Hungary

<table>
<thead>
<tr>
<th>Internet Freedom Status</th>
<th>2015</th>
<th>2016</th>
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<tbody>
<tr>
<td>Free</td>
<td>24</td>
<td>27</td>
</tr>
</tbody>
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* 0=most free, 100=least free

| Obstacles to Access (0-25)           | 4    | 5    |
| Limits on Content (0-35)             | 9    | 10   |
| Violations of User Rights (0-40)     | 11   | 12   |

| Population                           | 9.8 million |
| Internet Penetration 2015 (ITU)      | 73 percent  |
| Social Media/ICT Apps Blocked:       | No          |
| Political/Social Content Blocked:    | No          |
| Bloggers/ICT Users Arrested:         | No          |
| Press Freedom 2016 Status:           | Partly Free |

Key Developments: June 2015 – May 2016

- In January 2016, the European Court of Human Rights found that Hungary's internet and telecommunication surveillance practices violate the European Convention on Human Rights (see Surveillance, Privacy, and Anonymity).

- Hungarian citizens campaigned online against xenophobic, anti-immigration rhetoric employed by government agencies throughout the refugee crisis (see Digital Activism).

- Public officials continue to use defamation and libel charges against citizens commenting on social networks (see Prosecutions and Detentions).
Introduction

Internet freedom declined Hungary in 2015-2016, reflecting increasing defamation cases launched by public officials against ordinary users, while the European Court on Human Rights condemned the government’s surveillance practices.

The internet remains relatively free in Hungary, and the government does not engage in any politically motivated blocking or filtering of online content. However, individuals and websites have been held liable by Hungarian courts for content posted on their pages by third parties, a practice which has been condemned by the European Court of Human Rights as undermining the right to freedom of expression. The diversity of the online media landscape is further threatened by the inequitable and politically biased distribution of advertising revenue, resulting in the closure of some independent online outlets over the past few years.

While social media users and online commentators do not face prison sentences for their activities online, public officials often initiate defamation proceedings against users posting or even sharing critical content. Though these proceedings are often either dropped or result in small fines, this worrying trend demonstrates the government’s low tolerance for criticism and may have a chilling effect on expression.

Following unsuccessful attempts to raise the issue in Hungarian courts, the European Court of Human Rights ruled in January 2016 that Hungary’s online surveillance practices constitute a violation of the European Convention on Human Rights.1 The Anti-Terrorism Task Force, a special police unit, possesses broad powers to gather information from telecommunications systems without judicial oversight, and the extent to which the authorities monitor ICTs is unclear. The legal system permitting these practices remains unchanged.

Obstacles to Access

*Internet access is widespread in Hungary, with internet penetration rates steadily increasing over the past several years, despite a slight slump in 2015. The government recently announced plans to reduce taxes paid by internet service providers which may reduce prices for consumers. The internet and mobile markets remain concentrated among a handful of providers.*

Availability and Ease of Access

The internet penetration rate has been steadily increasing in Hungary over the past several years, though the ITU registered a slight drop in 2015, with 72.8 percent penetration compared to 76 percent in 2014.2 Other figures were similar. According to a 2015 Gemius survey, the internet penetration rate in Hungary was at 70 percent among users aged 18 to 69 years old.3 The National Media

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and Infocommunications Authority of Hungary (NMHH) reported that there were over 2.5 million broadband internet subscriptions in January 2016, in a country of less than 10 million inhabitants.\(^4\)

Dial-up internet service is not widely used. The NMHH recorded a mobile phone penetration rate of about 117 percent and over 4 million mobile internet subscriptions in 2014.\(^5\) In 2014, only 22 percent of the population had never used the internet, a decrease from 52 percent in 2006.

