing number of them have a presence on Facebook. There are some media outlets, including online portals, representing the minority Roma community,⁷⁶ the LGBTI community, and religious groups. Nevertheless, many news sources, although independent, often reflect the politically-divided nature of Hungarian society, and partisan journalism is widespread.

Blogs are generally considered an opinion genre and do not typically express independent or balanced news. There are also blogs analyzing governmental policies, the activities of public figures, and corruption. Trolling is usually moderated in the comments sections of articles, typically to prevent negative discussions. It was reported that politicians have used pseudonyms to participate in online forum discussions, and parties and ministries have implemented a monitoring system to be able to participate in discussions related to their work.⁷⁷ A survey conducted in 2011 among those netizens who knew what "commenting" meant indicated that 87 percent of the respondents encountered trolling on websites, but an overwhelming majority of the respondents considered commenting as a form of freedom of expression.⁷⁸

Digital Activism

Social media platforms such as Facebook, which had almost 4.6 million users in Hungary as of March 2015, have grown increasingly popular as a tool for advocacy, especially after the 2010 parliamentary elections.⁷⁹ Since then, several large demonstrations have been organized through Facebook, mobi-

72 Tamás Bodoky, the founder of Atlatzo.hu and the portal itself got nominated with four other initiatives globally by Index on Censorship Freedom of Expression awards in category of Digital Activism in 2015, Index, "Digital Activism Nominees 2015," <http://bit.ly/1GCEDZI>.

73 Act CLXXXV of 2010, art. 101, par. 4.

74 Act CLXXXV of 2010, art. 215/A.

75 Peter Bajomi-Lazar and Borbala Toth, "Censorship and manipulation within Hungarian public service broadcasters' news bulletins," Független Média Központ Center for Independent Journalism, December 4, 2013, <http://bit.ly/1WR5kCk>.

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

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

78 Magyarországi Tartalomszolgáltatók Egyesülete (MTE), "Komentek megítélése. Elemzés," [Judgement of comments Analysis] 2012, 3 and 81, <http://bit.ly/1GAkrXi>.

79 Walter Mayr, "Facebook generation fights Hungarian media law," *Spiegel Online*, January 4, 2011, <http://bit.ly/1LsDR11>.

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lizing tens of thousands of people. In 2014, there were protests organized online for various social and political issues, the largest of which drew thousands of people to protest against the introduction of a tax on internet use.⁸⁰ Due to the overwhelming demonstrations, the government decided to withdraw the planned tax.⁸¹

Violations of User Rights

The right to freedom of expression is protected in the Fundamental Law of Hungary, and the government does not generally prosecute individuals for posting controversial political or social content online. However, the law includes criminal penalties for defamation, and new amendments in November 2013 added criminal penalties for disseminating defamatory video or audio content. Judicial oversight of surveillance by intelligence agencies continues to be a concern, given that surveillance is authorized by the justice minister rather than through a court warrant.

Legal Environment

The Fundamental Law of Hungary acknowledges the right to freedom of expression and defends “freedom and diversity of the press,”⁸² although there are no laws that specifically protect online modes of expression. In 2012, the European Commission launched several infringement proceedings against Hungary. The European Commission expressed concerns over Hungary’s decision to lower the mandatory retirement age from 70 years to 62 years for judges and prosecutors, effectively sending 274 judges, including some on the Supreme Court, into early retirement.⁸³ In November 2012, the Court of Justice of the European Union ruled that the early retirement of judges, prosecutors, and notaries was discriminatory.⁸⁴ Prior to that, in July 2012, the Hungarian Constitutional Court ruled that the early retirement provision was unconstitutional.⁸⁵ In March 2013, the parliament accepted a law that gradually decreases the retirement age of judges, prosecutors, and pensioners from 70 to 65 over the next 10 years.⁸⁶

On November 5, 2013, the criminal code was modified to include prison sentences for defamatory video or audio content. Anyone creating such a video can be punished by up to one year in prison, while anyone publishing such a recording can be punished by up to two years. If the video is published on a platform with a wide audience or in some way causes significant harm, the sentence can increase to up to three years in prison.⁸⁷ The amendment was condemned both by domestic⁸⁸ and

80 Associated Press, “Hungarians march again in protest against internet tax plan,” *The Guardian*, October 29, 2014, <http://bit.ly/1tDiNAS>

81 “Hungary internet tax cancelled after mass protests,” *BBC*, October 31, 2014, <http://bbc.in/1wPNKEs>.

