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FREEDOM



Committee to Protect Journalists

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## **CONCLUSIONS OF THE JOINT INTERNATIONAL PRESS FREEDOM MISSION TO HUNGARY**

These conclusions reflect the initial findings of the joint mission to Hungary carried out by the International Press Institute (IPI), Article 19, the Committee to Protect Journalists (CPJ), the European Centre for Press and Media Freedom (ECPFM), the European Federation of Journalists (EFJ), Free Press Unlimited (FPU) and Reporters Without Borders (RSF). These findings are additionally supported by the South East Europe Media Organisation (SEEMO). The mission took place from November 25 to 27, during which time the delegation met with a wide range of Hungarian journalists from Budapest and other cities as well as civil society organizations to gather current information about the situation of media freedom and media capture. The delegation also met with Zoltán Kovács, the international spokesman of the Hungarian government, and Budapest Mayor Gergely Karácsony.

### **OVERALL PICTURE**

Since 2010, the Hungarian government has systematically dismantled media independence, freedom and pluralism, distorted the media market and divided the journalistic community in the country, achieving a degree of media control unprecedented in an EU member state.

While avoiding the physical violence or the jailing of journalists common in autocratic regimes elsewhere, the Hungarian government has pursued a clear strategy to silence the critical press through deliberate manipulation of the media market – engineering the forcible closure or effective government takeover of once-independent media – and through the delegitimization of journalists. The construction of a pro-government media empire serves as a vast propaganda machine for the government of Prime Minister Viktor Orbán, insulating large parts of the public from access to critical news and information so as to maintain the Fidesz party's hold on power.

The division between pro-government media and independent media has replaced ideological dividing lines; the remaining left- and right-wing independent media in Hungary are regularly smeared as political activists, “Hungary-haters”, foreign agents or traitors. They are being starved into submission through the state's abuse of public resources and harassment of private advertisers, even as the government shovels vast sums of taxpayer money into its own media mouthpieces.

Hungarian journalists interviewed by the mission described a coordinated system of censorship and content control not seen since the fall of the Communist regime. They point out that Russian disinformation – a strong concern elsewhere in the region – is absent or weak in Hungary given that the public broadcaster, now deformed into a state broadcaster,

effectively plays this role, together with the pro-government KESMA media group. Independent journalists are subject to pervasive discrimination by the state, denied access to publicly held information, excluded from official events and prevented or actively hindered from communicating with public officials.

A small number of critical, independent media continue to exist in Hungary, though they are under constant threat and in many cases suffer from a lack of financial resources. Their work is blunted by a dominant pro-government narrative, and their reach is mostly limited to the capital, leaving the majority of the country's population in the dark. Readers and viewers who do not actively look for alternative sources of news (mainly online) receive a virtually exclusively government narrative given the government's level of control over the print, radio and television markets. Furthermore, the impact of the independent press is highly limited as the outcomes of journalistic investigations are simply ignored by the state apparatus due to informal government control over key institutions, including prosecutor's offices. In general, the independent press often finds itself fact-checking and countering the misinformation spread by the pro-government media, thus losing the possibility to influence public discourse. Meanwhile, financial stress, job loss, self-censorship and bureaucratic harassment have deeply damaged the profession, hindering its ability to perform its much-needed watchdog role.

The Hungarian system of media control was deliberately designed to deter scrutiny and provide its rulers with superficial deniability. But this is not an excuse for the inaction of the European Union, whose procedures have failed to prevent a member state from openly and obviously undermining the media as a fully functioning element of democracy. Moreover, this lack of action has effectively given the Fidesz government an open door to export its illiberal media model throughout Central and Eastern Europe, endangering the independent press across the region. The message is that if Hungary can do away with independent media, others can, too, free from EU pressure. Moreover, the fact that an EU member state so clearly deviates from international standards on media freedom undermines the EU's efforts to promote and defend media freedom elsewhere in the world.

In an interview with the mission, the Hungarian government's international spokesperson denied the existence of problems with media freedom and media pluralism in Hungary. He stated that it was not the media's role to control power and described independent journalists as political activists. This is in line with the government's effort to redefine journalism by reducing it to the role of passing the government's preferred information to readers.