Hungary’s internet penetration levels differ based on geographical and socioeconomic conditions, 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. Internet penetration also differs between those living in the capital and in the countryside.\(^6\) A digital divide based on ethnicity has also been observed. 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.\(^7\)

The National Curriculum for 2013 drastically decreased the number of IT classes in primary and 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 digital devices at home.\(^8\) Poor IT infrastructure at public schools further increases the digital divide.\(^9\)

The cost of internet access is comparatively high. In 2016, the median price for a monthly internet subscription was EUR 52 (US$57), making Hungary the fifth most expensive country for internet access in the EU.\(^10\)

In late 2014, a proposed tax on internet usage sparked widespread protests in Hungary, and the Orban administration withdrew the proposal.\(^11\) The tax would have cost internet service providers (ISPs) approximately HUF 150 (US$0.61) per GB of data, a fee which they would likely have passed on to consumers. During his speech withdrawing the proposal, Orban hinted at the possibility of reintroducing taxes and other regulations. In March 2016, however, the Government announced that it will reduce the value-added tax on internet service from 27 percent to 18 percent from 2017.\(^12\)

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\(^6\) TNS-Hoffmann Kft. Media Sector TGI 2014/1–4 quarters.


Restrictions on Connectivity

The government does not restrict bandwidth, routers, or switches, and backbone connections are owned by telecommunications companies rather than the state. 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) without any governmental interference. 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.

ICT Market

The ICT market in Hungary lacks significant competition, with over a third of the market belonging to Magyar Telekom. Four ISPs control over 80 percent of the total fixed broadband market. UPC was the first company to enable home routers to serve as Wi-Fi hotspots, at the same time as it entered the mobile phone market as a mobile virtual network operator, which resells service using networks owned by another provider.

There are three mobile phone service providers, all privately owned by foreign companies. Mobile internet network expansion has been relatively stagnant because of the lack of competition. A market with few players is also more easily influenced by the government, which can negotiate individually with service providers.

The government levied two special taxes on the telecommunication industry in 2010, both of which triggered infringement proceedings in the European Union in 2012. The government withdrew the tax and both proceedings were withdrawn. Another tax on mobile phone calls and text messages was introduced in mid-2012 (a maximum of $3 a month per subscriber). All mobile service providers have since raised their prices.

Regulatory Bodies

13 Zoltán Kalmár, Council of Hungarian Internet Service Providers, e-mail communication, January 24, 2012.
16 Zoltán Kalmár, Council of Hungarian Internet Service Providers, email communication, January 24, 2012.
17 Act CXIII of 2011 on home defense, Military of Hungary, and the implementable measures under special legal order, Art. 68, par. 5.
18 These major internet service providers are: Telekom with a 36.1 percent market share, UPC 21.9 percent, DIGI 14.8 percent, and Invitel 9.4 percent. See National Media and Infocommunications Authority Hungary, Flash report on landline service, December 2015, http://bit.ly/1QAmgaz.
20 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.
The National Media and Infocommunications Authority of Hungary (NMHH) and the Media Council, established under media laws passed in 2010, 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 Head of the Media Council appoints the president of the MTVA, the fund responsible for producing content for the public service media. The members of the Media Council are nominated and elected by parliamentary majority, then appointed by the president of the republic. The head of the NMHH is appointed by the president based on the proposal of the prime minister, for a non-renewable nine-year term.

Some of the decisions of the Media Council have been regarded as politicized. Critics contend that the Media Council operates with unclear provisions and can impose high fines, which might give rise to uncertainty and fear, lead to self-censorship, and have a chilling effect on journalism as a whole. OSCE Representative on Freedom of the Media, Dunja Mijatovic, warned that the 2010 media laws “only add to the existing concerns over the curbing of critical or differing views in the country.”

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 Data Protection Commissioner, replacing the former office with the National Authority for Data Protection and Freedom of Information. The head of the new authority is appointed by the president of the republic based on the proposal of the prime minister for a nine-year term and can be dismissed by the president based on the proposal of the prime minister, 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 under EU law when it ended the Data Protection Commissioner’s term.