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

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

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

85 “Elkaszálták a bírói nyugdíjszabályt,” [The retirement rule for judges was annulled] *Index*, July 16, 2013, <http://bit.ly/1OpXIUc>.

86 “Megszavazták a bírák lassú nyugdíjba küldését,” [The law on the slow retirement of judges was accepted] *Hvg.hu*, March 11, 2013, <http://bit.ly/1PkOSbn>.

87 Act C of 2012, art. 226/A and 226/B.

88 Hungarian Civil Liberties Union, “Tightening of the Criminal Code is Unconstitutional,” November 14, 2013, <http://bit.ly/1P37c9M>.

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international actors⁸⁹ for threatening freedom of expression and for targeting the media, given that the longest sentence applies to materials that are widely published.

In May 2013, the parliamentary majority modified the freedom of information act⁹⁰ to restrict the accessibility of public data, claiming that some of the requests were “excessive.”⁹¹ The president vetoed the bill, after which the draft was amended partly based on the suggestions of the head of the Hungarian National Authority for Data Protection and Freedom of Information. The amended law was passed and came into effect on June 21, 2013; however, the law remains ambiguous and leaves the potential for requests for information to be denied arbitrarily.⁹² According to the law, the data holders themselves can decide to reject requests that are “overarching,” “invoice-based,” or “itemized.” The law does not define what these terms mean, leaving it up to the data holder authority to make this determination.⁹³

Critics of the 2010 media laws contend that the Media Council operates with unclear provisions and imposes high fines and sanctions on media outlets,⁹⁴ which might give rise to uncertainty and fear, lead to self-censorship, and have a chilling effect on journalism as a whole. In December 2011, the Constitutional Court struck down several provisions applicable to print and online outlets “but without touching on the organizational frames and system of supervision.”⁹⁵ In May 2012, the parliament modified the media regulation, ostensibly in order to comply with the ruling of the Constitutional Court,⁹⁶ but left the provisions regarding high fines and the problematic nominating process for members of the Media Council. OSCE Representative on Freedom of the Media Dunja Mijatovic warned that the amendments “only add to the existing concerns over the curbing of critical or differing views in the country.”⁹⁷

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

89 OSCE, “Higher prison sentences for defamation may restrict media freedom in Hungary, warns OSCE representative,” press release, November 6, 2013, <http://www.osce.org/fom/107908>; and Dalma Dojcsák, “New law further restricts freedom of speech and freedom of the press in Hungary,” IFEX, November 18, 2013, <http://bit.ly/1N3dSRT>.

90 Act CXII of 2011 on informational self-determination and freedom of information.

91 Marietta Le, “Hungary: Government limits FOIA transparency law,” *Global Voices Advocacy*, May 8, 2013, <http://bit.ly/1LsGkcl>.

92 Act CXII of 2011, Art. 28–31.

93 Transparency International Hungary, “Transparency international turns to higher authorities,” July 3, 2013, <http://bit.ly/1Opd8tD>.

94 Article 19, *Hungarian media laws Q&A*, August 2011, <http://bit.ly/1LIBPVq>.

95 “Ruling No. 165/2011. (XII. 20.) AB of the Constitutional Court—Summary,” *Mertek Media Monitor*, <http://bit.ly/15BXMG1>; See also Judit Bayer, “Hungarian Constitutional Court repeals parts of Media Constitution and Media Law,” *Media Laws*, December 29, 2011, <http://bit.ly/1OpYMrq>.

96 Human Rights Watch, “New Laws Curb Media Freedom,” May 29, 2012, <http://bit.ly/MC3Oji>.

97 OSCE, “Revised Hungarian media legislation continues to severely limit media pluralism, says OSCE media freedom representative,” press release, May 25, 2012, <http://www.osce.org/fom/90823>.

