

Hungary

By Daniel Hegedüs

Capital: Budapest
Population: 9.86 million
GNI/capita, PPP: US\$23,630

Source: World Bank *World Development Indicators*.

Nations in Transit Ratings and Averaged Scores

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
National Democratic Governance	2.25	2.50	2.50	3.00	3.50	3.50	3.75	3.75	4.00	4.25
Electoral Process	1.75	1.75	1.75	1.75	2.25	2.25	2.25	2.75	2.75	3.00
Civil Society	1.50	1.75	1.75	2.00	2.00	2.25	2.25	2.50	2.50	2.75
Independent Media	2.50	2.50	2.75	3.25	3.50	3.50	3.50	3.75	3.75	4.25
Local Democratic Governance	2.25	2.50	2.50	2.50	2.50	2.75	2.75	3.00	3.00	3.00
Judicial Framework and Independence	1.75	1.75	2.00	2.25	2.75	2.50	2.50	2.75	3.00	3.00
Corruption	3.00	3.25	3.50	3.50	3.50	3.50	3.75	3.75	4.00	4.50
Democracy Score	2.14	2.29	2.39	2.61	2.86	2.89	2.96	3.18	3.29	3.54

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. If consensus cannot be reached, Freedom House is responsible for the final ratings. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year. The opinions expressed in this report are those of the author(s).

EXECUTIVE SUMMARY

In a year dominated by the Europe-wide advance of national-populist and radical parties, democratic governance in Hungary, a pioneer of “illiberal democracy,” further deteriorated. Adopting the same strategy as in 2015, the ruling coalition of Fidesz–Hungarian Civic Alliance and its minor partner, Christian Democratic People’s Party (KDNP), maintained its popularity and electoral support by whipping up resentment and xenophobia.

Although the number of asylum seekers applying for refugee status in Hungary declined sharply after the closure of the southern border in late 2015, the government dominated the political agenda in 2016 by exploiting the issue of European Union (EU) refugee relocation quotas. Following a lengthy, expensive, and excessively biased campaign on the matter, the government pushed through a referendum on dubious constitutional footing in October; disregarding the invalid turnout of below 50 percent, the government put forward the constitutional amendment in November. The amendment eventually failed due to Fidesz’s lack of a two-thirds majority in the parliament.

The year 2016 was also characterized by increased pressure on critical nongovernmental organizations (NGOs) and opposition politicians. Cases included smear campaigns against opposition politicians and activists, physical intimidation and instances of violence outsourced to private security companies, reported wiretapping of watchdog NGOs, and calls to investigate them as agents of foreign interests. As the left-leaning opposition was divided in its reaction to the refugee quota referendum, engaged civil society organizations heavily criticizing the administration’s xenophobic public discourse and policy were posited as the real political challengers to the government. On the one occasion when the parliamentary opposition had a chance of successfully confronting the governing parties in February, thugs showed up in the hall of the National Election Office (NVI) and effectively blocked an opposition politician from submitting a referendum initiative on the controversial Sunday shopping ban. While NVI later decided to accept the initiative, the government abolished the shopping ban before a vote could be held on the policy.

The media landscape changed significantly in comparison with the previous year. Due to the support of the deeply biased public media and important acquisitions in the television, online, and print segment, progovernment outlets have come to dominate the market to an overwhelming degree unimaginable even a year earlier. The October shutdown of the country’s leading daily newspaper, *Népszabadság*, underlined both the governing party’s vast influence on the market and the fact that—unlike in previous years—acquisitions and economic control, not legislative power, are the most important tools of influence.

Recent developments confirm the existence of a “reverse state capture” in Hungary, where politics and a strong state set up corruption networks and use public power and resources to reward friendly oligarchs. In addition to loyal oligarchs, leading government figures stood in the crosshairs of corruption accusations in 2016. The Hungarian Central Bank and its head, György Matolcsy, were embroiled in a large-scale funding scandal during the year. Although Matolcsy was connected to at least three separate cases raising the suspicion of serious corruption, there were no political consequences. Similarly, Antal Rogán, head of the prime minister’s cabinet, suffered no political ramifications despite his central role in the controversial Hungarian Residency Bond Program and numerous corruption accusations. The lack of prosecutions shows the effective political control and selective, biased functioning of the police and prosecutor’s office—an essential prerequisite of state-led corruption in Hungary.

With the governing parties’ ever-growing media dominance, an increasingly uneven political playing field, and the misuse of public resources for political and private purposes, Hungary’s political system inches further away from constitutional and liberal democracies and closer toward hybrid regimes in the region.