**Limits on Content**

*The government of Hungary does not engage in any significant blocking of content online and does not place restrictions on access to social media, though a number of websites purportedly containing Holocaust denial content were blocked by the authorities after the coverage period. Online content is somewhat limited as a result of 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. In the past, Hungarian courts have held hosting service providers and even Facebook page administrators liable for content posted on their pages, though this may change following a decision of the European Court of Human Rights declaring this practice to be in violation of the European Convention on Human Rights.*

**Blocking and Filtering**

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

The authorities often block content related to Holocaust denial. In August 2016, a Hungarian court ordered the blocking of 20 websites which contained material denying the Holocaust, in compliance with laws banning public Holocaust denial. In January 2015, the Metropolitan Court of Justice ordered the far-right website Kuruc.info to delete an article denying the Holocaust. 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. Since the website is hosted outside of the 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 October 2016.

The new penal code, which took effect on July 1, 2013, includes provisions based on which websites can now be blocked for hosting unlawful content. 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 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. The prosecutor, ISP, and the content provider can appeal the court order to block within eight days of a decision being issued. The NMHH is the authority designated to manage the list of websites to be blocked based on court orders (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. The list, referred to as KEHTA (Hungarian acronym for “central electronic database of decrees on inaccessibility”), went into effect on January 1, 2014 with the primary aim of fighting child pornography. However, the blacklist is not public, as only certain institutions have access, such as the courts, parliamentary committees, and the police. The NMHH refused to publish the number of blocked websites following a public data request in February 2016.

Online gambling is considered illegal if the tax authority has not authorized the operation of the
ISP had blocked 63 gambling websites as of March 2016; however, gambling websites have been known to change their URLs in order to circumvent blocking.

**Content Removal**

Though the law in Hungary generally protects against intermediary liability for content posted by third parties, in some cases courts in Hungary have held individuals responsible for comments posted by third parties on their pages and websites. In early 2016, László Toroczkai, far-right politician and mayor of Ásotthalom, was held liable by a court for “disseminating” defamatory comments posted by another person on his Facebook page. The court found that, by allowing commenting on his page, Torockai had accepted responsibility for any unlawful content posted by others. The comments said a journalist “should be hanged.”

In June 2015, a popular news website, 444.hu, was held liable for publishing a hyperlink to a YouTube video which undermined the reputation of Jobbik, a far-right party. The court found that by publishing the hyperlink, 444.hu had assumed liability for the defamatory content contained in the YouTube video. The case will be considered before the European Court of Human Rights in 2017.

In February 2016, the European Court of Human Rights ruled in favor of a Hungarian website administrator (Index.hu ZRT) and a self-regulatory body of content service providers (Magyar Tartalomszolgáltatók Egyesülete), contradicting previous judgements issued by Hungarian courts. The applicants appealed to the ECtHR after both the Hungarian Supreme Court and Constitutional Court found that, by enabling comments on their websites, the applicants were liable for any damage caused by content posted by third parties, including defamation. The ECtHR found that the Hungarian courts had failed to properly balance the right to reputation and the right to freedom on the press, a decision which could influence future defamation proceedings in Hungary.

According to Hungarian legislation, intermediaries are not otherwise legally responsible for transmitted content if they did not initiate or select the receiver of the transmission, or select or modify the transmitted information. Intermediaries are also not obliged to verify the content they transmit, store, or make available, nor do they need to search for unlawful activity. 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.

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, both print

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41 Act XXXIV of 1991 on Gambling, art. 36/g.
42 The list of the National Tax and Customs Administration can be accessed at: [http://bit.ly/1OxJ35p](http://bit.ly/1OxJ35p).
46 Magyar Jeti Zrt. v. Hungary, Application no. 11257/16. Many prominent internet stakeholders intervened in the case, such as Mozilla or Buzzfeed: [http://hudoc.echr.coe.int/eng?i=001-164079](http://hudoc.echr.coe.int/eng?i=001-164079).
47 Magyar Tartalomszolgáltatók Egyesülete and Index.hu Zrt. v. Hungary, (application no. 22947/13).
49 Act CVIII of 2001 on Electronic Commerce, art. 8, par. 1.
50 Act CVIII of 2001, art. 7, par. 3.
51 Act CVIII of 2001, art. 12/A, Act XIX of 1998 on criminal proceedings, art. 158/B-158/D.
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.” 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 said that the provision could apply to a blog if the blog were produced for a living. 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, though they may be subject to lawsuits and damages.