98 Act C of 2012, art. 227.

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

100 “Constitutional Court voids ban on “symbols of tyranny”; red star, swastika to become legal on April 30,” *Politics*, February

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The new civil code, which took effect in March 2014, recognizes civil rights (including protection against defamation) and bans the insulting of an individual's honor,¹⁰¹ and includes a damnification fee for non-pecuniary damages caused by violating civil rights.¹⁰² Libel cases demonstrate that the courts generally protect freedom of expression, except when there is a conflict with another basic right. Defamation cases have decreased since a 1994 Constitutional Court decision, which asserted that a public figure's tolerance of criticism should be higher than an ordinary citizen's.¹⁰³ However, the new civil code includes a provision that may limit the free discussion of public affairs in cases where the human dignity of a public figure is violated.¹⁰⁴ Some fear that the provisions of the new civil code could result in a slew of slander and libel cases initiated by anyone, including public figures, who can claim that their dignity has been harmed.

Another debated issue is related to a provision in the new civil code, which went into effect in March 2014, stipulating that a photographer must obtain permission from the subjects in the picture when taking press photos (except at public events).¹⁰⁵ Industry experts argue that the law is too vague and obstructs the profession of photojournalism, while the code's proponents claim that this stipulation merely confirms the courts' practice.¹⁰⁶ The ministry explains consent might happen with "implicit behavior," such as someone not objecting with waiving his or her hands. It is unclear how the judiciary will interpret and apply this new provision, which could impact online and citizen journalists' ability to document newsworthy events; many judges themselves have stated that they do not know how to rule on such cases.¹⁰⁷ Nevertheless, in September 2014, the Constitutional Court ruled that the law does not require media outlets to blur the faces of police officers in photographs, reversing a practice that had been required since 2007.¹⁰⁸

Prosecutions and Detentions for Online Activities

As of May 2015, no online media outlet had been penalized for violating the new stipulations introduced by the 2010 media laws, except for a case in early 2013 in which a blogger received a suspended sentence on charges of incitement to violence.¹⁰⁹

Prior to 2008, the penal code was rarely used in cases of defamation or slander.¹¹⁰ However, criminal investigations of online activities are a growing phenomenon. In November 2012, the police launched an investigation based on comments that appeared on Nepszava.hu¹¹¹ and the news site

21, 2013, <http://bit.ly/18eRI0o>.

101 Act V of 2013 on the Civil Code, art. 2:45.

102 Act V of 2013 on the Civil Code, art. 2:52–53.

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

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

105 Act V of 2013 on the civil code, art. 2:48.

106 Független Média Központ Center for Independent Journalism, "Az új Polgári Törvénykönyv és a sajtófotó," [The new civil code and the press photo] June 18, 2013, <http://bit.ly/1VIRVtw>.

107 Daniel Nolan, "Hungary law requires photographers to ask permission to take pictures," *The Guardian*, March 14, 2014, <http://bit.ly/NfKMo0>.

108 Zoltan Sipos, "Hungary: Court legalises publishing unaltered photographs of police", Index, September 30, 2014, accessed March 7, 2015, <http://bit.ly/1MrZVw9>.

109 A Nemzeti Média és Hírközlési Hatóság Médiatanácsának 802/2013 (V.8.) számú határozata, [Decree number 802/2013 (V.8.) of the Media Council of the National Infocommunications Authority] May 8, 2013, accessed March 7, 2015, <http://bit.ly/1Bo4CDN>.

110 Bajomi-Lázár and Kertész 2007: 179.

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

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Hir24.hu¹¹² that criticized Ferenc Papcsák, a former Fidesz member of parliament and mayor of a district in Budapest. The police ordered the release of the personal data connected to these comments, including the users' internet protocol (IP) and email addresses, although in the case of the latter site, commenters log-in via Facebook rather than providing a username or email address.

In another case involving online libel, an article was published in October 2012 on Delmagyar.hu—the online version of the regional daily *Délmagyarország*—about a lethal car accident involving János Lázár, a Fidesz member of parliament (MP). Lázár claimed that some of the comments left on the online article were an affront to his human dignity. Though the editorial board removed the comments in question, the MP launched a libel case based on the penal code as well as a civil proceeding against the publisher to claim compensation for the non-pecuniary damages caused.¹¹³ In July 2013, the publisher was ordered to pay HUF 500,000 (approximately US\$2,220) as compensation to Mr. Lázár based on an out-of-court settlement,¹¹⁴ while the penal proceeding was withdrawn by Lázár in 2014.¹¹⁵

In December 2014, the local council of the town of Tata announced that it intended to sue a Facebook commenter who claimed the council was misusing public funds, and that it would sue all other commenters sharing or commenting on the original commenter's post.¹¹⁶ To date, no proceedings have been filed regarding this case.