The mission arrived in Hungary just as an anti-Semitic smear campaign was underway against two journalists working for the independent online news portal Index.hu over an article in which one of the journalists admitted that he did not stand when a nationalistic song was played at a stadium inauguration. The two journalists were subject to vicious attacks on pro-government television and on posters in Budapest. The attack and the subsequent claim by the government spokesperson to paint it as a deliberate provocation by the "left-wing" media, which reported the case, symbolize the state of independent media in Hungary today.

## SELECTED FINDINGS BY TOPIC

### **Media pluralism**

- Media ownership is heavily concentrated in the hands of the government, either directly or through pro-government investors. The Hungarian government maintains a veil of media pluralism by citing the few independent media outlets that exist and pointing out – misleadingly – that some of these media remain market leaders (though only barely). But the relevant metric is the overall market picture, not the relative position of an individual outlet. In Hungary, the overall reach of all media directly or indirectly controlled by the government far outweighs that of independent media.
- Independent research shows that nearly 80 percent of the market for political and public affairs news is “financed by sources decided by the ruling party”<sup>1</sup>. This figure includes pro-government private media as well as public media. Pro-government media have a quasi-monopoly in the daily print media and radio sectors and are dominant overall in the television sector, especially when counting the public broadcaster. The online sector is more balanced on paper, but the reach of online media is primarily restricted to urban areas.
- Following the closures of influential dailies Népszabadság and Magyar Nemzet, Hungary has just one remaining independent political daily, Népszava, with a circulation of only 20,000. By contrast, the government-controlled network of regional daily newspapers alone have a combined circulation of over 200,000<sup>2</sup>. There is a single independent talk radio station, Klubrádió, whose reach is restricted to Budapest. There is one independent cable TV station with political programmes (ATV, with a small market share) while the evening news of the independent commercial broadcaster RTL Klub, still a market leader, carries reports on government-related controversies among other stories. These outlets, as well as a handful of independent weeklies, compete against dozens of pro-government media outlets, many of which are supported by market-distorting practices and combine to dominate the market.
- Content coordination throughout the pro-government media empire, and especially within the KESMA foundation, has led to an overwhelming dominance of the state narrative. This is especially true outside major urban centres, where independent media have effectively disappeared. Multiple journalists gave the example that while driving in these areas, there are no channels available that do not broadcast pro-government news. All regional daily newspapers are under government control.
- Numerous experts suggested that the government’s strategy is to allow just enough independent media to claim the existence of a free press – following the Putin model – while insulating a large part of the population (particularly those outside of cities) from critical narratives, forming a solid base to keep it in power.
- The government’s deliberate media concentration plan reached a provisional apex last year when pro-government investors “donated” 467 media outlets – many of which were originally acquired with loans from state banks, i.e., taxpayer money – to the Central European Press and Media Foundation (KESMA), which is under effective government control. This foundation facilitates the financial management and content control regarding pro-government media. The threat to competition and pluralism in the media market posed by KESMA is so blatant that the government felt compelled to exempt, by decree, the merger and the foundation’s activities from oversight by the Hungarian Competition Authority and the Media Council, even though these bodies are already controlled by the ruling party.

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<sup>1</sup> Source: Mérték Media Monitor, “Overview of the Hungarian media landscape”, based on detailed analysis of market data for 2018.

<sup>2</sup> Source: According to figures from Matesz.hu.

## Media market distortion

- The government has mobilized its control over state resources to marginalize the independent press and distort the media market in favour of a dominant pro-government narrative.
- Most prominently, state advertising has been weaponized to fund pro-government media and starve independent outlets. The latter are almost completely excluded as beneficiaries of state advertising, further distorting competition dynamics in the media market and strongly affecting the sustainability of the sector. In 2018, for instance, the pro-government broadcaster TV2 received 67 percent of state advertising in the television sector, while the independent RTL Klub, of similar reach, received just 1 percent<sup>3</sup>. This imbalance is reflected across all sectors.
- The Hungarian government spokesman stated that media pluralism was important to the government, but rejected – implausibly – any connection between media pluralism and state advertising. He stated that the distribution of advertising follows market logic. This claim is easily refuted. Despite their large reach, the independent broadcaster RTL Klub (estimated 10 percent audience share in 2018<sup>4</sup>) and the independent online news site Index.hu (1 million real daily users, according to the site), for instance, receive virtually zero in state advertising.
- Compounding the problem, commercial advertisers – both Hungarian and multinational companies – are under pressure not to advertise with independent media. It is not fully clear whether this is due to direct pressure or to self-censorship for fear of economic or tax-related retaliation by the government. Potential media investors are deterred in a similar fashion.
- The viability of independent media outlets is further threatened by government control or pressure over other sectors that are important for their functioning, such as printing presses and distribution companies.