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.” Further, the law states that constitutional order and human rights must be respected, and that public morals cannot be violated. 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). 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. Any such action can be appealed in court, although a 2011 overhaul of the judiciary called into question the independence of the court system (see Legal Environment).

Media, Diversity, and Content Manipulation

The online media environment in Hungary is relatively diverse, though independent outlets face increasing economic and political pressure. In October 2016, Hungary’s leading opposition newspaper and online news portal, Népszabadság (People’s Freedom), abruptly shut down. Though the owner said it was a business decision, journalists and non-governmental organizations (NGOs) regard the move as a consequence of political pressure, particularly because it followed the publication of several highly critical articles exposing government corruption and misuse of state funds by ministers.

In a 2015 survey, journalists told the Mérték Media Monitor that they experience persistent political and economic pressure to self-censor. Hungarian journalists were cynical about the state of freedom of expression in another recent survey, with 50 percent of respondents reporting they had experienced political pressure in their everyday work. Nine out of ten respondents said they felt that political pressure on the media is very strong.

52 Act CIV of 2010, art. 1, par. 6.
54 László Bodolai, personal communication, March 2, 2015.
55 Act CIV of 2010, art. 17.
56 Act CIV of 2010, art. 16, and art. 4, par. 3.
57 Act CLXXXV of 2010, art. 186, par. 1, 187, par. 3. bf.
58 Act CLXXXV of 2010, art. 187, par. 3. e, 189, par. 4.
59 Zsófia Gergely, “Megszólalnak a bírók: jobbelugrani a kényesügyelől,” [The judges speak up: it is better to avoid politically sensitive cases], Hyp.hu, 1 March 2016, http://bit.ly/1QR84Ah.
Online media outlets that publish critical content are far less likely to attract revenue from state advertising or private companies owned by government-friendly oligarchs. As the Hungarian online advertisement market is not yet fully developed, this loss in revenue poses a significant threat to the operations of critical online outlets. This pushes online media to stick with politically “safe” content and many outlets veer away from covering controversial topics such as corruption.  

In May 2015, the government allocated HUF 25 billion (US$88 million) for the advertisement of governmental activity, which it has channeled to newly-established online media outlets, such as 888.hu, Faktor.hu, and Ripost.hu, among others. Some already existing news portals have also received funding to advertise governmental policies, such as anti-refugee propaganda. These websites generally lack commercial advertisements, but operate with significant staff and produce government friendly content. The prevalence and financial advantage of these outlets has the effect of distorting the online media landscape. An example of the political nature of advertising allocation was seen in July 2013, when the manager of Stop.hu, a website close to the opposition Socialist party which posts content critical of the government, said they would reduce staff partly because businesses would not consider advertising on their site.

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

Despite reports of self-censorship and challenges of maintaining financial viability, some online media outlets have become a tool to scrutinize public officials. For instance, starting in January 2012, Hvg.hu 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. However, journalists have faced consequences in the past for publishing content critical of the government online. 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 an article that revealed a possible abuse of public funds by the undersecretary of the prime minister, prompting speculation that the government pressured the publication to fire the editor.

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67 Act XXII of 2014 on the advertisement tax.
sequently founded an investigative journalism site called Direkt36 that publishes articles based on extensive investigations concerning corruption.\textsuperscript{72}

Since 2011, the state-owned Hungarian News Agency (MTI) has had a virtual monopoly in the news market. MTI offers its news free of charge, making it difficult for other actors to compete. Many online media outlets that have been impacted by the economic crisis lack staff to produce original stories and tend to republish MTI news items. MTI is part of the system of public service broadcasting under the media authority. During the refugee crisis of 2015, public service media content was in line with the government’s anti-refugee stance.\textsuperscript{73}

Although MTI has a major effect on traditional and online content, the online media landscape is otherwise relatively diverse. Most civil society organizations have websites, and an increasing number of them have a presence on Facebook. Some media outlets, including online portals, represent the minority Roma community,\textsuperscript{74} the LGBTI (lesbian, gay, bisexual, transgender, and intersex) 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. The comments sections of online articles are moderated, typically to prevent negative discussions. A survey conducted in 2011 among netizens 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.\textsuperscript{75}