Score Changes:

National Democratic Governance rating declined from 4.00 to 4.25 due to the continued centralization of power and the total domination of the political system and economy by the governing parties, as well as the deployment of illiberal rhetoric.

Electoral Process rating declined from 2.75 to 3.00 due to the manipulation of the refugee quota referendum and the Sunday shop closure scandal, when security guards blocked an opposition politician from filing a referendum initiative on the controversial shopping ban.

Civil Society rating declined from 2.50 to 2.75 due to an increasingly hostile political atmosphere, and allegations of surveillance and outsourced physical violence against watchdog NGOs and other civil society representatives.

Independent Media rating declined from 3.75 to 4.25 due to the strong political intervention in the Hungarian media market, several acquisitions financed with the help of state-controlled banks, and the controversial circumstances leading to the shutdown of the newspaper *Népszabadság*, Hungary's leading critical daily.

Corruption rating declined from 4.00 to 4.50 due to large-scale and unpunished corruption involving not just government-friendly oligarchs but also high-ranking politicians and officials.

As a result, Hungary's Democracy Score declined from 3.29 to 3.54.

Outlook for 2017: The governing coalition Fidesz-KDNP will be preparing for the 2018 parliamentary elections and will likely amplify its hostile rhetoric during the run-up. The regime's foreign policy isolation is expected to gradually melt away if right-wing national populism continues its triumphal march throughout the continent. With the government's media dominance and economic advantage as a consequence of its abuse of public funds, the Fidesz-KDNP alliance might continue governing essentially uncontested, even in the long term. However, considering that the regime has been growing out of touch with large segments of the population, and its survival depends on constantly dominating the political agenda, its stability might come under threat in the face of fast-emerging, challenging events.

MAIN REPORT

National Democratic Governance

2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
2.25	2.50	2.50	3.00	3.50	3.50	3.75	3.75	4.00	4.25

- In its seventh consecutive year, support for the governing coalition of Fidesz–Hungarian Civic Union (Fidesz) and its subordinate partner, Christian Democratic People’s Party (KDNP), remained strong. While the coalition’s popularity declined between late 2015 and early 2016 as a result of demonstrations linked to social issues, it picked up quickly once the government latched onto the refugee crisis as its central topic in 2016. As of October, 32 percent of all voters and 54 percent of those certain to vote supported Fidesz-KDNP.¹
- By mid-2016, xenophobia and intolerance had become mainstream, turning into key features of Hungarian politics. Although the number of asylum seekers applying for refugee status sharply dropped from its peak in 2015,² Fidesz managed to dominate the political field with a fervent anti-immigration discourse for most of 2016. In October, a controversial referendum took place on the ability of the European Union (EU) to resettle migrants in Hungary without the Hungarian parliament’s approval (see “Electoral Process”). According to EU law, asylum policy is set at the European, not member-state, level. The vote cost approximately HUF 13 billion (\$44.1 million) to Hungarian taxpayers, about the same as the full cost of the Brexit campaign in the United Kingdom, a country six times the size of Hungary.³
- Although the turnout in the referendum stayed below the 50 percent threshold necessary for its validity due to a successful opposition campaign, the government still decided to submit a constitutional amendment in parliament. The amendment would have enshrined in the constitution that “foreign population cannot be settled in Hungary.”⁴ The motion, however, failed after the radical right-wing party Jobbik and its members of parliament (MPs) voted against it.⁵ In November, the Hungarian Constitutional Court nevertheless declared that issues that come under European competence should not infringe on the country’s sovereignty—hence interpreting the law in line with the principles of the proposed amendment.⁶
- In another referendum-related matter in February, private security guards linked to Fidesz blocked Hungarian Socialist Party (MSZP) politician István Nyakó from submitting a valid initiative on the Sunday shopping ban (see “Electoral Process”). This controversial incident led to widespread domestic disapproval, and in early April the Hungarian Supreme Court (Kúria) allowed Nyakó’s question to be put to referendum, despite its formal invalidity. A few days later—facing the parallel burden of scandal and a potentially very popular plebiscite question—the government decided to abolish the shopping ban altogether. This was a significant defeat for KDNP, which originally proposed that shops be closed on Sundays.
- Central bank head György Matolcsy’s personal integrity suffered blows in 2016. In September, *Népszabadság*, the country’s most-read political daily, revealed that Matolcsy was having an affair with someone and had also employed her at the bank.⁷ The daily was unexpectedly sold a few weeks later. In October, investigative journalists uncovered that Matolcsy lives in a luxury apartment owned by Mihály Patai, head of the Hungarian banking association and director of UniCreditBank Hungary.⁸
- According to an investigation published in October by the weekly *Magyar Narancs*, Prime Minister Viktor Orbán’s son-in-law, István Tiborcz, met with a fugitive Saudi businessman, Ghaith Pharaon, on several occasions.⁹ Pharaon was charged with fraud and supporting terrorism and has been wanted by the FBI and Interpol since 1991. Although the case raised serious concerns and was discussed in the parliament, the relevant investigative authorities took no actions in 2016, underscoring the selective, biased functioning of the police and prosecutor’s office and political control at the highest levels.