## Public service media

- Hungary's public service media have been deformed into state media. News coverage is not balanced and opposition politicians and viewpoints are either absent or – where there are legal requirements, such as during election campaigns – presented in a negative light.
- The government has removed the public broadcaster from scrutiny through what amounts to a shell-company construction. The actual work of public service broadcasting – including control over content and contracts – is performed by an entity, MTVA, that is not subject to the law on public service broadcasting. There is no transparency around the funding or work of the public broadcaster.

## Media regulation

- Hungary's system of media regulation is not independent. In particular, the Media Council, the sector regulator, is composed of five members, all of whom were nominated by the Fidesz party. As the terms of four of the current Council members have now expired, just days after the mission a new group of Fidesz appointees were announced for a nine-year term.
- The Media Council's decisions on the tendering of radio frequencies have been made on political lines, with the frequencies of independent broadcasters cancelled or not renewed. In other cases, the Council has declined to issue any ruling in response to extension requests, preventing independent outlets from challenging a decision in court and thus undermining basic principles of the rule of law.

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<sup>3</sup> Source: Mérték Media Monitor, "Overview of the Hungarian media landscape". Figures based on data provided by Kantar Media.

<sup>4</sup> Source: According to figures from Nielsen Közönségmérés Ltd.

- The Media Council's decisions on proposed media mergers have been taken so as to block mergers involving independent media while approving mergers among pro-government media, facilitating the concentration of pro-government ownership.
- In general, the threat of targeted legislation and regulatory action hangs like the Sword of Damocles over Hungary's independent media. This extends to tax law as well as rules for audiovisual service providers, such as a regulation shortening the allowed time span for primetime television news to 45 minutes.
- However, the government's spokesperson ruled out earlier-aided plans of establishing a highly controversial "chamber of journalists" with the power to determine who is a member of the profession, with all corresponding benefits.

### **Access to information**

- Independent journalists are subject to pervasive discrimination by the state when it comes to access to information. They are routinely denied access to publicly held information without explanation and excluded from official events. Public officials connected to the ruling party largely refuse communication and interviews with independent media.

### **Delegitimization of journalists and situation of precarity**

- Journalists working for independent media are publicly vilified, including on pro-government media, as opposition political activists, foreign agents, traitors or even as "Hungary-haters" or "non-Hungarians", as in the recent case of an anti-Semitic smear campaign. The claim that independent journalists are "political activists" was repeated by the Hungarian government's spokesperson.
- Female journalists note that gender is used as an additional excuse to diminish their critical work. Some also highlighted gender-based online harassment and reported receiving rape threats following reporting on sensitive topics.
- The instability of media ownership and the frequent political reversals of media owners have increased the precariousness of journalists, whose working conditions were already quite poor in Hungary.
- The economic instability of the sector, deliberately maintained by the public authorities, has resulted in journalists losing their jobs or leaving the profession.
- As a direct consequence of the establishment of the KESMA media conglomerate, a mass layoff of journalists and media professionals (200 workers) has been reported within the merged entity. Another consequence of the new conglomerate is the fact that hundreds of journalists employed by KESMA are no longer represented by a journalists' union, which accentuates their precariousness and their vulnerability to political and managerial pressure.
- The financial situation of many independent media outlets is highly precarious, increasing their vulnerability in the face of pressure. The search for a sustainable business model remains ongoing.
- Government pressure on the media has also succeeded in dividing the journalistic community, limiting solidarity among remaining independent journalists and media outlets as they fight for limited resources and audience share.