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. In November 2015, the Hungarian Civil Liberties Union launched an online campaign after Tata resident Mária Somogyi was charged with libel for posting critical comments on Facebook questioning spending by the Tata council (see Prosecutions and Detentions for Online Activities).\textsuperscript{76} The group started a crowdfunding campaign to assist Somogyi pay for the fines imposed and litigation costs, as well as launching a broader online campaign, “Politikuss”, which allows users to generate satirical memes depicting Hungarian politicians, in protest of the country’s defamation and libel laws.\textsuperscript{77}

Throughout the European immigration crisis, Hungarians increasingly used the internet to mobilize against the government’s strict immigration policies and anti-refugee rhetoric. In June 2015, the Hungarian Two-Tailed Dog party launched an online crowdfunding campaign to counter the gov-

\textsuperscript{72} Anita Vorák, “Így kaptak Tiborcزék szabad utat a milliárdokhoz”, [This is how Tiborcza and his crew gained access to the billions], 444.hu, 11 March, 2015, http://bit.ly/1T67rmA.
\textsuperscript{73} Márton Kasnyik, “Neten terjedő kamufotóval kelt félelmet az állami tévé és az udvari napilap” [State television and government friendly newspaper mongers fear with a fake picture from the net], 444.hu, September 8, 2015, http://bit.ly/21Tyc2P.
\textsuperscript{76} Hungarian Civil Liberties Union, “Help Maria Somogyi!” http://tasz.hu/somogyimaria.
ernment’s anti-immigration billboards displayed around the country. The campaign gained popular support, raising over $100,000. In July 2015, the campaigners put up spoof billboards containing messages such as, “Sorry about our Prime Minister!”

In May 2015, the Hungarian Helsinki Committee NGO launched a campaign in response to xenophobic language in surveys relating to migration which the government distributed to millions of residents. The group started a Tumblr blog to highlight the bias behind the survey and provide a platform for Hungarian citizens to share their own migration stories.

Since the 2010 parliamentary elections, several large demonstrations have been organized through Facebook, mobilizing tens of thousands of people. In 2014, online campaigns drew thousands of people to protest against the introduction of a tax on internet use. Due to the overwhelming demonstrations, the government decided to withdraw the planned tax.

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 public officials occasionally initiate defamation proceedings against individuals posting critical content on social media. Judicial oversight of surveillance by intelligence agencies continues to be a concern, and the government recently passed a law granting authorities access to encrypted communications.

Legal Environment

The Fundamental Law of Hungary acknowledges the right to freedom of expression and defends “freedom and diversity of the press,” although there are no laws that specifically protect online expression. In 2013, the Fundamental Law was amended to specify instances in which freedom of speech could be limited. Article 9.2 states that freedom of speech may not be exercised with the aim of violating the dignity of the Hungarian nation or of any national, ethnic, racial, or religious community. The amendment has been criticized for its overbroad scope and lack of clarity.

The independence of the judiciary has come under question in the past, such as when the government essentially forced hundreds of judges into early retirement by lowering the retirement age.

86 “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.
However, after a ruling by the CJEU, in 2013 the parliament changed the law to gradually reduce the retirement age over 10 years.87

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.88 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.89 In February 2013, the Constitutional Court ruled the ban on using totalitarian symbols unconstitutional,90 though the parliamentary majority decided to include it again in revisions to the penal code in April 2013.