- The government took an isolationist and nationalist stance on both the European and international level. Hungary, together with other countries in the Visegrád group, continued opposing and undermining the Europe-wide refugee quota system during the year, hindering the adoption of a comprehensive European solution to the crisis.¹⁰

Electoral Process

2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
1.75	1.75	1.75	1.75	2.25	2.25	2.25	2.75	2.75	3.00

- Problematic legal provisions from the 2014 elections—including changes in allocation of excess votes, claims of gerrymandering, and discrimination against out-of-country voters—remained in force in 2016.¹¹ According to the 2011 Law on the Election of Members of Parliament, the Hungarian National Assembly has 199 seats, out of which 133 are necessary to pass constitutional amendments.¹² When Fidesz-KDNP won the general elections in 2014, it received exactly 133 seats. Two of these were lost in 2015, ending the coalition’s supermajority and its legislative power to change the constitution on its own.
- Two referendums dominated the agenda in 2016. In an unprecedented development in Hungary’s post-transition history, a dozen private security guards blocked István Nyakó of the opposition MSZP from being the first to submit an initiative to abolish the Sunday shopping ban on 23 February.¹³ The incident took place in the hall of the National Election Office (NVI), and the security guards’ presence allowed another person to submit her initiative first. According to law, NVI is required to accept only the first referendum initiative submitted on a particular topic. The media later revealed that all of the guards present had criminal records and were identified as employees of Fradi Security. The company provides services to Ferencvarosi Torna Club (FTC), Hungary’s most popular soccer club, chaired by Gábor Kubatov, Fidesz’s vice-chairman and party director.¹⁴ The governing party denied any involvement in the scandal.¹⁵
- On 24 February, a day after the incident at NVI, Prime Minister Orbán announced the launch of a referendum on refugee resettlement quotas.¹⁶ The timing of the announcement prompted speculation that the government simply aimed to drown out one plebiscite with another. The question put to referendum asked, “Do you want to allow the European Union to mandate the resettlement of non-Hungarian citizens to Hungary without the approval of the parliament?” Despite widespread agreement among experts¹⁷ that the question as formulated was not only leading but also unconstitutional—since it addressed an issue falling under EU-, not national-level, decision-making—both the Kúria and the Constitutional Court¹⁸ allowed it to go forward, clearly demonstrating a worrying degree of political influence.¹⁹ The question also likely violated the constitutional requirement that existing international legal obligations cannot be overwritten by referendum.²⁰
- Following an expensive and misleading campaign, the referendum held on 2 October failed to pass the 50-percent validity threshold. While an overwhelming 98 percent supported the government’s position, the turnout of 44.04 percent remained below expectations. The low turnout was due to a joint push by the opposition and civil society to boycott the referendum and resulted in a significant number of invalid votes (6.17 percent of all votes). Despite the outcome, the government submitted an amendment to the constitution, arguing there was a need to “comply with the will of the 98 percent.”²¹ This move further underlined the referendum’s unconstitutional character as, according to Article 8 of the Hungarian Basic Law, constitutional amendments should not be put to referendum.
- In April, the Constitutional Court ruled that the electoral laws discriminating against out-of-country voters are constitutional.²² While the court upheld an intensely criticized part of the Hungarian electoral law, the judgment complied with the 2015 decision of the European Court of Human Rights (ECtHR) in the case of Vámos and others v. Hungary.²³ In that decision, the ECtHR argued that having more-demanding voting requirements for expatriates is not

discriminatory since they cast ballots both for candidates in electoral districts and for party lists—unlike out-of-country voters without a permanent address, who only vote for party lists.