In January 2013, a blogger named Tamás Polgár, alias "Tomcat," was condemned for incitement and received a suspended prison sentence of one year and two months based on the penal code¹¹⁷ for a 2009 blog post in which he called upon readers to "beat up Gypsies," during a time when six Roma people had been killed in a case of serial murders.¹¹⁸ This was the first case since the democratic transition in which someone had been prosecuted under the penal code for material they posted online. The sentence was suspended for five years, and in June 2013, a judge modified the penalty to 50 days of community service.¹¹⁹

Surveillance, Privacy, and Anonymity

The lack of judicial oversight for surveillance of ICTs, combined with the evidence revealing that the Hungarian government has purchased invasive surveillance technologies from Hacking Team and other companies, raises concerns about the degree to which the right to privacy online is fully protected.

112 "Feljelentették a Népszava és a Hír24 kommentelőit," [Comments of Népszava and Hír24 denounced] Gepnarancs, November 10, 2012, <http://bit.ly/1LsJ2yB>.

113 "Kommentelőket gyanúsít az ügyészség Lázár János feljelentése nyomán," [The prosecutor condemns commenters based on the announcement of János Lázár], Delmagyar.hu, April 10, 2013, http://www.delmagyar.hu/szeged_hirek/kommenteloket_gyanusit_az_ugyeszseg_lazar_janos_feljelentese_nyoman/2328189/.

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

115 Gábor Medvegy, "Lázár János visszavonta kommentelőik ellen tett feljelentését," [Lázár withdrew his announcement against the commenters] *Atlatszo* (blog), April 1, 2014, <http://bit.ly/1Gv0p4r>.

116 Zsuzsa Izsáki, "Nagy kártérítésért perel az önkormányzat," [The council sues for huge compensation] Official Website of Town of Tata, December 19, 2014, <http://bit.ly/182G73i>.

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

118 "Court slaps far-right activist Tomcat with suspended jail term," *Politics*, January 11, 2013, <http://bit.ly/17dkzxc>.

119 Hungarian Civil Liberties Union, "Az uszítást jogerősen megállapította, a büntetést viszont jelentősen enyhítette a bíróság," [Incitement identified, but the penalty was considerably alleviated] July 2, 2013, <http://bit.ly/1jhhPbA>.

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Generally, users who wish to comment on a web article need to register with the website by providing an email address and username, or they need to use a Facebook login. The operator of a website may be asked to provide the authorities with a commenter's IP address, email address, or other data in case of an investigation.¹²⁰ Additionally, to sign a contract with a mobile phone company, users must provide personal data upon purchase of a SIM card.¹²¹ Encryption software is freely available without government interference; Pretty Good Privacy (PGP), a data encryption program, is used by investigative journalists.¹²²

National security services can "gather information from telecommunications systems and other data storage devices" without a warrant.¹²³ The authorities have allegedly installed black boxes on ISP networks.¹²⁴ Secret services can access and record communication transmitted via ICTs, though a warrant is required.¹²⁵ There is no data on the extent to which, or how regularly, the authorities monitor ICTs. In June 2012, staff of the Eötvös Károly Institute (EKINT) issued a complaint to the Constitutional Court requesting the annulment of the provision that allows the justice minister overseeing the work of the Counter Terrorism Center to approve the secret surveillance of individuals.¹²⁶ They argued against the constitutionality of the provision and that such surveillance should be tied to the approval of a judge rather than a minister.¹²⁷ The Constitutional Court rejected the complaint, after which EKINT addressed a complaint to the European Court of Human Rights in May 2014. The application was joined by Privacy International and the Center for Democracy & Technology.¹²⁸ As of May 2015, the case is still pending before the court.

Over the past few years, several privacy and digital rights organizations have pointed to evidence that the Hungarian authorities have purchased potentially invasive surveillance technologies. In 2013, Privacy International reported that Hungarian law enforcement agencies are connected with at least one surveillance technology company,¹²⁹ and that several government agencies attended the ISS World surveillance trade shows over the years.¹³⁰ Citizen Lab also reported finding a FinFisher Command and Control server in Hungary,¹³¹ though it was not clear whether the server is operated by the government or other actors.¹³² In July 2015, files leaked from the information technology company Hacking Team revealed that the Hungarian government was a client.