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.91 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 causes significant harm, the sentence can increase to up to three years in prison.92 The amendment was condemned both by domestic and international actors for threatening freedom of expression and for targeting the media.93 While libel and defamation are generally prosecuted by the victim, in cases where a public official brings the charge, the state will provide a public prosecutor. In these cases, the defendant must go through an invasive registration process: his or her photograph and fingerprints are taken before the court procedure even begins.94

A new civil code, which took effect in March 2014, also protects citizens from defamation and insults to their honor,95 and includes an indemnification fee for non-pecuniary damages caused by violating civil rights.96 The 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.97

A series of amendments to the Freedom of Information (FOI) Act has imposed restrictions on the accessibility of public data. The latest amendment came into force in October 2015, imposing higher and potentially arbitrary fees for FOI requests, allowing denials for repeated FOI requests (even

91 Act C of 2012, art. 227.
92 Act C of 2012, art. 226/A and 226/B.
95 Act V of 2013 on the Civil Code, art. 2:45.
96 Act V of 2013 on the Civil Code, art. 2:52–53.
97 Bill Nr. T/7971, art. 2:44.
where previous requests received no response), and allowing public bodies to refuse to make certain information public where that information is deemed to have been used in decision-making processes. Critics say these amendments are part of a wider trend of restricting public access to information.  

**Prosecutions and Detentions for Online Activities**

During the coverage period, there were no instances of detentions for online activities. However, public officials have been known to initiate civil and criminal procedures against ordinary citizens for their activity online, including commenting, authoring blog pieces, or even sharing content on social media. Authorities are effectively punishing citizens for their political engagement online, a trend which is likely to cause a chilling effect on critical discussions and mobilization on social media.

- In June 2016, the Supreme Court of Hungary upheld the decision of a lower court which found that a Facebook user, Mária Somogyi, had violated the personality rights of Tata town council. Somogyi had shared and commented a post that claimed the council was misusing public funds.

- In November, 2015, the then-mayor of the Hungarian town of Siófok initiated criminal proceedings against 17 Facebook users after they shared a post about suspicious real estate deals in their town involving the mayor. In June 2016, the first instance court found that no crime was committed and terminated the criminal procedure. The former mayor has appealed the decision.

- In November 2014, András Vágvölgyi said on his Facebook page he had once been detained at the same time as President János Áder during his compulsory military service. Index.hu shared the story but said it was probably untrue. Both Vágvölgyi and Index.hu were found liable for violating the personality rights of Áder and were ordered to pay an indemnification fee of 600,000 HUF (US$2,100). In September 2016, the Supreme Court reduced the indemnification fee to 50,000 HUF (US$180).

**Surveillance, Privacy, and Anonymity**

The lack of judicial oversight for surveillance of ICTs, combined with 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.

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100 She can pay 85 thousand for a Facebook share, 3 November, Index.hu, 2015, http://bit.ly/1p0PBPy
102 Imre Fónai, “Facebook-per.a siófoki expolgármester nem hagyja annyiban” [Facebook trial: Siófok ex-Mayor will not give up], sonline.hu, June 23, 2016, http://bit.ly/2dz6t3C
In July 2016, new antiterrorism legislation sought to expand the authorities’ access to encrypted content online. The legislation amends the Online Trade Services and Services Connected to the Information Society Act, obligating providers of encrypted services, including messaging platforms, to grant authorized intelligence agencies access to the communications of their clients upon request, unless the communication is encrypted end-to-end, making compliance impossible. Providers of encrypted services must store their clients’ messages and metadata for up to one year. The legislation reveals the authorities’ intent to undermine encryption, though it’s not clear how it will be enforced.

ISPs and mobile phone companies in Hungary must also retain user data for up to one year to provide to investigative authorities and security services on request, including personal data, location information, phone numbers, the duration of phone conversations, IP addresses, and user IDs. 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. Electronic communications service providers are also obligated to “cooperate with organizations authorized to perform intelligence information gathering and covert acquisition of data.” Additionally, the Electronic Communications 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.”

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 annul data retention requirements. The Constitutional Court declined to hear the case on procedural grounds, and the HCLU has initiated an appeal.

National security services can gather metadata “from telecommunications systems and other data storage devices” without a warrant. Security agents can access and record the content of communications transmitted via ICTs, though a warrant is required. Privacy experts say the authorities have installed black boxes allowing them direct access to ISP networks. There is no data on the extent to which, or how regularly, the authorities monitor ICTs.