Civil Society

2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
1.50	1.75	1.75	2.00	2.00	2.25	2.25	2.50	2.50	2.75

- Following a relatively calm year, relations between the government and civil society worsened significantly in 2016. The straightforward, often political declarations of major NGOs calling for a boycott of the refugee quota referendum resulted in heightened government and public attention, especially online.²⁴ Following its 2015 billboard campaign focusing on the refugee crisis, the satirical “Two-tailed Dog Party” (MKKP) organized the most significant counter-campaign, even outpacing parliamentary opposition parties. During 2016, the MKKP collected 34.5 million forints (\$117,000) in donations, and placed 400 billboards all over the country. The joke party also published a complete financial report after the campaign, showing that the government had spent about 300 times more than MKKP.²⁵
- Government rhetoric toward NGOs grew increasingly intimidating following the refugee quota referendum. In October, Szilárd Németh, vice-chair of both Fidesz and the parliament’s National Security Committee, suggested that NGOs receiving financial support from Open Society Foundations, established by the liberal Hungarian-American philanthropist George Soros, should go through national security screening.²⁶ Earlier, in June, the Eötvös Károly Institute (EKINT), a think tank specializing in constitutional law and fundamental rights and led by the former ombudsperson László Majtényi, reported that its office had likely been bugged.²⁷ After contradictory forensic analyses, police stated the device found in EKINT’s office was not a recording device.²⁸ Other NGOs critical of the government talked about similar experiences.²⁹ A lawyer of the Hungarian Civil Liberties Union (TASZ) was allegedly wiretapped while calling a Hungarian member of the European Parliament, and the Hungarian Bar Association also started an internal investigation with regard to the illegal wiretapping of attorneys.³⁰ While it seems that the aim of the more or less covert surveillance was not information gathering but intimidation, it is unclear at this point whether these tasks were outsourced to private companies or conducted by the security services themselves.
- Employees of private security roughed up environmental activists on several occasions during demonstrations against construction in a Budapest city park during the summer.³¹ Security staff also prevented protesters from accessing some areas of officially approved, fully legal protests. On several occasions, police failed to intervene and investigate physical assault by private security despite the existence of video recordings that support the accusations.³²
- There were numerous protests by teachers and healthcare employees throughout the year, and a fairly organized movement grew out of these demonstrations. Government-friendly media ran a smear campaign against some of the movement’s leaders, including a well-known activist leading the teacher protests.³³
- Lack of funding remained a significant problem for the civil sector. Representing an immense loss for minority rights and civil society in general, four of the most relevant Roma advocacy NGOs closed down or cut back on their activities during the year as donors pulled out from Hungary.³⁴ The closing of Chances for Children Foundation (CFCF), Romaversitas, Roma Media Center, and the Advocacy Bureau for National and Ethnic Minority Rights (NEKI) left a serious gap in the field of Roma rights advocacy, especially at a time when school segregation is again on the rise (see “Local Democratic Governance”).³⁵

Independent Media

2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
2.50	2.50	2.75	3.25	3.50	3.50	3.50	3.75	3.75	4.25

- The government-led takeover of the media market, ongoing since 2011, reached previously unseen levels in 2016. With public media, the second-largest private TV channel, and several online and print outlets (including at least eight regional newspapers) in the hands of government allies, progovernment media is dominating the market. Although there are several opposition outlets, their circulation and geographical coverage are often limited, like Klubrádió that broadcasts only in the Budapest area.³⁶ The biggest loser of the past few years, however, has been independent media. Between the endless resources of progovernment outlets and the last bastions of the opposition, the space for unbiased offline journalism has greatly diminished.³⁷
- The private channel TV2—which Film Commissioner András Vajna acquired at the end of 2015 with a loan from a state-owned bank—took on a seriously strong progovernment bent in 2016. The channel’s political and news programs turned into straightforward political propaganda and played a significant role in the refugee quota referendum campaign.³⁸ The channel had also become a tool in smear campaigns against political enemies, including popular oppositional politicians like Péter Juhász³⁹ and oligarchs who have fallen out of favor with the government. The other popular private channel, RTL Klub, has been largely avoiding politically sensitive issues following a compromise reached with the government in March 2015. Whereas the channel’s coverage of the refugee quota referendum was more or less balanced,⁴⁰ it stopped publishing the critical investigative reports that characterized its coverage in 2014 and early 2015.
- The public television’s biased performance in the refugee quota referendum campaign was especially striking. According to research conducted by Mérték Media Monitoring and Democracy Reporting International (DRI), the news-only channel M1 allotted 42 percent of its programming to the referendum, and 95 percent of that airtime supported the government’s position.⁴¹ This clearly went against the requirement for neutral and balanced broadcasting as stipulated in the country’s media laws.⁴²
- With progovernment figures acquiring new outlets, the media market underwent a serious shake-up in 2016. In August, Mediaworks Hungary, a company controlled by Vienna Capital Partners (VCP) and its owner Heinrich Pecina, successfully bought Pannon Lapok Társasága (PLT),⁴³ the publisher of four regional dailies and several other publications. With this acquisition, Mediaworks became a key player in the market, publishing eight regional papers.⁴⁴ While it had been an open secret since August that investors close to the government were interested in the company,⁴⁵ some speculated that its sale was brought forward by the fact that Pecina had been on trial before an Austrian court, potentially resulting in large fines.⁴⁶ In October, Pecina sold Mediaworks to Opimus Press, a company linked to the oligarch Lőrinc Mészáros, the mayor of Prime Minister Orbán’s hometown.⁴⁷
- The most controversial part of the acquisition process—and a watershed moment for Hungarian media—was the shutdown of *Népszabadság*, Hungary’s leading print daily and a traditionally left-wing newspaper.⁴⁸ The paper was suspended on 8 October, two weeks before the sale, and the staff was locked out of their emails and offices. Its website, nol.hu, was also taken down. Although Mediaworks cited solely financial reasons, several arguments point toward political interference, including the fact that *Népszabadság* had hired 10 new journalists right before the suspension and that the newspaper had started to recover financially and show moderate profitability.⁴⁹ The shutdown was followed by significant protests and a rare display of solidarity from the journalistic community.
- While online news portals and blogs have created a vibrant environment for political debate and analysis, acquisitions in the online market have also raised concerns. The biggest online news site, Origo.hu, was sold to New Wave Media (NWM) in December 2015, following the politically motivated firing of its editor-in-chief in 2014.⁵⁰ Since then, Origo has adopted a government-friendly tone.⁵¹ In the first half of the year, NWM’s sister company, New Wave Production, was implicated in the MNB scandal (see “Corruption”) as investigative articles revealed that the online news site VS.hu, owned by NWM, had received approximately HUF 500 million (\$1.7