### **Role of the EU**

- The failure of the European Union to intervene more forcefully at crucial moments in the progressive dismantling of media pluralism and media freedom in Hungary has strengthened the hand of the Hungarian authorities to further undermine the independent press.
- Although media freedom per se is not an explicit competence of the European Commission, it does have significant responsibility in the areas of competition law and state aid, both of which have been abused by Hungary to silence the media. The

European Commission has not acted on at least two complaints in these areas, one regarding the state aid to the public broadcaster, filed in 2016, and one regarding state aid in the form of public advertising, filed in January 2019.

- The Council of the European Union is scheduled to hold a hearing on Article 7 proceedings against Hungary on 10 December. In September 2018, the European Parliament had voted in favour of triggering the infringement procedure against Hungary (which could result in the suspension of its voting rights), for its failure to comply with EU core values, including freedom of expression.
- A separate proposal by the European Commission to set up a Rule of Law Review Cycle could lead to a strengthened capacity of EU institutions to hold member states to account for breaches of EU treaty values, including by linking this to the conditionality of EU funds – a move not supported by the Hungarian government.

### **URGENT RECOMMENDATIONS**

*To the Member States of the European Union and relevant EU Institutions:*

- Recognize the gravity of the media freedom situation in Hungary, which is unprecedented in an EU member state, and take all available measures to respond. The methods used in Hungary have not only gravely damaged the Hungarian public's right to information, but they are also already being exported to neighbouring countries, both existing EU member states and candidate countries.
- Condemn all attacks on journalists in Hungary, including pervasive anti-media rhetoric that delegitimizes journalists and journalism as an essential element of democracy.
- Make full use of competencies under competition and state aid law to address the deliberate distortions of competition in the media market in Hungary. This must include addressing the two existing complaints to the Commission for unlawful or incompatible state aid in the area of public service broadcasting and state advertising as well as prioritizing the handling of future complaints, as well as giving priority to future complaints.
- Monitor the independence of Hungary's media regulatory bodies according to the requirements of article 30(2) of the Audiovisual Media Services Directive.
- Closely monitor judicial independence in Hungary and ensure it is strengthened rather than weakened. The relative independence of local courts offers a rare remedy to independent journalists and media outlets to resist pressure against them.
- Continue and expand financial support to independent journalism in Hungary, especially investigative journalism. Such support should be tailored to the needs of journalists and should include core support, i.e., support for organisational and operational costs. This type of funding is essential for sustainable media pluralism in Hungary.
- Investigate any potential misuse of EU funds to undermine media pluralism and media freedom in Hungary.

*To the government of Hungary:*

- Recognize the importance of media freedom and media pluralism to democracy and take meaningful action to restore these values to the Hungarian media environment.
- Guarantee fair competition in media markets; limit ownership concentration; adopt measures to support market entry and the sustainability of the sector
- End the abuse of state resources, especially state-controlled advertising, to punish independent media outlets and reward pro-government media outlets.
- Restore proper governance to the public broadcaster (in particular ending the dual structure of Duna Media Service Provider and MTVA) and fully apply international standards to guarantee independence, accountability and transparency. Adhere to

European Commission requirements on the provision of state aid to public service media (2009/C 257/01).

- Stop all legal and administrative harassment of the independent press.
- Guarantee the independence and transparency of the media regulator. Immediately cease regulatory practices designed to marginalize independent media or force them from the market, especially in the area of frequency licences. All decisions of the media regulator must be transparent and taken according to clearly defined rules and criteria.
- Fully implement the 2016/4 Council of Europe Recommendation on the Protection of Journalism and the Safety and Journalists and Other Media Actors.
- End all discrimination against independent journalists in the area of access to information, including access to press events and press conferences. Reverse all measures that restrict journalists' ability to perform their watchdog role in practice. Any restrictions on parliamentary reporting must adhere to international standards and not be applied in practice to limit the media's watchdog role.
- Condemn offline and online attacks on journalists and ensure that any such attacks are properly investigated.
- Local officials should take all possible steps within their area of competence to protect media freedom, guarantee journalists' access to information, ensure a fair distribution of official advertising and condemn attacks on the press. Where local officials represent opposition parties, they should seek to put in place rules to protect media independence and protect against political influence in the media market by any party.