In June 2012, staff members of the Budapest-based watchdog Eötvös Károly Institute (EKINT) asked the Constitutional Court to annul a legal provision that allows the justice minister to oversee the
work of the Counter Terrorism Center to approve the secret surveillance of individuals,\footnote{Act CXXV of 1995, art. 58, par. 2. states that in some instances – including the tasks of the Counter Terrorism Center – the minister for justice can grant the warrant.} saying that surveillance should be approved by a judge rather than a minister.\footnote{Act C of 2003 on Electronic Communications, art. 129, \url{http://bit.ly/1R2nc9u}.} The Constitutional Court rejected the complaint, and EKINT addressed the same complaint to the European Court of Human Rights in May 2014. The application was joined by the U.K.-based Privacy International and the U.S.-based Center for Democracy and Technology.\footnote{Privacy International “Surveillance Industry Index,” November 18, 2013, \url{https://www.privacyinternational.org/node/403}.} In January 2016, the Court decided in the favor of the applicants and found that the Hungarian law on surveillance is in violation of the European Convention on Human Rights.\footnote{Act XIX of 1998 on criminal proceedings, art. 178/A, par. 1.}

Reports indicate that the government may be abusing these surveillance powers to spy on local NGOs. In September 2015, Tivadar Hüttl, an attorney at the Hungarian Civil Liberties Union, was speaking by telephone with Benedek Jávor, a member of the European Parliament, when the line disconnected, after which Jávor reported hearing their conversation played back. Ministers overseeing the secret services said no illegal surveillance took place.\footnote{József Spirk, “Egy ügyvédet lehallgattak, a többiek csak a jeleit észlelték” [Attorney tapped, others suspect the same], \url{index.hu} April 21, 2016, \url{http://bit.ly/2drjUk8}.} In June 2016, Eötvös Károly Intézet reported finding a surveillance device on computer equipment in their office. The Government denied any link to the device. In July, the public prosecutor ordered an investigation.\footnote{Viktória Serdült, “Prosecutor orders investigation into surveillance bug found in NGO office,” \textit{The Budapest Beacon}, July 14, 2016, \url{http://bit.ly/2cOhJoE}.}

Several privacy and digital rights organizations say the Hungarian authorities have purchased potentially invasive surveillance technologies over the past few years. In July 2015, files leaked from the Milan-based commercial spyware company Hacking Team revealed that the Hungarian government was a client.\footnote{Alex Hern, “Hacking Team hack casts spotlight on murky world of state surveillance,” \textit{The Guardian}, July 11, 2015, \url{http://bit.ly/2efzrIq}.} In 2013, Privacy International reported that Hungarian law enforcement agencies are connected with at least one surveillance technology company,\footnote{Privacy International “Surveillance Who’s who,” Privacy International.} and that several government agencies attended the ISS World surveillance trade shows over the years.\footnote{Tamás Bodoky, “Nem cask az USA szeme látmindent: kormányzati kémprogram Magyarországon,” [Not only USA can see everything: governmental surveillance software in Hungary] \url{atlatso.hu}, September 16, 2013, \url{http://bit.ly/1FWWeqa}.} The University of Toronto-based Citizen Lab also reported finding a FinFisher Command and Control server, which facilitates surveillance, in Hungary.\footnote{Morgan Marquis-Boire et. al. “For their eyes only: The Commercialization of Digital Spying,” Citizen Lab, September 16, 2013, \url{http://bit.ly/1pCA0Y4}.} Though it is not clear whether the server is operated by the government or other actors, the software is marketed to governments.\footnote{Act XD of 1998 on criminal proceedings, art. 178/A, par. 1.}

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.\footnote{Act C of 2003 on Electronic Communications, art. 129, \url{http://bit.ly/1R2nc9u}.} Additionally, users must provide personal data upon purchase of a SIM card to sign a contract with a mobile phone company.\footnote{Act CXXV of 1995, art. 58, par. 2. states that in some instances – including the tasks of the Counter Terrorism Center – the minister for justice can grant the warrant.} Encryption software is freely available
without government interference; Pretty Good Privacy (PGP), a data encryption program, is used by investigative journalists.\textsuperscript{127}

**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.

**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 distributed denial-of-service (DDoS) attacks during that time.\textsuperscript{128}