million) from central bank foundations. Later in the year, the staffs of both Origo and VS.hu were reorganized and several journalists left.⁵² The year ended with worries that the now biggest independent site, Index.hu, might also fall victim to a takeover. Its owner, Zoltán Spéder, was subject to a smear campaign after an apparent falling-out with the government.⁵³

Local Democratic Governance

2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
2.25	2.50	2.50	2.50	2.50	2.75	2.75	3.00	3.00	3.25

- Local governments enjoyed a high level of political independence in Hungary after 1989. Recent steps to centralize public administration and education, however, have led to serious confusion around local governments' competencies and undermined their performance. Almost four years after the introduction of the 2013 public administration reform, the distribution of responsibilities between district and municipal offices is still not clear, and powers continue to be taken away from municipal governments. This process continued in 2016, and the case backlog of the central government's district offices has grown significantly.
- Starting 1 January 2017, the maintenance of all public primary schools will be centralized and nationalized under the reorganized Klebelsberg Institution Maintenance Center (KLIK), which will be solely responsible for the supply of teaching materials as well as operation of more than 5,100 primary schools in the country. This means, first and foremost, the nationalization of more than 2,800 primary schools still maintained by municipal self-governments, and the establishment of 59 school districts at an interim management level.⁵⁴ Although the performance of KLIK and the state maintenance of primary schools have been problematic,⁵⁵ the government decided to further increase the centralization in primary education. According to Jenő Schmidt, chairman of the Hungarian Association of Municipal Self-Governments (TÖOSZ), the reform will lead to serious underfinancing and mismanagement in the education system, since the central executive bodies can neither estimate nor supply the same support and services for schools as was provided by local municipalities.⁵⁶
- To counteract this centralization, the government promised more autonomy for schools. According to government sources, school directors will have more influence on the planning of school budgets, and they will be free to exercise their employer rights again.⁵⁷ But after the start of the school year, professional organizations expressed doubts about the increase in autonomy.⁵⁸
- In May, the European Commission launched an infringement procedure against Hungary due to school segregation.⁵⁹ According to the commission, the widespread segregation of Romany children constitutes a breach of EU regulations.⁶⁰ This renewed, steady growth of segregation is well documented by the Hungarian Academy of Sciences,⁶¹ the European Commission's own report,⁶² and various Hungarian NGOs active in the field.⁶³ A further alarming trend shows that increasing numbers of Romany children are educated in church schools in segregated conditions. A loophole in Hungarian legislation allows for segregation if it serves the purpose of "Roma evangelization."⁶⁴
- Hungarian courts have been divided on segregation, which contributes to a growing legal uncertainty. As a positive example, the Pécs Regional Court of Appeal ordered the closure of a primary school in Kaposvár in October 2016 following a lawsuit filed by CFCF. This was the first-ever judicial decision in Hungary that ordered the closure of a segregated school.⁶⁵ Earlier in July, the Constitutional Court rejected a separate ethnic segregation lawsuit by CFCF as inadmissible. Three dissenting judges contested the majority decision in the case, arguing that the court failed to address the potential violation of fundamental rights in the complaint.⁶⁶