According to the Electronic Communications Act, electronic communications service providers¹³³ are

120 Act XIX of 1998 on criminal proceedings, art. 178/A, par. 1.

121 Act C of 2003 on Electronic Communications, art. 129, <http://bit.ly/1R2nc9u>.

122 Borbala Toth, *Mapping Digital Media: Hungary*, Open Society Foundations, February 2012, 50, <http://osf.to/1LDDurj>.

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

124 "Hungary – Privacy Profile," Privacy International, January 22, 2011.

125 Act CXXV of 1995, art. 56.

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

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

128 Eötvös Károly Policy Institute, "Szabo and Vissy v. Hungary: No secret surveillance without judicial warrant," <http://bit.ly/1Bh3uhu>.

129 Matthew Rice, *Surveillance Industry Index*, Privacy International, November 18, 2013, <https://www.privacyinternational.org/node/403>.

130 "Surveillance Who's who," Privacy International.

131 "Nem csak az USA szeme lát mindent: kormányzati kémprogram Magyarországon," [Not only USA can see everything: governmental surveillance software in Hungary] *Atlatzo*, September 16, 2013, <http://bit.ly/1FWperq>.

132 Morgan Marquis-Boire et. al., *For their eyes only: The Commercialization of Digital Spying*, Citizen Lab, September 16, 2013, <http://bit.ly/1pCA0Y4>.

133 Electronic service providers provide electronic communications service, which means a "service normally provided against remuneration, which consists wholly or mainly in the conveyance, and if applicable routing of signals on electronic communications networks, but exclude services providing or exercising editorial control over the content transmitted using

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obligated to “cooperate with organizations authorized to perform intelligence information gathering and covert acquisition of data.”¹³⁴ Additionally, the act states that “the service provider shall, upon the written request from the National Security Special Service, agree with the National Security Special Service about the conditions of the use of tools and methods for the covert acquisition of information and covert acquisition of data.”¹³⁵

In accordance with the EU Directive 2006/24/EC on data retention, ISPs and mobile phone companies in Hungary must retain user data for up to one year, including personal data, location information, phone numbers, the duration of phone conversations, IP addresses, and user IDs for investigative authorities and security services.¹³⁶ There is no data on the extent of these activities, even though there is a legal obligation to provide the European Commission with statistics on the data queries made by investigating authorities.¹³⁷ However, in April 2014, the European Court of Justice declared the EU Data Retention Directive invalid,¹³⁸ causing a number of countries within the EU to rethink their data retention legislation. In October 2014, the Hungarian Civil Liberties Union launched litigation against two of the major mobile phone providers in an attempt to force the Hungarian Constitutional Court to withdraw its law on data retention.¹³⁹

Intimidation and Violence

Bloggers, ordinary ICT users, websites, or users’ property are not generally subject to extralegal intimidation or physical violence by state authorities or any other actors. In October 2012, there was one physical attack against a journalist from Index.hu, whose nose was broken by an extreme-right protester at an anti-government rally.¹⁴⁰

Technical Attacks

There were no significant cyberattacks against NGO websites or news outlets during the coverage period. In the past, technical attacks in Hungary have been primarily perpetrated by non-state actors against government websites, particularly by the international group Anonymous. For instance, in 2012 the group rewrote the text of the fundamental law on the website of the Constitutional Court, and several sites suffered from DDoS attacks during that time.¹⁴¹

electronic communications network; it does not include information society services, defined under separate legislation, which do not consist primarily in the conveyance of signals on electronic communications networks,” Act C of 2003, art. 188, par. 13.

134 Act C of 2003, art. 92, par. 1.

135 Act C of 2003, art. 92, par. 2.

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

137 Act C of 2003, art. 159/A, par. 7.

138 Joined cases C-293/12 and C-594/12, accessed March 7, 2015, <http://bit.ly/1wR3LvF>.

139 Hungarian Civil Liberties Union, “HCLU litigates Hungarian service providers to terminate data retention,” news release, October 13, 2014, accessed March 7, 2015, <http://bit.ly/1A3Upr6>

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

141 “Anonymous geek-topia: Hackers change Hungarian constitution,” RT, March 5, 2012, <http://bit.ly/1IELZQX>. Máté Nyusztay, “A rendszert támadjuk’ – Magyarország is az Anonymous célkeresztjében,” [‘We attack the system’ – Hungary is among the targets of Anonymous] *Nol*, February 15, 2012, <http://bit.ly/1MnHW9k>.