Judicial Framework and Independence

2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
1.75	1.75	2.00	2.25	2.75	2.50	2.50	2.75	3.00	3.00

- Overall, Hungary’s court system, especially the lower courts, can be considered mostly independent, whereas Constitutional Court judgments in politically significant cases have often shown a remarkable bias towards the government and its alleged political interests. Out of the court’s 15 justices, 11 were unilaterally nominated by the governing parties, and 4 posts were vacant due to a lack of the required two-thirds majority in parliament.⁶⁷ In November 2016, Fidesz and the opposition party LMP reached an agreement, and the parliament appointed four new justices and a new court president, Tamás Sulyok.⁶⁸
- There were several politically sensitive cases in 2016. In two decisions, the Constitutional Court went against the government’s will and struck down laws that would have significantly narrowed the scope of publicly accessible information. In March, the court overruled the Budapest Regional Court of Appeals and declared that preparatory documents are not exempt by default from public information requests.⁶⁹ Significantly, this ruling now makes it impossible to cover up the misuse of public funds by sham consulting contracts, a rather frequent practice between public institutions and think tanks affiliated with Fidesz. Such contracts were often classified as preparatory documents, therefore not accessible to the public.⁷⁰ In April, the court ruled that “money does not lose its public character” by being transferred to foundations set up by the central bank, and that the same transparency requirements continue to apply to it as money used by the bank itself (see “Corruption”).⁷¹ By going against the government in such an important case, the court demonstrated its limited independence. In a separate decision, however, the court ruled that a law exempting the contracts of the Hungarian Post from public information requests does not violate the constitution or the principle of the prohibition of retroactivity.⁷² In both the central bank and the Post case, President János Áder initiated the constitutional review.
- The number of applications to the European Court of Human Rights (ECtHR) has grown dramatically in the past 7 years, from 425 applications in 2008 (0.85 percent of all ECtHR applications) to 5,569 in 2016 (10.41 percent).⁷³ These figures show ECtHR’s growing importance with regard to human rights protection in Hungary and point to a growing dissatisfaction with the rule of law at home.
- In spite of (or perhaps due to) this growing relevance, the government failed to make the selection of ECtHR’s new Hungarian judge sufficiently transparent.⁷⁴ Following protests by dozens of advocacy NGOs, the Ministry of Justice reopened the application process in September 2016,⁷⁵ but the procedure itself remained opaque.⁷⁶ In October, two out of the three judges nominated by the government were the same as on the previous shortlist, prompting doubts about the independence of the process.⁷⁷
- In June, the government lost in a court case on surveillance in front of the ECtHR. According to the court’s ruling, wiretapping and surveillance without the permission of an independent judge represent a clear violation of the European Convention of Human Rights.⁷⁸ Before the decision, the Counterterrorism Center (TEK), an arm of the police set up with wide-ranging powers in 2010 and headed by the Ministry of Interior, was able to conduct wiretapping without first securing a judicial warrant. The plaintiff in the case, Eötvös Károly Institute (EKINT), welcomed the decision and called for amending the law on surveillance. The judgment’s implementation, however, will be hard to monitor given that the parliament’s National Security Committee does not function as an effective and independent platform for supervising intelligence-service activities.
- In June 2016, the government, with support from Jobbik, adopted the sixth constitutional amendment introducing a new type of special legal order called “terrorism state of emergency,” which would mean the introduction of extraordinary measures for up to 15 days without parliamentary approval.⁷⁹ The amendment also prompted legal changes significantly extending online surveillance. That same month, the parliament amended the law on electronic commercial services and IT services. According to the changes, providers offering encrypted communication services, if requested, shall grant the intelligence services access to the content of

communications. The scope of the law includes service providers based outside Hungary and extends the period for which metadata should be preserved to one year.⁸⁰ According to the Hungarian Civil Liberties Union (TASZ), the vaguely worded and sweeping nature of the law offers an opportunity for the surveillance of any Hungarian citizen.⁸¹

Corruption

2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
3.00	3.25	3.50	3.50	3.50	3.50	3.75	3.75	4.00	4.25

- While the basic patterns of corruption remained largely the same as in previous years, the key players—the regime’s most-favored oligarchs—changed significantly in 2016. These figures cultivate close personal relationships with Prime Minister Orbán, a fact that underlines the “reverse state capture” happening in Hungary, where politics and a strong state set up and coordinate corruption networks. While low-level corruption is prosecuted, politically organized high-level corruption has become a key feature of the regime. Similar to previous years, corruption indicators by international organizations highlight this development and show a constant level of opaque policymaking and misuse of public funds.⁸² In September, the European Commission suspended the disbursement of several cohesion funds, stressing the lack of transparency and proliferation of irregularities in management of the European structural funds.⁸³
- According to the annual report of the Public Procurement Office, the total value of public procurement reached 5.7 percent of Hungarian GDP.⁸⁴ As shown by EU and Transparency International (TI) data, a significant share of these tenders have only one bidder,⁸⁵ and some 70 percent of public procurement involves corruption, with costs rising by up to 25 percent.⁸⁶ The financial damage caused by corruption could account for up to 1 percent of Hungary’s GDP.
- The analysis of TI-Hungary and Democracy Reporting International clearly shows that the 2015 falling-out between the oligarch Lajos Simicska and Prime Minister Orbán had a significant effect on public procurement.⁸⁷ New loyal oligarchs filled in this gap, including Orbán’s son-in-law, István Tiborcz; his close ally and mayor of his hometown, Lőrinc Mészáros; and a personal friend, István Garancsi. During 2015, these individuals were awarded public procurement contracts valued around 85 billion forints (\$315 million), representing more than 4 percent of the total value of public procurements in Hungary.⁸⁸ Given that Simicska’s companies were unable to win a single tender in 2016, even as members of international consortiums, the share won by Tiborcz, Mészáros, and Garancsi may be even higher. According to the RTL Klub, Lőrinc Mészáros alone won public procurement tenders in the value of HUF 225 Billion (\$ 786.1 million) in 2016.⁸⁹
- The Hungarian Central Bank (MNB) was hit by several scandals during the year. Between 2013 and 2016, the bank channeled 260 billion forints (\$900 million, close to 1 percent of the annual Hungarian GDP) into 6 foundations established by MNB itself, while admitting to a profit of only a couple billion forints in its annual reports.⁹⁰ In court hearings in 2015, MNB head György Matolcsy claimed that the foundations are not obliged to comply with transparency criteria applying to public bodies, but the Constitutional Court ruled the opposite in April 2016.⁹¹ The documents published afterwards revealed what appears to be public procurement fraud,⁹² such as investing in high-value real estate and spending a remarkable amount of public money in a way that is incompatible with MNB’s legal obligations. Business leaders and their companies linked to Matolcsy, including his uncle, also received a significant share.⁹³ Although the prosecutor’s office launched an investigation in June, the foundations only received an 84-million-forint (\$290,000) fine—paid by Hungarian taxpayers—for “public procurement irregularities.”⁹⁴ There were no political or legal consequences for individuals involved in the scandal.
- Allegations that the Hungarian Ministry for Foreign Affairs and Trade (MFAT) has been involved in corruption schemes underscore the state-led nature of high-level graft. The network of National Trading Houses (MNKH), a state-owned company founded in 2012 to promote trade as well as assist Hungarian SMEs in accessing emerging markets in Asia, Africa, and Latin America, was

accused of corrupt dealings in 2016.⁹⁵ The structure and functioning of the MNKH network is extremely opaque, and selection of the operating companies is often politically motivated. Several well-known oligarchs have links to these entities, including István Tiborcz, or Csaba Tarsoly, former head of the venture capital fund Questor, accused of fraud, money laundering, and other crimes.⁹⁶ The official losses of MNKH reached 6 billion forints (\$22 million) in 2015, qualifying it as an expensive and ineffective tool—but a lucrative opportunity for cronies.⁹⁷

- Another example of suspected “outsourced” corruption is connected with the so-called Hungarian Residency Bond Program, which offers citizenship in exchange for a significant investment.⁹⁸ Although the program appears to be similar to its European counterparts, its conditions are conspicuously unfavorable to the Hungarian state,⁹⁹ and firms acting as intermediary could have pocketed a profit of up to 100 billion forints (\$339.3 million) since its start in 2012.¹⁰⁰ The program was the idea of Antal Rogán, head of the prime minister’s cabinet, who had earlier defended the contracting of offshore companies, some of which overlap with those operating trading houses.¹⁰¹ The program raised national security concerns, given that those who invest are able to move freely in the EU’s passport-free Schengen area. In October, Jobbik set the program’s abolishment as a condition of its support for the constitutional ban on refugee quotas, and at year’s end, the government announced it would stop issuing bonds in 2017.¹⁰²
- High-level corruption remains unpunished in Hungary. Except for the MNB scandal, no official investigation took place in the above-mentioned cases. Lower-level corruption is sometimes prosecuted. An arrest was made in the case of a low-ranking Fidesz politician, Roland Mengyi, alias “Lord Voldemort,” in August 2016. Mengyi had allegedly asked for bribes in exchange for positive decisions related to EU grants. His arrest was prompted by investigative articles.¹⁰³
- Russian connections in several nontransparent and suspicious business deals remained an issue in 2016. In November, the European Commission suspended its infringement procedure investigating the Paks nuclear power plant project’s compatibility with European public procurement rules. Although a separate investigation was ongoing at year’s end,¹⁰⁴ the European Commission was expected to green-light the project despite previous concerns.¹⁰⁵ A 2015 public tender for upgrading train cars on Budapest’s subway line 3, a 69-billion-forint (\$234 million) deal with a Russian contractor,¹⁰⁶ was revealed as fraudulent in 2016.¹⁰⁷ Although the public procurement called for the design of new train cars, the Russian company delivered unused cars already in their stock. The fraud remained uninvestigated.

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² In the third quarter of 2015 109,200 asylum seekers were registered in Hungary, while in the first quarter of 2016 only 7,200, in the second quarter 15,300, in the third quarter 4386, and in the fourth quarter 2555. Statisztikai Tükör, Központi Statisztikai Hivatal [Statistical Mirror, Hungarian Central Statistical Office], 25. July 2016, <http://www.ksh.hu/docs/hun/xftp/stattukor/menekult15.pdf> and Magyar menekültügy a számok tükrében, Magyar Helsinki Bizottság [Statistical Review of the Hungarian Asylum Policy, Hungarian Helsinki Committee], 1. January 2017, <http://www.helsinki.hu/wp-content/uploads/Magyar-menekultugy-a-szamok-tukreben-2017-januar-1.pdf>

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⁵ Leszavazták Orbán Viktor alkotmánymódosítását [Orbán's basic law amendment failed], Index.hu, 8. November 2016, http://index.hu/belfold/2016/11/08/szavazas_az_alkotmanymodositasrol/

⁶ X/3327/2015 (XI. 30.) AB határozat az Alaptörvénynek a többi tagállammal közös, az Európai Unió intézményei útján történő hatáskörgyakorlást lehetővé tevő rendelkezéseinek értelmezéséről [Constitutional Court decision X/3327/2015 (XI. 30.) on the interpretation of the Basic Law's regulation regarding the common exercise of EU Member States' sovereignty by the European Union's institutions], 30. November 2016, <http://www.alkotmanybirosag.hu/download.php?h=1616>

⁷ Matolcsy barátnője jobban keresett a jegybanknál titkárnőként, mintha főosztályvezető lett volna [Matolcsy's partner earned better as secretary by the Central Bank than a head of department would have done], 444.hu, 12. September 2016, <http://444.hu/2016/09/12/matolcsy-baratnoje-jobban-keresett-jegybanknal-titkarnokent-mintha-foosztalyvezeto-lett-volna>

⁸ Patai luxuslakását használja Matolcsy [Matolcsy uses the luxury apartment of Patai], Portfolio.hu, 6. October 2016, http://www.portfolio.hu/finanszirozas/bankok/patai_luxuslakasat_hasznalja_matolcsy.238312.html

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¹² Nemzeti Választási Iroda [National Election Office], "Act CCIII of 2011 On the Elections of Members of Parliament," [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2014\)037-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2014)037-e). of Members of Parliament," http://valasztas.hu/en/ovi/241/241_1_11.html

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<http://public.mkab.hu/dev/dontesek.nsf/0/628A002BA47B9404C1257FE600585769?OpenDocument>

²⁰ The Fundamental Law of Hungary, Article 8 – National Referendums

“(2) National referendums may be held about any matter falling within the functions and powers of the National Assembly.

(3) No national referendum may be held on:

...

d) any obligation arising from international treaties;”

The referendum question was formulated as following: “Do you want to allow the European Union to mandate the resettlement of non-Hungarian citizens to Hungary without the approval of the National Assembly?”

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²⁸ Nem poloskát találtak az Eötvös Károly Intézetben, de hogy mit, nem tudni [Not a wiretapper was found in the Eötvös Károly Institute, but the sort of the device is still unknown], Mandiner.hu, 30. August 2016, http://mandiner.hu/cikk/20160830_nem_poloskat_talaltak_az_eotvos_karoly_intezetben_de_hogy_mit_nem_tu_dni

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⁵⁰ Profiltisztítással indokolta a Telekom vezére az Origo eladását [Telekom CEO argued for Origo's selling with the need for clear profiling], 17. December 2016, <http://www.origo.hu/itthon/20151217-profiltisztitassal-indokolt-a-telekom-vezere-az-origo-eladasat-a-vevo-new-wave-media-kft-a-vs.html>

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